

# **Miners' Strike 1984/85 Pardon: Consultation - Analysis of responses**

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# **Miners' Strike 1984/85 Pardon: Consultation – Analysis of responses**

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## A note about terminology and abbreviations

Throughout this report, ‘the independent review’ refers to the review of policing of the 1984/85 miners’ strike and its impact on mining communities in Scotland, led by John Scott QC. The [final report of this review](#) was published in October 2020.

In addition, ‘the strike’ refers to the national miners’ strike which began in March 1984 and ended in March 1985.

The following abbreviations are used in this report:

**BoP:** Breach of the Peace

**EQIA:** Equality Impact Assessment

**MSP:** Member of the Scottish Parliament

**NUM:** National Union of Mineworkers

**NCB:** National Coal Board

**Q:** Question

**QC:** Queen’s Counsel

**SNP:** Scottish National Party

# Executive summary

## Introduction

1. In October 2018, the Scottish Government announced an independent review into the impact of policing on communities in Scotland that were affected by the national miners' strike between March 1984 and March 1985. The review, led by John Scott QC, made a single recommendation: that, subject to establishing suitable criteria, the Scottish Government should introduce legislation to pardon men convicted for certain offences related to the strike. Following publication of the review report in October 2020, the Scottish Government announced its acceptance, in principle, of the recommendation and its intention to consult on what the qualifying criteria should be for the proposed pardon.

2. In March 2021, the Scottish Government published its consultation paper *Miners' Strike 1984 to 1985 Pardon: Consultation*, with a closing date of 4 June 2021 for responses. The consultation paper set out the pardon criteria suggested by the Review Group, but also made clear that the Scottish Government had no position on which, if any, of the criteria suggested by the Review Group it would choose to implement. Instead, it was keen to hear a wide range of views to help inform its policy on this issue.

3. The consultation contained 14 questions. These invited views on:

- The range of offences that should be covered by the pardon (Q1 and Q2)
- Other offence-related matters (Q3 to Q5)
- Whether and how previous or subsequent convictions should (or should not) disqualify a miner from receiving a pardon (Q6 to Q8)
- Whether and how the consequences of the conviction should (or should not) affect a miner's eligibility for a pardon (Q9 to Q11)
- Views on view criteria or other comments (Q12 and Q13)
- The partial Equality Impact Assessment (EQIA) accompanying the consultation paper.

## The respondents and responses

4. The consultation received 377 responses. Of these, 11 were removed from the analysis for various reasons. The analysis was therefore based on 366 responses, comprising 307 substantive (i.e. personalised) responses and 59 standard campaign responses. A standard campaign response is a non-personalised response based on a standard text provided by a campaign organiser. No information was available about the campaign organiser; however, the campaign text addressed all 14 of the consultation questions.

5. The substantive responses were submitted by 294 individuals and 13 organisations. The organisational responses came from five (5) trade unions or trade union-related bodies, two (2) bodies in the legal profession, two (2) community councils and one (1) local authority. The remaining three (3) organisational responses were from campaign groups or charitable organisations.

## Overview of findings

6. Across all questions, a large majority of respondents were in favour of the proposals to pardon all miners who had been convicted of offences relating to the 1984/85 miners' strike, and wanted the criteria for a pardon to be as inclusive as possible. Respondents in this group often referred to the particular circumstances of the strike, its political management, and the way in which it was policed in explaining their views; they often also cited the experience of miners (sometimes their own personal experience or that of a close family member), and the impact the strike had on individuals, families and communities.

7. Thus, respondents generally supported a pardon for breach of the peace and breach of bail convictions, and they thought that miners convicted of multiple offences (as well as a single offence) should equally be pardoned. Furthermore, they believed that the issue of whether a strike-related conviction resulted in a custodial or non-custodial sentence was irrelevant in relation to a miner's eligibility for a pardon – as was the issue of whether or not the conviction(s) had resulted in dismissal by the National Coal Board.

8. There was greater disagreement and uncertainty among respondents about whether offences other than breach of the peace or breach of bail should be covered by the pardon, or whether a history of pre-strike or post-strike convictions should disqualify miners from receiving a pardon. However, it was clear that there was some confusion among respondents about what certain questions in the consultation paper were asking – in particular, Question 3 (which asked whether any other strike-related offences should be included in the qualifying criteria for a pardon), and Questions 6 to 8 (which asked about prior and subsequent offending), and this may have affected the response to these questions.

9. A relatively small proportion of respondents were opposed to the idea of a pardon in principle, or they favoured more restrictive criteria for the pardon. This group of respondents tended to make the similar points at each question. They believed that pardoning criminal offences (or individuals convicted in a court of law) undermined the rule of law. Alternatively, they opposed the introduction of a 'blanket' pardon and argued that decisions to pardon miners should be taken on a case-by-case basis instead (taking account of the nature of the offence and the circumstances of the offending), or they suggested that miners should be required to formally appeal their convictions.

# 1. Introduction

1.1 The Scottish Government carried out a public consultation on the qualifying criteria to be used for pardons for miners convicted of certain offences related to the 1984/85 miners' strike. The consultation paper, *Miners' Strike 1984 to 1985 Pardon: Consultation*, was published on 12 March 2021 with a closing date of 4 June 2021 for submission of responses.<sup>1</sup> This report presents findings from the analysis of the responses received.

## Background and policy context

1.2 The miners' strike of 1984/85 ('the strike') is recognised as one of the 'most bitter and divisive industrial disputes in living memory'. In Scotland, there were an estimated 1,350 arrests linked to the strike, and around 470 court cases, with around 85% of these leading to a conviction.<sup>2</sup> Concerns about the strike, the policing of the strike and its impact on individuals and communities continue to this day, more than three decades later.

1.3 In response to these ongoing concerns, and in light of continued representations from stakeholders, the Scottish Government announced, in October 2018, an independent review into the impact of policing on communities affected by the strike, in order to aid 'understanding, reconciliation and inclusion'. In announcing the review to the Scottish Parliament, Michael Matheson MSP, the then Cabinet Secretary for Justice stated that its remit would be 'to investigate and report on the impact of policing on affected communities in Scotland during the period of the miners' strike from March 1984 to March 1985'. The aim of the review was to provide a report setting out lessons learned and make recommendations for any further action required.

1.4 The review, led by John Scott QC, involved consideration of a wide range of existing documentary evidence (official records, published and unpublished reports, media reports, academic studies, autobiographical accounts). It also involved gathering direct testimony from those affected by the strike via a call for written evidence and a series of engagement events as well as additional meetings with relevant individuals. Those providing evidence included relevant stakeholder organisations as well as miners and their families, retired police officers, local councillors, academics, journalists, and members of the public.

1.5 The final report of the review (published in October 2020) provided a full and detailed exploration of the evidence gathered.<sup>3</sup> The testimony provided by former miners, police officers and mining communities was highlighted as having been particularly important to the Review Group's understanding of the strike, the policing of strike activity and the impact of this on mining communities. In terms of lessons learned, the review highlighted a number of issues relating to public confidence in policing and the importance of independence, transparency, scrutiny, and a local focus to this activity. However, the report also highlighted the very particular set of circumstances surrounding the strike and the fact that policing has moved on considerably over the past 35 years. In that context, the review made just a single recommendation: that, subject to establishing suitable

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<sup>1</sup> Scottish Government (2021) [Miners' Strike 1984/85 Pardon: Consultation](#).

<sup>2</sup> Scottish Government (2021) [Miners' Strike 1984/85 Pardon: Consultation](#).

<sup>3</sup> Scottish Government (2020) [Policing of the Miners' Strike 1984-85 – Impact on communities: Independent review](#).

criteria, the Scottish Government should introduce legislation to pardon men convicted for certain offences related to the strike.

1.6 Following publication of the review report, the Scottish Government announced its acceptance, in principle, of the recommendation and its intention to consult on what the qualifying criteria should be for the proposed pardon.

### The consultation

1.7 The consultation paper published by the Scottish Government outlined the background to the review and the intention to legislate for a pardon for miners convicted of certain offences during the strike. It stated that this would be a collective pardon, 'symbolising a desire for truth and reconciliation, following the decades of hurt and anger and misconceptions' and bringing 'a restoration of dignity to a number of miners, their families, and their communities'. Specifically, the pardon is intended to:

- Acknowledge the disproportionate impact arising from miners being prosecuted and convicted during the strike – such as the loss of their job.
- Recognise the exceptional circumstances that gave rise to the former miners suffering hardship and the loss of their good name through their participation in the strike.

1.8 The paper also set out the pardon criteria suggested by the Review Group. In summary, the criteria suggested by the Review Group were as follows: that individuals should have been convicted in Scotland for Breach of the Peace or Breach of Bail (related to the strike), and should have no previous or subsequent convictions, and that the case should have resulted in a fine. The consultation then sought views on aspects of the criteria, and other related matters.

1.9 The consultation contained 14 numbered questions, 12 of which had both a closed (tick-box) and open (free-text) component. The remaining two questions invited free-text comments.<sup>4</sup> The questions followed the structure of the consultation paper and addressed:

- The range of offences to be covered (Part 1 of the consultation paper) (Q1 and Q2)
- Other offence-related matters (Part 2) (Q3 to Q5)
- Previous or subsequent convictions (Part 3) (Q6 to Q8)
- Consequences of the conviction (Part 4) (Q9 to Q11)
- Further criteria / comments (Part 5) (Q12 and Q13)
- Partial Equality Impact Assessment (EQIA) (Part 6 / Annex A of the consultation) (Q14).

1.10 The consultation paper was published on the Scottish Government consultation website. Respondents were able to complete an online consultation questionnaire or submit their response via email or post.

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<sup>4</sup> Question 11 in the offline consultation paper did not offer respondents the opportunity to tick a box to indicate their preferred response – where possible, however responses to the closed part of this question were 'imputed' based on the respondents' comments. See paragraph 1.14 for a discussion of the approach taken in relation to imputing responses.



1.11 The responses to the consultation will help shape the legislation required to give effect to the pardon. The Scottish Government stated in the consultation paper that it may choose to implement some or all of the criteria proposed in the report – or may add more criteria. Thus, it was keen to hear a wide range of views to help inform its final position on the criteria. The previous review highlighted the value of the contribution made by those affected by the strike in shaping understanding of the strike and the experience of those affected, and the Scottish Government is committed to fully considering the views of such groups again as it takes forward the review’s recommendations and considers the ongoing legislative and policy development process.

## About the analysis

1.12 This report is based on a robust and systematic analysis of the responses to the consultation. Frequency analysis was undertaken in relation to all the closed questions and the findings are shown in tables in this report. As noted above, two questions did not have an initial closed question, and so there are no tables for Questions 13 and 14. In addition, although Question 12 had an initial closed question, no table has been included in this report for this question because there was little distinction in the comments between those who answered ‘yes’, ‘no’ or ‘don’t know / no opinion’. As such, the results of the quantitative analysis did not contribute to an understanding of the views of the respondents.

1.13 The aim of the qualitative analysis was to identify the main themes and the full range of views submitted in response to each question or group of questions, and to explore areas of agreement and disagreement in views between different groups of respondents.

1.14 Not all respondents answered all questions, and some made comments in relation to a question without ticking a response at the relevant closed question. However, if a respondent’s reply to the tick-box question was clearly stated in their written comments, the response to the tick-box question was imputed. The tables throughout this report include these imputed responses.

1.15 Given the relatively small number of organisational responses received, no breakdown of organisation type is shown in the tables in the report. Further, the small number of organisations – along with the range of organisations included within the overall category – should be noted in interpreting the quantitative findings.

1.16 Finally, this report includes selected quotes from responses for which the respondent gave consent for their response to be published. In a few cases, these responses have been edited in small ways to correct typos, misspellings or grammatical errors, to improve readability. However, the content of the quotes have not been changed in any substantive way.

## Understanding the response to the consultation

As with all consultations, the views submitted and presented in this report are not necessarily representative of the views of the wider public. Anyone can submit their views to a consultation, and individuals (and organisations) who have a keen interest in a topic – and the time, ability and capacity to respond – are more likely to participate in a consultation than those who do not. This self-selection means that the views of consultation participants cannot be generalised to the wider population. For this reason, the main focus in analysing consultation responses is **not** to identify how many or what proportion of respondents held particular views, but rather to understand the range of views expressed.

## The report

1.17 The remainder of this report is structured as follows:

- Chapter 2 presents information on the respondents to the consultation and the responses submitted.
- Chapters 3 to 8 present the results of the analysis of the responses to each of the consultation questions.

1.18 Annexes to the report are included as follows:

- Annex 1 presents a list of organisational respondents.
- Annex 2 presents the text of the campaign response.
- Annex 3 presents the response rates for individual questions. This table includes only the substantive responses and excludes the campaign responses. (See Chapter 2 for a discussion of 'substantive responses' and 'campaign responses'.)

## 2. The respondents and responses

2.1 This chapter provides information about the respondents to the consultation and the responses submitted.

### Number of responses received and number included in the analysis

2.2 The consultation received 377 responses. Of these, 318 were substantive – that is, personalised – responses<sup>5</sup> and 59 were standard campaign responses.<sup>6</sup> A standard campaign response is a non-personalised response based on a standard text provided by a campaign organiser. No information was available for this consultation about the campaign organiser.<sup>7</sup> Paragraphs 2.7–2.9 below provides further information about the campaign responses.

2.3 Eleven of the substantive responses were removed prior to analysis for the following reasons.

- In 10 cases, the respondents had submitted two different responses. In these cases, the responses were combined to create a single amalgamated response from each individual. Where there were differences in the respondent's answers to closed questions, no response was entered into the amalgamated record. This process resulted in the removal of 10 responses – while the 10 amalgamated responses were retained for the analysis.
- In one final case, the respondent had submitted a revised response and requested that their initial response be deleted.

2.4 Thus, the analysis in this report is based on **366** responses (377 submitted responses minus 11 removed responses).

### About the respondents (substantive responses only)

2.5 Substantive responses (i.e. non-campaign responses) were submitted by 294 individuals and 13 organisations or groups. (See Table 2.1.)

**Table 2.1: Types of respondent**

Respondent type	Number	Percent
Individuals	294	96%
Organisations	13	4%
<b>Total</b>	<b>307</b>	<b>100%</b>

<sup>5</sup> Of the personalised responses, 308 were received through the Scottish Government's online consultation hub, and 10 were received by email or post.

<sup>6</sup> Two further substantive responses were received from individuals after the closing date for the consultation. These responses were not included in the analysis. However, their content was considered and would not have changed the findings of the report.

<sup>7</sup> Campaign responses were reviewed by the Scottish Government and confirmed to be identical with regard to the substance of the text submitted. No independent verification of the number or nature of the campaign responses was undertaken by the analysts.

2.6 Of the 13 organisational responses received, five (5) were from trade unions or trade union-related bodies, two (2) were legal profession / legal services bodies, two (2) were from community councils and one (1) was from a local authority. The remaining three (3) organisational responses were from campaign groups or charitable organisations. A complete list of organisational respondents is provided at Annex 1.

## **Campaign responses**

2.7 As noted above, the consultation received 59 standard campaign responses.

2.8 The campaign text addressed all 14 of the consultation questions, and the comments made are included in the analysis of comments for each question. However, the responses are not included in the tables shown in each chapter, which are based on the substantive (i.e. non-campaign) responses only.

2.9 The campaign text is presented in full in Annex 2 of this report.

## **Responses to individual questions (substantive responses only)**

2.10 Annex 3 of the report provides details of the number and proportion of organisational and individual respondents who replied to each consultation question (for the substantive responses only).

2.11 In general, all or nearly all of the organisations answered all the consultation questions, whilst individuals were more likely to answer the closed questions than the open questions. Response rates for individuals in relation to the closed questions ranged from 93% to 99%. In contrast, the response rates for this group in relation to the open questions ranged from 72% for the open part of Question 1 (which asked for comments on whether miners convicted of breach of the peace related to the strike should be pardoned), to 6% for Question 14 (about the partial EQIA).

2.12 See Annex 3 for full details.

### 3. Range of offences (Q1 and Q2)

3.1 Part 1 of the consultation paper sought views on the range of offences to be covered by the proposed pardon. Miners were convicted of a range of offences related to the strike. However, the criteria proposed by the independent review panel was that miners convicted of breach of the peace or breach of bail related to the strike should be pardoned.

Questions 1 and 2 asked respondents if they agreed with this proposal.

**Question 1:** Do you agree that miners convicted of Breach of the Peace related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 2:** Do you agree that miners convicted of Breach of Bail related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

3.2 The sections below cover each of these questions in turn.

#### Views on a pardon for miners convicted of breach of the peace (Q1)

3.3 Question 1 asked respondents if they agreed that miners convicted of breach of the peace related to the strike should be pardoned. Table 3.1 shows that a large majority of respondents (87%) agreed with this proposal, with 12% disagreeing. There was a similar pattern of response to this question among organisations and individuals.

**Table 3.1: Q1 – Do you agree that miners convicted of Breach of the Peace related to the Strike should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	252 (87%)	35 (12%)	4 (1%)	291 (100%)
Organisations	12 (92%)	1 (8%)	– (0%)	13 (100%)
<b>Total</b>	<b>264 (87%)</b>	<b>36 (12%)</b>	<b>4 (1%)</b>	<b>304 (100%)</b>

3.4 In addition, the campaign response said 'yes' to Question 1.

3.5 Altogether, 224 respondents (12 organisations and 212 individuals) provided further comments at Question 1. The campaign response also included comments. The sections below present, in turn, the views of those who agreed and those who disagreed that miners convicted of breach of the peace related to the strike should be pardoned. A final section looks at additional comments from those who said they were uncertain about this issue.

3.6 It should be noted that the comments made by many respondents were brief and / or general in nature and they did not necessarily make specific reference to breach of the peace offences. Thus, it was not always clear whether respondents were commenting on the possibility of pardoning miners convicted of any type of offence or miners convicted of

breach of the peace only. It should also be noted that many of the comments made at Question 1 were repeated at subsequent questions in the consultation.

### **Views supporting a pardon for miners convicted of breach of the peace**

3.7 As shown in Table 3.1, a large majority of respondents (nearly nine of ten; 87%) said that they agreed that miners convicted of strike-related breach of the peace offences should be pardoned.

3.8 Although respondents emphasised a range of different issues in their responses there was a widespread view that the specific circumstances of the strike justified the pardoning of miners convicted of breach of the peace offences (or strike-related offences more generally). At a general level, it was common for respondents to state the following:

- Miners had been fighting to protect their jobs, livelihood, families and communities via lawful strike action and picketing activities.
- The strike represented a very particular time in history when miners were 'desperate', 'feelings ran high' or 'tensions boiled over'.
- The response to the strike by the government had been politically motivated and managed, and the policing of it had been 'heavy handed', 'disproportionate', 'provocative' and politically influenced, which had contributed to the conduct of those involved. One respondent said that 'the politicising of the police' could be considered as a central cause of so much friction and the number of arrests. However, there was also a less common view that the actions of the National Union of Miners (NUM) in pursuing the strike had also been 'politically driven', with miners 'caught up in the melee [as] victims of their own Union and politicised policing'.

3.9 The fact that the convictions were, in many cases, 'out of character' for the individuals involved was also highlighted:

'For many individuals, myself included, it was their one and only conviction, it's preposterous to suggest that hundreds of people who had previously been law abiding citizens would suddenly become criminals.' (Individual respondent)

3.10 Those who commented on the question of whether those convicted of breach of the peace, specifically, should be pardoned discussed a number of common themes, as summarised in the sections below.

### **The use of breach of the peace and the 'safety' of the convictions**

3.11 Respondents frequently argued that the prosecution of miners for breach of the peace offences was part of a politically driven, and targeted strategy to defeat the strike. For example, one respondent said:

'The Miners that were arrested for breach of the peace were attempting to defend their industry and community. These arrests and charges can only be described as political interference in a legitimate dispute.' (Individual respondent)

'The reason that I think miners convicted of a breach of the peace should be pardoned is that I know that a lot of arrests were targeted arrests with no justification but were used politically as a weapon to attempt to intimidate miners.' (Individual respondent)

3.12 Some organisational respondents described further how the use of breach of the peace charges could be linked to the government's intervention, with the then Home Secretary directing Chief Constables that picketing was in breach of criminal law:

'They were arrested on trumped up charges of breach of the peace (a) because the Government had declared picketing to be in breach of the criminal law and (b) to ensure the free movement of those who, for whatever reason, did not want to respect picket lines, and (c) to criminalise the striking miners and prevent them from continuing to participate in future picket line duties.'  
(Organisational respondent – trade union related body)

3.13 Additionally, there was a widespread view that the convictions of miners for breach of the peace were 'unsafe' in that the charges were 'made up' or based on 'fabricated', or 'false, untruthful' evidence, or the action was provoked by the police.

3.14 Some respondents described particular situations which they said had resulted in breach of the peace charges:

'Breach of the peace was the default charge for bringing miners to court. I was found guilty of breach of the peace for shouting 'scab' at a working miner.'  
(Individual respondent)

'Many miners were picked out at random from picket lines and charged with breach of the peace when in fact they had done nothing wrong, a tactic used by police to reduce and disperse pickets. The easiest charge to lay was BoP [breach of the peace]. (Individual respondent)

'Many miners stood in a picket line believing that it was not illegal to do so, and many were pushed or forced through police lines by sheer pressure from behind when their colleagues pushed forward. This resulted in police lines collapsing and miners falling to the ground where they were arrested and charged with breach of the peace.' (Individual respondent)

### **The nature of breach of the peace offences and the impact on those convicted**

3.15 Some respondents also noted the minor or trivial nature of breach of the peace offences (in general or in relation to the strike). For example, one organisational respondent said:

'Breach of the peace is one of the most minor of all public order offences. Convictions for breaching the peace are therefore at the very lower end of culpable criminal behaviour and as such a pardon should be granted.'  
(Organisational respondent – other)



3.16 It was further argued that breach of the peace covered a wide range of offences at the time of the strike and many of the offences involved would not be treated in the same way by the justice system today. It was also noted (by the campaign response and other respondents) that the independent review of the miners' strike had agreed with this latter point.

3.17 Given the low-level, one-off nature of the offending, some respondents noted what they saw as the disproportionate effect on those convicted – including for example, loss of job and livelihood, and the wider impact on families and communities:

‘Scottish miners were disproportionately impacted – many were arrested and then sacked for offences that today would see them diverted from criminal prosecution. They would not have carried a prosecution against [their] name for the rest of their lives.’ (Campaign response)

### **Endorsement of the independent review recommendations**

3.18 In a few cases, respondents explained their views with reference to the recommendations of the independent review report. These respondents pointed out that the independent review had recommended pardoning those convicted of breach of the peace, and stated that they agreed with that approach. One respondent also noted that the review panel had concluded that ‘the criteria for the pardon should be based on gravity of offence, not the sentence imposed’. However, this respondent went on to argue that the offences listed in the review report were intended to be indicative rather than exhaustive and, thus, the list of offences which may be eligible for a pardon should not be closed.

### **Qualified agreement**

3.19 Occasionally, those who answered ‘yes’ at Question 1 indicated qualified agreement in their comments, suggesting, for example, that this should depend on the nature of the offence and its relationship to the strike.

### **Views against a pardon for miners convicted of breach of the peace**

3.20 Those respondents who disagreed that miners convicted of breach of the peace should be pardoned (around one in ten of those who answered the closed part of Question 1) offered two main views related to the legitimacy of the original convictions, and the ‘collective’ approach proposed for the pardon.

3.21 Most often respondents said that the miners had committed offences and had been lawfully convicted, and therefore there was no justification for the proposed pardon. Some said simply that ‘they were breaking the law at the time’ or that ‘they were found guilty of an offence in a court of law’.

3.22 These respondents argued that the law of the day had to be upheld; that the convictions included serious (including violent) offences; and that the circumstances of the strike were not relevant in considering the merits of pardoning offences committed by miners. For this group, the principles of upholding the law and following normal legal procedures were seen as important:



‘Those convicted were found or pled guilty of an offence or offences by courts of law and judges. They would have had defence lawyers acting for them. They would have had the opportunity at the time to plead ‘not guilty’, produce evidence, complain about their arrest and /or the actions of the police. For the convicted now to be pardoned would in my opinion undermine Justice and the Courts and would be an insult to others convicted then and since then.’  
(Individual respondent)

3.23 Some respondents (including some who identified themselves as police officers) recounted personal experiences of the miners’ strike in support of their view:

‘Because I was a police officer who was assaulted and verbally abused by striking miners.’ (Individual respondent)

‘...my father worked in a mine at the time as an electrician and broke the picket line in order to do safety shifts (in order to keep the mine secure). We were subject every week to picket line minders standing outside our house shouting abuse and threats. The mini-bus hired to take him to work the days he was working was subject to attack on a regular basis...’ (Individual respondent)

3.24 Less commonly, respondents who answered ‘no’ at Question 1 expressed concern about the collective (‘catch all’ or ‘wholesale’) approach proposed for the pardon. They noted the variety of cases that might have been prosecuted as breach of the peace offences (particularly given how the charge was used at the time of the strike), arguing that ‘not all breaches of the peace are the same’. It was also suggested that breaches of the peace could include assaults that may have been ‘downgraded to reduce administrative problems’.

3.25 These respondents suggested that a pardon would only be appropriate for less serious offences or should be considered on a case-by-case basis in order to take account of the full circumstances of the offence and the ‘intent’ of the offender. It was also suggested that other avenues were available for challenging unsafe convictions, harsh sentences, or unfair dismissals.

3.26 Occasionally, respondents who answered ‘no’ at Question 1 thought that pardoning the miners set a ‘dangerous precedent’ in favouring a specific group of individuals (i.e. miners) over others who may also have been convicted of offences in demonstrating for a cause they felt strongly about.

### **Uncertainty about pardoning miners convicted of breach of the peace**

3.27 Among the few respondents who selected ‘don’t know / no opinion’ at Question 1, there were concerns about the application of a general approach that did not take account of the nature and seriousness of the offence.

### **Views on a pardon for miners convicted of breach of bail (Q2)**

3.28 Question 2 asked respondents if they agreed that miners convicted of breach of bail related to the strike should be pardoned. Table 3.2 shows that, as with Question 1, a large

majority of respondents (86%) agreed, while 12% disagreed. Once again, there was a similar pattern of response to this question from individuals and organisations.

**Table 3.2: Q2 – Do you agree that miners convicted of Breach of Bail related to the Strike should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	248 (86%)	36 (12%)	5 (2%)	289 (100%)
Organisations	11 (92%)	1 (8%)	– (0%)	12 (100%)
<b>Total</b>	<b>259 (86%)</b>	<b>37 (12%)</b>	<b>5 (2%)</b>	<b>301 (100%)</b>

3.29 In addition, the campaign response said ‘yes’ to Question 2.

3.30 Altogether, 195 respondents (12 organisations and 183 individuals) provided further comments at Question 2. The campaign response also included comments.

3.31 Across all the responses received it was common for respondents to make (or re-state) points made in response to Question 1. These comments are not repeated in detail here, and, as far as possible, the analysis below focuses on the specific issue of whether miners convicted of breach of bail related to the strike should be pardoned. The few respondents who selected ‘don’t know / no opinion’ made similar points to other respondents and their views are not presented separately.

### **Agreement that miners convicted of breach of bail should be pardoned**

3.32 As shown in Table 3.2, the majority of respondents (individuals and organisations) agreed that miners convicted of breach of bail related to the strike should be pardoned. Around a third of those who agreed at Question 2 and provided comments repeated points made in response to Question 1, or simply said ‘as above’ or ‘see answer to Question 1’ – arguing that all strike related offences should be eligible for a pardon, or setting out general reasons why offences related to the strike should be pardoned – without making any direct reference to the particular circumstances of breach of bail offences.

3.33 Among those who made specific reference to the pardoning of convictions related to breach of bail, there were two main inter-linked points. These related to (i) the circumstances of the original arrest and charge, and (ii) the use of bail during the strike.

### **The circumstances of the original charge**

3.34 Respondents argued that the original arrests (or the resulting convictions) that led to bail – and the subsequent breach of bail – were unwarranted or ‘unsafe’, part of a strategy targeting union officials and activists, and / or politically motivated. As a result, they believed a pardon was justified.

3.35 Most often respondents made one or both of the following points: stating that the individuals affected ‘should never have been charged [or arrested] in the first place’, or ‘should never have been on bail in the first place’.

3.36 Other individuals made a direct link between the perceived ‘unlawful’ nature of the original arrests and the implications of this for any subsequent conviction for breach of bail. This group argued that ‘if the original conviction was unsound then the bail attached to that is null and void’, or that ‘if the charges were unjust then the breach is negated’.

### **The use of bail during the strike**

3.37 Respondents also often commented on the use of bail during the strike and the nature and intention of the conditions attached. In particular, they described the bail conditions imposed by the courts as ‘unfair’, ‘ridiculous’, ‘stringent’, or ‘draconian’. Furthermore, the conditions were regarded as being politically motivated, and intended to hinder the strike by preventing union organisation and picketing, as illustrated in the quotes below:

[T]hose miners arrested in the course of picket line duties were NUM officials and activists. Their arrests, their convictions, and the bail conditions imposed on them by the criminal law had the intended effect of depriving them of their right as trade unionists to participate in collective action in their lawful industrial dispute and neutered their efforts to succeed in their aim of protecting their jobs, their industry and their community.’ (Organisational respondents – one (1) legal and one (1) trade union related body)

‘The bail conditions were a way of controlling the miners that had been arrested, although not found guilty. This meant they could not go within a certain distance of a picket line. Picketing was not against the law so why were they banned from taking part in a peaceful picket line.’ (Individual respondent)

3.38 Some respondents pointed out that the use of bail conditions as a way of preventing participation in strike activities had been recognised by the independent review. One individual also argued that the bail conditions applied during the strike ‘infringed on a person’s civil and human rights’.

3.39 Some said that, given the circumstances, breaching bail should not be regarded as a criminal act.

3.40 One organisation highlighted two specific situations which they thought should fall within the criteria for the pardon: breach of bail offences pursued and convicted prior to the proceedings for the substantive offence being concluded; and breach of bail offences proceeded against as ‘stand-alone’ offences after the original substantive offence had been ‘dropped’.

### **Qualified agreement**

3.41 Some respondents who answered ‘yes’ at Question 2 expressed caveats to their general agreement suggesting, for example, that:

- The pardon should be limited to one offence only, should depend on the bail conditions imposed, or should only be applied if the individual had been falsely arrested in the first place

- The inclusion of breach of bail within the criteria should be in line with the definition proposed by the independent review.

### **Other comments in support of pardoning breach of bail**

3.42 Other points, raised on a more occasional basis, by those in favour of pardoning miners convicted of breach of bail including the following:

- The circumstances of the strike could be regarded as mitigating factors in the breaching of bail conditions. Respondents suggested two scenarios whereby individuals, despite being bailed, may have wished to continue participating in something in which they believed strongly or, alternatively, may have felt under pressure to resume their strike-related action.
- Not all miners who had breached bail conditions were charged for this.
- Individuals may have been unable to attend court and may have breached bail conditions because of hardship resulting from the strike.

### **Disagreement that miners convicted of breach of bail should be pardoned**

3.43 Those that answered 'no' at Question 2 also referred back to their answer at Question 1, generally stating that the law had been broken, and individuals should be held accountable for that.

3.44 However, the comments from those who made specific reference to the question of whether breach of bail should be eligible for the proposed pardon suggested that they saw this as a serious offence that involved direct and wilful contravention of a court order, and demonstrated a lack of respect for the law.

3.45 As with Question 1, some also expressed concern about the precedent this might set in treating miners differently from other groups, or for those who might breach bail conditions in the future:

'The law must be equal for all. Removing any sanction for breach of bail is a dangerous precedent to set. Should everyone involved in a political protest be entitled to a pardon? If yes, then far-right demonstrators should also be pardoned. If not, then the Government is open to accusations of bias in favour of left-wing causes.' (Individual respondent)

3.46 Among those who answered 'no' (or 'don't know / no opinion') at Question 2, there were a small number who had replied 'yes' at Question 1, thus indicating support for a pardon for breach of the peace but not for breach of bail. These respondents made similar points to others who answered 'no' at Question 2, indicating that they viewed breach of bail in a different light to breach of the peace offences, describing it, for example, as a 'flagrant abuse of authority', or 'wilful' breaking of the law.

### **Other views**

3.47 One legal organisation which did not provide a response at the closed part of Question 2 raised two concerns about the inclusion of breach of bail offences in the criteria for the miners' pardon, as follows:

- They highlighted the difficulty of ascertaining if a breach of bail was linked to a strike-related offence or some other extraneous matter unrelated to the strike.
- They drew attention to the fact that a breach of bail could relate to non-attendance at court which they described as a lack of regard for the justice system.

3.48 This respondent suggested that the option of pardoning breach of bail offences 'requires some consideration and care'.

## 4. Other offence-related matters (Q3 to Q5)

4.1 Questions 3 to 5 in the consultation (Part 2) covered other offence-related issues. The consultation paper noted that the independent review had recommended that the qualifying offences for the pardon be restricted to breach of the peace and breach of bail. However, the Scottish Government wished to know whether respondents thought that any other strike-related offences committed by miners (apart from breach of the peace and breach of bail) should be included in the qualifying criteria. Views were also invited on whether committing multiple offences relating to the strike, rather than just one, should be a relevant criterion. Three questions asked for views on these issues as follows:

**Question 3:** Are there any other offences which miners were convicted for and which related to the Strike that you think should be included in the qualifying criteria? [Yes / No / Don't know/No opinion]

If yes, please tell us what other offences you think should be included in the criteria.

**Question 4:** Do you think that miners who were convicted of a single offence related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 5:** Do you think that miners who were convicted of multiple offences related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

4.2 The sections below look in turn at the views expressed on these questions.

### Other offences which should be included in the qualifying criteria (Q3)

4.3 Question 3 asked respondents if any other strike-related offences which miners were convicted of should be included in the qualifying criteria. Table 4.1 shows that, overall, there was no clear view among respondents on this question. The largest proportion of respondents (44%) answered 'yes'. However, nearly a fifth (18%) answered 'no' and a relatively large proportion (38%) answered 'don't know / no opinion'. Organisations were more likely than individuals to answer 'yes' to this question – a clear majority of organisational respondents (8 out of 12) said 'yes'.

**Table 4.1: Q3 – Are there any other offences which miners were convicted for and which related to the Strike that you think should be included in the qualifying criteria?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	123 (43%)	50 (18%)	111 (39%)	284 (100%)
Organisations	8 (67%)	2 (17%)	2 (17%)	12 (100%)
<b>Total</b>	<b>131 (44%)</b>	<b>52 (18%)</b>	<b>113 (38%)</b>	<b>296 (100%)</b>

Percentages may not total 100% due to rounding.

4.4 The campaign response said 'no' at Question 3. This reply appears somewhat ambiguous when considered alongside the accompanying comments: 'No – all those who

were arrested should be considered for a pardon.’ Other respondents who called for a pardon for all miners or all offences in their comments generally ticked ‘yes’ at the closed part of Question 3 (see paragraphs 4.10–4.11). However, answering ‘no’ can reasonably be interpreted as a preference for a ‘blanket’ pardon, rather than a pardon with a specified list of offences included within set eligibility criteria. Note that in a few instances other respondents who ticked ‘no’ also provided potentially ambiguous comments of this type.

4.5 Respondents who answered ‘yes’ at Question 3 were asked to say what other offences they thought should be included in the criteria for a pardon. Among those who answered ‘yes’, 112 respondents (8 organisations and 104 individuals) provided further comments. Comments were also submitted by some respondents who answered ‘no’ or ‘don’t know / no opinion’ at Question 3.

4.6 Across Questions 1 to 3, there was a notable group of respondents who answered ‘yes’ to Questions 1 and 2, and then answered ‘no’ or ‘don’t know / no opinion’ at Question 3, with the overall proportion of respondents answering ‘no’ or ‘don’t know / no opinion’ much higher than for the previous two questions. However, respondents answering in this way did not often provide comments at Question 3, so it is not possible to fully explore and understand this pattern of responses.

4.7 It was also common for respondents to make (or re-state) at Question 3 points made in response to Question 1. These comments are not repeated in detail here, and, as far as possible, the analysis below focuses on the specific issue of whether offences other than breach of the peace and breach of bail should be included in the qualifying criteria for the proposed pardon.

### Views of those who thought other offences should be included

4.8 Respondents who ticked ‘yes’ at Question 3 often provided general comments as to why they thought additional offences should be included in the qualifying criteria for the proposed pardon, or reiterated points made at previous questions in support of the proposed pardon.

4.9 Those who went on to comment more specifically about the offences they thought should be included offered three main views: (i) that **all** offences for which miners were convicted should be included, (ii) that other **specific offences** should be included, and (iii) that other **general types of offence** should be included (sometimes described in terms of types of offences that should be excluded or included). Overall, around a third of those answering ‘yes’ at Question 3 put forward proposals for other offences (or types of offences) which might be included in the criteria. Comments related to each of these perspectives are discussed below.

### Inclusion of ‘all’ offences

4.10 The most common view was that all offences – or as specified by some, all offences related to the strike – should be covered by the criteria. Respondents also variously called for all ‘arrests’, ‘charges’ or ‘convictions’ to be included, or said that convictions should be ‘annulled’, ‘quashed’, ‘scrapped’, ‘expunged’ or ‘looked at’ or ‘reviewed’. Some who ticked ‘no’ also made comments of this type (see paragraph 4.4 above), and their views are included in the analysis below.



4.11 In most cases, respondents in this group provided brief answers only; however, those who did expand on their views offered somewhat differing emphases in their comments. For example, one respondent highlighted a caveat, saying that ‘all convictions related to legitimate and lawful strike action should be included’, while another called for a fully inclusive approach saying that the criteria should be ‘simplified’ and ‘that all convictions arising from the period of the miners’ strike should be pardoned unconditionally’.

### **Specific offences put forward for inclusion in the qualifying criteria**

4.12 Respondents put forward a wide range of proposals for offences they wished to see included in the qualifying criteria for the proposed pardon. Prominent among the suggestions were offences prosecuted under Section 41 of the Police (Scotland) Act 1967.

4.13 Section 41 of the Police (Scotland) Act 1967 criminalised a person who ‘assaults, resists, obstructs, molests or hinders a constable in the execution of his duty ... or rescues or attempts to rescue, or assists or attempts to assist the escape of, any person in custody’. Several organisational respondents noted that the independent review had highlighted breaches of Section 41 of the Police (Scotland) Act 1967 (hereafter ‘the 1967 Act’) as the next most common grounds for arrest during the miners’ strike (after breach of the peace), and that (according to the National Union of Mineworkers (NUM) Scotland) such charges had generally related to picket line activity, often in conjunction with a breach of the peace charge for the same offence.

4.14 Other individual respondents also cited charges under the 1967 Act, or proposed more generally that offences related to obstruction or resisting arrest should be included in the criteria for the pardon, with some explaining how such charges might have arisen as a result of police action when faced with picket lines:

‘When the police grab a picket and force their arms behind their back, you struggle. By trying to ease the pain you end up by being charged with breach of the peace, assault, and resisting arrest.’ (Individual respondent)

4.15 Additionally, in relation to Section 41 offences, one organisation cited legal precedence for treating charges related to resisting arrest as unlawful if an original arrest was found to be unlawful.<sup>8</sup> This respondent did not answer the closed part of Question 3 but noted in their comments that ‘if the policing of arrest in an offence in relation to the miner’s strike was not lawful, all offences which follow should also be unlawful’.

4.16 Other specific offences proposed for inclusion were those relating to:

- Offences under the Conspiracy, and Protection of Property Act 1875
- ‘Illegal’ strike action and picketing activity including that related to flying pickets and mass picketing, and other activity such as sit-ins, shouting at working miners, and challenging the police
- Rioting, riotous assembly
- Vandalism and damage, including against National Coal Board (NCB) property, and destruction of public property

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<sup>8</sup> The respondent made reference to the case of *Cardle v Murray* (8 1993 SLT 525).



- Trespass, trespass on the Queen’s highway
- Assault, including assault of police officers, assault related to picketing, assault provoked by the police – some respondents described how miners might be charged with such offences after themselves being assaulted by the police
- Offences linked to travelling to picket lines, minor road traffic offences associated with other offences included in the criteria
- Offences linked to poverty, financial difficulties and providing for their family – such as stealing food and fuel, and shoplifting
- Non-payment of fines
- Drunk and disorderly behaviour.

### **General offence types put forward for inclusion in the qualifying criteria**

4.17 Those making more general statements about the types of offence that should be included in the pardon criteria mentioned the following:

- All public order offences
- All minor offences
- All but the most thoroughly evidenced convictions
- Any offences seen to stem from the ‘toxic environment’ of the strike
- Any offences provoked by the police.

4.18 Alternatively, some said that all but the most serious offences or those involving violence should be included in the criteria.

### **Other views**

4.19 Occasionally, respondents who ticked ‘yes’ said that the pardoning of other types of offences should depend on the circumstances of the case or be looked at on a case-by-case basis.

### **Views of those who thought other offences should not be included**

4.20 As shown in Table 4.1 above, just under a fifth of respondents (18%) did not think any other offences should be included in the qualifying criteria. Those who responded in this way and explained their views often simply repeated comments made at earlier questions, for example, stating that the law had been broken and that a pardon was not therefore justified, or that other avenues were available for challenging convictions and sentences. However, in a small number of cases, respondents who answered ‘no’ at Question 3 used their comments to highlight the potentially serious nature of offences other than breach of the peace and breach of bail.

4.21 The only organisation answering ‘no’ at Question 3 and providing comments, said simply that this was ‘consistent with the criteria proposed by the independent review’.

### **Conviction for single offence or multiple offences (Q4 and Q5)**

4.22 Two consultation question (Questions 4 and 5) asked for views about the pardoning of miners convicted of single or multiple offences. There was a great deal of overlap in the views expressed in response to these questions, and thus they are dealt with in a single

section, below. The response to the closed part of each question is shown separately, followed by an integrated analysis of the comments made by respondents.

4.23 Question 4 asked respondents if they thought that miners who were convicted of a single offence related to the strike should be pardoned. Table 4.2 shows that a large majority of respondents (87%) agreed with this proposal, whilst 10% disagreed, with a similar pattern of response for individuals and organisations.

**Table 4.2: Q4 – Do you think that miners who were convicted of a single offence related to the Strike should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	251 (87%)	30 (10%)	9 (3%)	290 (100%)
Organisations	11 (92%)	1 (8%)	– (0%)	12 (100%)
<b>Total</b>	<b>262 (87%)</b>	<b>31 (10%)</b>	<b>9 (3%)</b>	<b>302 (100%)</b>

4.24 In addition, the campaign response said 'yes' to Question 4.

4.25 Question 5 asked respondents if they thought that miners who were convicted of multiple offences related to the strike should be pardoned. Table 4.3 shows that a large majority (78%) agreed with this proposal, and 13% disagreed. Furthermore, there was a similar pattern of response among individuals and organisations. However, the proportion agreeing that miners convicted of **multiple offences** related to the strike should be pardoned (78%) was slightly lower than the proportion agreeing that miners convicted of a **single offence** should be pardoned (87%, see again Table 4.2, above). This reflected changing views among individuals – rather than organisations.

**Table 4.3: Q5 – Do you think that miners who were convicted of multiple offences related to the Strike should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	221 (77%)	39 (14%)	26 (9%)	286 (100%)
Organisations	11 (92%)	1 (8%)	– (0%)	12 (100%)
<b>Total</b>	<b>232 (78%)</b>	<b>40 (13%)</b>	<b>26 (9%)</b>	<b>298 (100%)</b>

4.26 The campaign response said 'yes' to Question 5.

4.27 Altogether, 168 respondents (12 organisations and 156 individuals) provided further comments at Question 4, while 166 respondents (12 organisations and 154 individuals) provided further comments at Question 5. The campaign response also included comments on both questions.

4.28 For the most part, respondents gave the same answer at the closed question for both these questions (i.e. they said 'yes' at both questions or 'no' at both questions), and there was a great deal of commonality in the comments made, particularly at the general level. Thus, the sections below consider (i) the views of those who agreed that miners convicted of single and / or multiple offences should be pardoned, and (ii) the views of those who

disagreed that miners convicted of single and / or multiple offences should be pardoned. Subsequent sections look briefly at the views of those who agreed with pardoning those with single but not multiple convictions, and the views of those offering other uncertain or more mixed or nuanced views on this issue.

### **Agreement that those with single or multiple convictions should be pardoned**

4.29 As shown in Table 4.2 and 4.3, almost nine out of ten respondents said that miners convicted of a single offence related to the strike should be pardoned, while a slightly lower proportion (but still a relatively large majority) of respondents said that miners convicted of multiple offence should be pardoned.

4.30 It was common for respondents at both questions to explain their views with reference to points made at earlier questions. They said, for example, that **all** offences should be pardoned, or repeated general reasons why they thought miners should be pardoned for strike-related offences: the miners had been taking part in lawful and legitimate industrial action to protect jobs, livelihoods and communities; the response to the strike had been politically motivated; the policing of the strike had been politically driven, disproportionate and unwarranted; and the resulting arrests, prosecution and convictions had been unjustified and unsound.

4.31 Across both Questions 4 and 5, but particularly at Question 5, there was a view that the number of convictions was not relevant to the granting of a pardon, given the circumstances of the strike, as argued by the following respondents:

'[T]he number of convictions is irrelevant. Policing of the strike was a disgrace. These were men trying to save their industry, not just their own jobs, the culture associated with it...and the viability of their communities. They reacted to provocation (we can say they should not have done, but that would have been a tall order) and whether they did so once, or many times should not be an issue.'  
(Individual respondent)

'Whether one or ten they were unjust so all should be pardoned.'  
(Individual respondent)

4.32 Those who explicitly addressed the issues of single or multiple convictions, offered a range of other comments, as presented below.

### **Pardoning of those with single convictions**

4.33 Respondents who commented specifically on the pardoning of those with single convictions tended to make one of two main points. First, they argued that, in many cases, a strike-related conviction would have been an individual's first and only offence of any type and should be viewed in that light. Respondents said that 'a single act does not point to sustained criminality', or that miners had been 'law abiding before the strike and law abiding after'. The consequences of a single conviction were also noted, as follows:

'Even a single offence means that otherwise law-abiding citizens acquired a criminal record.'  
(Individual respondent)

4.34 Second, respondents said that the particular context of the strike would have led to individuals being arrested and convicted in ways that would not have been the case in other circumstances:

‘Given the situation and how the law was being used, the single offender was probably just unlucky to be lifted out the crowd.’ (Individual respondent)

4.35 More generally, some also drew attention to the strike being a time when ‘feelings ran high on both sides’, or when ‘tensions were high and mistakes were made’.

### **Pardoning of those with multiple convictions**

4.36 In discussing the reasons why those convicted of multiple offences should be pardoned, respondents again discussed the particular circumstances of the strike. They made a number of linked points.

4.37 First, respondents referred to the ‘inevitability’ of multiple convictions because of the nature of the strike:

‘A man may have been convicted and then released, perhaps after a period of imprisonment, and then re-arrested. Given that the strike lasted the best part of a year, it would be possible for this to happen.’ (Organisational respondent – other)

4.38 However, respondents also argued that this pattern of multiple convictions was the result of deliberate policing practices and tactics used in response to the strike. There was a suggestion that almost everyone arrested during the dispute was given multiple charges like ‘obstructing an officer in his duties, resisting arrest, police assault...’

4.39 In addition, the practice of applying multiple charges to a single offence was described by a number of organisational respondents as a way of securing a conviction:

‘The issue of “multiple offences” is very misleading. The documents evidencing arrests during the strike which were provided to the Independent Review by the NUM (Scotland Area) show or tend to show that miners were routinely charged with multiple offences arising out of a single incident. Almost without exception, that “single incident” occurred during picketing.’ (Organisational respondents – one (1) legal and two (2) trade union related bodies)

4.40 In a similar vein, it was also highlighted that many miners convicted of multiple offences were convicted of an original offence and of breaching bail conditions imposed in relation to the original offence (see also Question 2). One individual respondent described this as ‘effectively being punished twice for the same non-offence’.

4.41 Other respondents talked about the repeated targeting of specific individual miners by the police – particularly those active in the union, in strike organisation or on picket lines – with the aim of thwarting strike-related activity either at an individual or collective level:

‘...many miners were subjected to repeated attention from the police because of their organising role in the trade union. This victimisation was used as a

deterrent to intimidate activists and prevent their ability to make arrangements and preparations.’ (Organisational respondent – other)

4.42 Broadly speaking, respondents expressing these views saw the incidence of multiple convictions as a function of the approach taken by the police rather than as an indicator that distinguished those with single and multiple convictions in any significant way.

#### **Disagreement that those with single or multiple convictions should be pardoned**

4.43 Respondents who disagreed that miners convicted of single offences should be pardoned largely repeated points made at earlier questions. Most commonly they said that the miners had broken the law (sometimes in relation to serious or violent offences), and had been treated appropriately in that context, and convicted on the basis of the evidence presented.

4.44 Those making more direct reference to the issue of whether a pardon should be made for single offences often said that this was ‘irrelevant’ or ‘doesn’t matter’, or said that there was no reason to treat miners any differently from other offenders, with one respondent saying:

‘The fact that the individuals were miners is irrelevant. If those convicted of a single offence are pardoned, then surely any other individual, regardless of occupation, should also be able to receive a pardon. It is deeply unfair to give preferential treatment under the law to a specific group.’ (Individual respondent)

4.45 Those making direct reference to whether a pardon should be made for those with multiple offences tended to comment in terms of a perceived pattern of offending or the perceived motivation and intent of the individual concerned, with their comments suggesting that they thought this should disqualify someone from receiving a pardon:

‘Absolutely not. If someone has engaged in a course of conduct that has led to multiple convictions, then this shows that that person has no regard to others, themselves or their families or more importantly the law.’ (Individual respondent)

4.46 However, there was also a view that the **nature** of the multiple convictions might be a valid consideration, with one respondent raising the issue of whether the question related to ‘one offence with multiple charges on one occasion, or multiple offences over different times’ – a situation also discussed by respondents who generally agreed with pardoning those with multiple offences (see paragraphs 4.36–4.42).

#### **Agreement that those with single but not multiple convictions should be pardoned**

4.47 Tables 4.2 and 4.3, above, showed that a small number of individual respondents thought a pardon should be given to miners with single offences, but should not necessarily be given to miners with multiple offences. Where the responses of these individuals changed from ‘yes’ to ‘don’t know / no opinion’, they generally said (at Question 5) that it depended on the nature and seriousness of the offence(s), or they thought that eligibility for a pardon should be considered on a case-by-case basis.

4.48 It was less common for individuals to answer ‘yes’ at Question 4 but ‘no’ at Question 5. However, those who did so, and who explained their views, made a distinction between single and multiple offences and what this indicated about the intent of the perpetrator, as illustrated in the quote below:

‘Committing multiple offences is not getting caught up in the heat of the moment and being unlucky in getting arrested.’ (Individual respondent)

### Other views

4.49 In addition to the main views presented above, a relatively small group of respondents expressed uncertain or more mixed or nuanced views at Questions 4 and 5 about the eligibility of those with single or multiple convictions. This group of respondents included those who answered ‘don’t know / no opinion’ to Questions 4 and / or 5 and those who did not answer the tick-box questions, but it also included those who answered ‘yes’ or ‘no’ but then qualified their overall response.

4.50 These respondents generally expressed reservations, to varying degrees, about a ‘blanket’ approach to pardoning convicted miners, and thought that this should depend on the nature, seriousness and frequency of offending. Some also suggested that the strength of evidence in the original case, and the personal circumstances of the individual, were relevant factors.

4.51 One organisational respondent (that did not answer the closed tick-box question) also commented on the application of the pardon to those with multiple convictions, and the relevance of the circumstances of individual cases to this:

‘That depends on the criteria of the offence, its relationship to the strike and whether the multiple incidents were on one date related to one incident or multiple as in related to the strike but arising on more than one date.’  
(Organisational respondent – legal)

4.52 Occasionally, respondents, particularly those who had answered ‘yes’ at either of the questions, proposed more specific conditions saying for example, that pardons should be restricted to breach of the peace and breach of bail offences (seen as being in line with the independent review recommendations), or that serious violent offences should be excluded. The issue of the seriousness of offences is discussed in further detail in relation to Question 8 (in Chapter 5).

4.53 In addition, particularly amongst those who ticked ‘no’ at Questions 4 and 5, there were two less common views that (i) pardons should be dealt with on a case-by-case basis with scope to consider the detail and circumstances of each case, and (ii) a tribunal should be established to consider specific cases (involving either single or multiple offences). However, these views were generally expressed by just one or two respondents.



## 5. Previous or subsequent convictions (Q6 to Q8)

5.1 The independent review panel recommended that, in order to receive a pardon, miners must have had no previous convictions before the strike began in March 1984 and also must have no subsequent convictions after the strike ended in March 1985. Part 3 of the consultation asked for views on whether a history of offending – either before or after the strike – should (or should not) disqualify someone from receiving a pardon, and whether the severity of the offending was relevant to this issue. There were three questions as follows:

**Question 6:** Do you agree that miners who had been convicted of an offence before the Strike began in March 1984 should be pardoned for offences committed during the Strike? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 7:** Do you agree that miners who were convicted of an offence after the Strike ended in March 1985, and which did not relate to conduct during the Strike, should be pardoned for a conviction related to the Strike? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 8:** In considering your responses to question 6 and question 7, do you think that the severity of the offending is relevant? [Yes / No / Don't know/No opinion]

Please explain your answer.

5.2 The sections below cover each of these questions in turn.

5.3 It should be noted that a relatively large proportion of respondents did not fully engage with these questions in their comments. In relation to all these questions, between a third and two-fifths of respondents who provided further comments simply said 'see my previous answer' or 'see above'; or they repeated their views (expressed in relation to earlier questions) that **all** miners should be pardoned or (by contrast) that miners found guilty of an offence should **not** be pardoned; or they made some other type of statement which did not directly address the question – e.g. that miners were fighting for their jobs or (alternatively) that they broke the law and should pay the price.

### Convictions for offences prior to the strike (Q6)

5.4 Question 6 asked respondents if they agreed that miners who had been convicted of an offence before the strike began (i.e. prior to March 1984) should be pardoned for offences committed during the strike. Table 5.1 shows that a majority of respondents (69% overall) agreed, whilst around a fifth (19%) disagreed. There was a similar pattern of response among individuals and organisations, although a slightly higher proportion of organisations compared to individuals said 'yes' at this question.

**Table 5.1: Q6 – Do you agree that miners who had been convicted of an offence before the Strike began in March 1984, should be pardoned for offences committed during the Strike?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	198 (69%)	55 (19%)	36 (12%)	289 (100%)
Organisations	10 (77%)	2* (15%)	1 (8%)	13 (100%)
<b>Total</b>	<b>208 (69%)</b>	<b>57 (19%)</b>	<b>37 (12%)</b>	<b>302 (100%)</b>

\* Note that one organisation appeared to have misread the question, with their comments suggesting that their 'no' response does not relate to the question set out in the consultation paper. See the footnote at paragraph 5.18 below.

5.5 The campaign response said 'yes' to Question 6.

5.6 Altogether, 162 respondents (12 organisations and 150 individuals) provided further comments at Question 6. The campaign response also included comments. Note that those who answered 'don't know / no opinion' at Question 6 generally expressed caveats similar to those expressed by some respondents who answered 'yes'. Thus, the comments of these two groups are discussed together, below.

### Views supporting a pardon for miners with prior convictions

5.7 Among individuals and organisations answering 'yes' at Question 6, the main view was that convictions or offences committed **prior** to the miners' strike in 1984/85 were 'irrelevant' to the decision to pardon an individual for convictions or offences committed **during** the strike.

'...If they committed an offence before the 1984 strike, that's a totally different situation. What has that got to do with the strike??' (Individual respondent)

'Offences committed before the strike are irrelevant to the collective pardon that should be extended to all Scottish miners convicted of offences during the strike.' (Individual respondent)

5.8 In general, this group thought **all** former miners should be pardoned for strike-related convictions regardless of any convictions they may have had prior to the strike.

5.9 Respondents often gave examples of minor, or trivial, offences (e.g. failure to pay a TV licence, being drunk and disorderly, stealing sweets as a child, etc.), to highlight the lack of relevance to considerations about a pardon for strike-related offences.

'Previous convictions, for example a road traffic offence or failure to pay a TV licence, bear no relation to convictions during the strike. Miners who were convicted during the strike should be pardoned.' (Campaign response)

5.10 Moreover, both individual and organisational respondents also often made the point that any convictions prior to the strike were already spent – that is, they would no longer appear on a person's criminal record – and therefore, it would not be 'fair' to disqualify that individual from a pardon for strike-related convictions on the basis of those previous convictions.



'The alleged offences committed during the strike should be examined separately from any previous convictions a person may have prior to the strike as it would be unfair to judge someone on any previous conviction that had already been dealt with in the past.' (Individual respondent)

5.11 The point was also made that a policy of disqualifying individuals for a pardon on the basis of their previous offending could be seen as discriminatory, since it would most likely result in pardons being granted to men who were **younger** at the time of the strike and withheld from those who were **older** at the time of the strike.

'The miners who were arrested were of all age groups with varied working backgrounds, and therefore, it would be manifestly wrong to penalise older miners for a minor offence committed in their past.' (Individual respondent)

5.12 Very occasionally, individuals who answered 'yes' expressed caveats to their overall response. However, the precise meaning of these was not always clear. For example, one individual replied: 'For non-violent offences only'. It is not clear, in this case, whether this respondent was arguing for a pardon for non-violent strike-related offences only, or whether they were suggesting that a pardon should be offered to former miners whose convictions prior to the strike related to non-violent offences only. Another similar (and similarly ambiguous) caveat was: 'depending on the severity, nature and context of the conviction'. However, one organisation also qualified their affirmative response at Question 6. This organisation was clear that, so long as the strike-related offending did not involve serious violence, then any offences **prior** to the strike should not be a consideration in determining whether a miner is eligible for a pardon.

5.13 Note that respondents who answered 'don't know / no opinion' at Question 6 usually expressed caveats and these were similar to those expressed by respondents who answered 'yes' (e.g. 'depends on the offences' / 'depends on the severity or circumstances surrounding the incident'). However, again, it was not always clear whether these caveats referred to the offences committed **prior** to the strike, or the offences committed **during** the strike.

5.14 A small number of individuals and organisations raised a separate issue in their comments at Question 6. This related to offences that miners may have committed **prior** to the official start of the national strike which were, in fact, related to industrial disputes and actions. There was a suggestion among these respondents that the eligibility for a pardon should be extended to cover offences committed during this period of time.

'There was a long time period of heightened industrial tension as a result of the policies of the National Coal Board and the Thatcher government prior to the strike starting. And so, because this is the case, the formal start of the strike should not be a cut off point for those who should be pardoned.' (Individual respondent)

### Views opposing a pardon for miners with prior convictions

5.15 Respondents who answered 'no' at Question 6 frequently repeated or referred back to comments they had made in response to Questions 1 to 5. In general, this group

objected to the principle of a pardon for miners who were convicted of offences during the strike. Very few of these respondents addressed the issue of whether a previous conviction should or should not disqualify an individual for a pardon in relation to offences committed during the strike.

5.16 However, a small number of individuals who answered ‘no’ at Question 6 stated that convictions before the strike ‘had nothing to do with the strike’, or that convictions before the strike and convictions during the strike ‘should be unconnected’. These comments – taken together with the individual’s ‘no’ response at Question 6 – suggest that these respondents thought the question of a miner’s previous convictions was irrelevant – and that miners should not receive a pardon, regardless of these previous convictions.

5.17 However, the comments made by some respondents suggest the possibility that they may have misunderstood the question and thought it was asking about whether offences committed before the strike should be pardoned.

‘Offences before the strike should stand. If you break the law, you do the time’.  
(Individual respondent)

5.18 Two organisations also answered ‘no’ at Question 6. One of these expressed similar views to individuals as discussed in paragraph 5.15 above. This organisation was opposed in principle to pardoning miners who were convicted of strike-related offences. The second organisation appeared to have misread the question.<sup>9</sup>

### Convictions for offences after the strike (Q7)

5.19 Question 7 asked respondents if they agreed that miners who were convicted of an offence after the strike ended in March 1985, which did not relate to conduct during the strike, should be pardoned for a conviction related to the strike. Table 5.2 shows that, overall, around two-thirds of respondents (64%) agreed with this proposal and around a quarter (25%) disagreed. There was a similar pattern of response among individuals and organisations on this question.

**Table 5.2: Q7 – Do you agree that miners who were convicted of an offence after the Strike ended in March 1985, and which did not relate to conduct during the Strike, should be pardoned for a conviction related to the Strike?**

Respondent type	Yes	No	Don’t know / No opinion	Total
Individuals	182 (64%)	72 (25%)	31 (11%)	285 (100%)
Organisations	9 (69%)	3 (23%)	1 (8%)	13 (100%)
<b>Total</b>	<b>191 (64%)</b>	<b>75 (25%)</b>	<b>32 (11%)</b>	<b>298 (100%)</b>

<sup>9</sup> This organisation submitted its response by email and used its own standardised template for submitting its answers to the consultation question. This response featured, and provided a view on, the following question: ‘Do you agree that miners who had been convicted of an offence before the strike began in March 1984 should be pardoned for offences committed before the strike?’ – rather than Question 6 set out in the consultation paper.

5.20 The campaign response said 'yes' to this question.

5.21 Altogether, 149 respondents (12 organisations and 137 individuals) provided further comments at Question 7. The campaign response also included comments.

### Views supporting a pardon for miners with unrelated convictions after the strike

5.22 Respondents who answered 'yes' at Question 7 expressed several views in their comments (some of which may have resulted from a misunderstanding of the question).

5.23 The most common view among this group was that convictions for unrelated offences committed **after** the strike should have no bearing on a miner's eligibility for a pardon for strike-related convictions. Some respondents re-stated their view (expressed in response to Question 6) that the convictions for any such unrelated offences will have been punished at the time, and therefore should not disqualify any individual for a pardon.

'The principle must be that all miners convicted of an offence related to the strike are pardoned. The notion that some are undeserving is an insult.'  
(Individual respondent).

'An offence that occurred after the strike and which had been dealt with by the courts or others should be 'spent' and therefore should not preclude a pardon.'  
(Individual respondent)

5.24 Some respondents simply referred back to their comments at Question 6 – rather than re-state their arguments.

5.25 Although Question 7 asked specifically about **unrelated** offences committed after the strike, some respondents wanted to clarify that any convictions **after** the strike – **which were strike-related** – should also be eligible for a pardon. Those who raised this issue made two points. First, some argued that delays in the justice system could have resulted in individuals who were accused of an offence during the strike not being tried (or convicted) until **after** the strike. Second, some suggested that even after the strike ended, some miners continued to be treated unfairly – by the National Coal Board and local police – and that this may have resulted in strike-related convictions occurring after the strike had ended.

'Industrial disputes are not self-contained. There are different phases to them, including after a return to work. The NCB and the government continued to attack the Miner[s] and their communities after the formal strike ended, and therefore Miners who were convicted after the strike ended should also be pardoned.'  
(Individual respondent)

5.26 It was also relatively common for respondents who answered 'yes' at Question 7 to say that offences which occurred after the strike and which may **seem** to be unrelated to the strike – could, in fact, be seen as an impact of the strike – i.e. the result of an individual losing their livelihood.

'I personally know miners who were blacklisted due to their convictions during the strike. These men could not get work and were left unable to earn enough to

keep themselves and their families. If one of them got a conviction for shoplifting years later due to their being stressed and desperate to feed their families, why should that prevent them from being pardoned?' (Individual respondent)

'Miners found themselves unable to sustain a livelihood and maintain their family as a result of unsound convictions, mental health may have been affected, and unwise choices may have been made.' (Individual respondent)

5.27 The respondents who made these types of comments did not think post-strike offences should prevent a miner from being pardoned for strike-related convictions. However, it was not always clear if these respondents were also suggesting that miners should be pardoned for post-strike convictions as well. Very few respondents who answered 'yes' at Question 7 explicitly stated that the pardon should be 'only for convictions occurring during the strike', or 'only for strike-related convictions'.

5.28 Finally, a relatively small number of respondents who answered 'yes' (or 'don't know / no opinion') at Question 7 expressed caveats. In most cases, these related to the nature (or seriousness) of the offence. It was not always clear, however, whether these caveats related to the seriousness of the **strike-related** offence, or the seriousness of the offence **after** the strike. Only occasionally did the respondent state specifically that the seriousness of the offence **during the strike** was the important criterion.

'On the basis that the offence committed during the strike did not involve serious violence, even though the miner was subsequently convicted of an offence after the strike, which did not relate to conduct during the strike, the miner should be entitled to a pardon in respect of the offence committed during the strike.' (Organisational respondent – other)

### Views opposed to a pardon for miners with unrelated convictions after the strike

5.29 Respondents who answered 'no' at Question 7 generally did so because they were opposed in principle to a pardon being given to miners convicted of offences during the strike. This group repeated views previously expressed that 'they broke the law, so they pay the price', or 'judicial procedure was carried out', and they expressed concerns that such a pardon indicated a disregard for 'law and society'.

5.30 Some respondents in this group may have misunderstood the question – believing that it was asking about whether convictions for offences committed **after** the strike should be pardoned. In a few cases, the comments of respondents who answered 'no' suggested that they supported a pardon for strike-related offences, but did not support a pardon for unrelated offences committed after the strike.

5.31 A small number of additional points were made by respondents who answered 'no' at Question 7, including that:

- A conviction **after** the strike suggests that offences committed **during** the strike were not simply an indication of a 'lapse of good behaviour', and so miners with post-strike convictions should not be eligible for a pardon for convictions during the strike.

- Convictions that related to conduct during (and related to) the strike, but which arose after the strike, should be covered by the pardon.
- Cases should be reviewed (i.e. decided on a ‘case-by-case’ basis) where a miner had a conviction for a non-strike-related offence committed **after** the strike.

5.32 However, each of these points were usually made by just one or two respondents. It was also noted by one respondent who answered ‘no’ at Question 7 that the independent review had proposed that miners with convictions for non-strike-related offences committed **after** the strike should not be eligible for a pardon for strike-related convictions.

### Severity of other offending (Q8)

5.33 Question 8 asked respondents whether the severity of offending was a relevant issue in relation to their responses to Questions 6 and 7 above. Table 5.3 shows that, overall, just over half of respondents (52%) answered ‘no’ to this question, whilst around a third (34%) answered ‘yes’. Organisations were more likely than individuals to answer ‘no’, and individuals were more likely than organisations to answer ‘don’t know / no opinion’.

**Table 5.3: Q8 – In considering your responses to question 6 and question 7, do you think that the severity of the offending is relevant?**

Respondent type	Yes	No	Don’t know / No opinion	Total
Individuals	97 (34%)	144 (51%)	43 (15%)	284 (100%)
Organisations	4 (31%)	9 (69%)	– (0%)	13 (100%)
<b>Total</b>	<b>101 (34%)</b>	<b>153 (52%)</b>	<b>43 (14%)</b>	<b>297 (100%)</b>

5.34 The campaign response did not address the ‘yes’ / ‘no’ part of Question 8. It did, however, provide comments.

5.35 In addition, among those who submitted substantive responses to the consultation, 134 (10 organisations and 124 individuals) also provided comments at Question 8.

5.36 It was clear from the comments that there was considerable confusion – and different understandings – about what this question was asking. The question referred to Questions 6 and 7 which concerned, respectively, the eligibility of miners for a pardon if they had (i) convictions for offences committed **before** the miners’ strike and (ii) convictions for offences committed **after** the miners’ strike. Therefore, the implication was that the ‘severity of offending’ referred to in Question 8 related to any offences that miners may have committed before or after the strike. The fact that these three questions (6, 7 and 8) comprised Part 3 of the consultation paper – which concerned ‘previous or subsequent convictions’ – further strengthens this interpretation.

5.37 However, some respondents (both individuals and organisations) understood Question 8 as asking about offences that miners committed **during** the strike. The differences in interpretation of this question were as likely to be made by those answering ‘yes’ to Question 8 as those answering ‘no’. For this reason, the figures shown in Table 5.3 above should be treated with caution.

5.38 Some respondents specifically expressed their uncertainty about the meaning of the question in their comments and attempted to clarify their views in relation to both possible interpretations. For example, one organisation answered ‘yes’ in response to Question 8, and commented that:

‘In answering YES we are assuming that the ‘severity of offending’ relates to the offence committed during the strike.... [W]e consider that the severity of offending as recommended by the review panel is a relevant criterion. If, however, your reference to ‘severity of offending’ relates to the pre- and post-strike offence, then we do not think that this is relevant, provided it is not a strike-related pre- or post-strike offence.’ (Organisational respondent – other)

5.39 Another individual who answered ‘no’ in response to Question 8, commented that:

‘I find the wording of this question unclear. If the question is whether my answer to question 6 and question 7 could be qualified by the severity of possible offending before and / or after the strike, then my answer to this question is ‘no’. The pardon relates only to conviction for offences committed during the strike. The grounds for pardon for these offences are clear, as set out in my responses to questions 1–5. If the question in fact relates to the severity of offending during the strike, then it should be noted – anticipating my answer to question 10 – that no miners in Scotland were convicted of offences committed during that strike that were sufficiently serious to warrant a prison sentence. With this interpretation of the question, my answer is also ‘no’.’ (Individual respondent)

5.40 Bearing in mind these different understandings of the question, the remainder of this section sets out the range of views expressed in respondents’ comments. There were five main views expressed. The first main view was generally expressed by respondents who answered ‘yes’ at Question 8. This was, simply, that eligibility for a pardon should take into consideration the seriousness of the offence.

5.41 The remaining four views were mainly voiced by respondents who answered ‘no’ (or in some cases ‘don’t know / no opinion’) to Question 8.<sup>10</sup> These were: (i) that the seriousness of offences committed before or after the strike is not relevant to the question of whether to pardon miners for strike-related convictions; (ii) that convictions for strike-related activities were ‘unsafe’, based on unreliable evidence and politically motivated; (iii) that strike-related offences could not, in general, be described as ‘serious’ in nature; and (iv) that offences committed during the strike were often the result of severe provocation. Each of these are discussed below.

### **The seriousness of the offences should be a relevant consideration**

5.42 For the most part, respondents who answered ‘yes’ to Question 8 thought that the seriousness of the offences should be a relevant consideration in determining eligibility for a pardon. The comments from these respondents did not usually state explicitly whether

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<sup>10</sup> In fact, a small number of respondents who answered ‘yes’ at Question 8 also expressed one or more of these four views – which is possibly the result of confusion about the meaning of the question. In addition, a small number of respondents who answered ‘no’ at Question 8 expressed opposition to the principle of a pardon for miners, arguing that ‘They broke the law, so they pay the price’.



they understood the question as referring to **unrelated offences committed prior or subsequent to the strike**, or to **strike-related offences committed during the strike**. However, the comments generally suggested the latter interpretation.

5.43 Some within this group identified specific types of offending behaviour which they thought should disqualify miners for a pardon. These included:

- Violent behaviour (including that which caused life-changing injuries)
- Serious assaults (respondents' views about the nature of serious assaults varied, but in general they saw serious assaults as those which resulted in injury)
- Assault of a police officer
- Manslaughter
- Murder
- Endangerment of life
- Shouting threats of violence / threatening people in their homes
- Any conviction on indictment.

5.44 There was disagreement about whether offences relating to the damage of property should be a disqualifying criterion.

5.45 Some respondents in this group expressed caveats to the general view that the seriousness of the offences should be a factor in determining eligibility for a pardon. Within this group, there were some who thought such cases should be considered on an individual basis (i.e. case by case); others suggested that extenuating circumstances should also be taken into account – for example, the extent of provocation and the reliability of the evidence used to convict an individual.

'These should be looked at on an individual basis, with all evidence to be scrutinised, especially the unsafe police statements that could be easily dismissed but have inexcusably not [been]. (Individual respondent)

'The severity of offences should be considered in all circumstances. Equally the degree of provocation must be taken into account. Whilst I would hesitate to use the words 'police brutality,' which have been used, the response was perhaps describable as 'robust' which perhaps [was] a bit over the top.... (Individual respondent)

5.46 Occasionally, there was a view that these types of 'exceptional' cases should be judged by a court.

### **The seriousness of the offences committed before or after the strike is not relevant**

5.47 One group of respondents who answered 'no' at Question 8 understood the question as asking about **previous or subsequent convictions** for non-strike-related offences. This group of respondents argued that the seriousness of these previous or subsequent offences was not a relevant issue and should not disqualify a miner from being given a pardon for any strike-related offences. Some also made the point that any such convictions will have been punished at the time and would now be spent.

‘Whether a person was convicted before or after of something else should have no bearing on their pardon for strike related convictions.’ (Individual respondent)

‘He’ll have been punished appropriately if he had previous or subsequent convictions and, as such, they have no bearing on any conviction relating to the strike. (Individual respondent)

5.48 Some respondents argued that evidence presented in the report of the independent review of the 1984/85 miners’ strike had not indicated that strike-related convictions were associated **either** with a previous **or** a subsequent history of offending. The implication of this point is that these issues were unrelated and should not be taken into account for the purposes of determining eligibility for a pardon.

‘There is nothing within the final report of the independent review to suggest that the convictions of miners arrested during the miners [strike] were influenced by any prior history of criminal convictions.... Equally and on the other hand, there is no evidence to suggest that miners arrested during the strike were subsequently convicted of non-strike-related matters because of their prior criminal convictions incurred during the strike.’ (Organisational respondents – one (1) legal and one (1) trade union related body)

### **Convictions for strike-related activities were ‘unsafe’, based on unreliable evidence**

5.49 A second group of respondents – most of whom answered ‘no’ at Question 8 – understood the question as asking about **offending during the strike**. These respondents repeatedly argued that convictions during the strike were ‘unsafe’ – that is, they were based on unreliable evidence and a judicial process that was compromised by a politically-influenced prosecution policy.

‘Consequently, the demonstrably politicised nature of the prosecution policy during the strike fundamentally compromised the integrity of the judicial process. Therefore, the severity of alleged offences should not form part of the qualifying criteria because a pardon which only applied to convictions received for minor offences would automatically exclude those convicted of anything more serious. yet we know that prosecutions for some of the most serious charges were evidentially baseless and vindictive.’ (Individual respondent)

‘My [answer] is NO for the majority of convictions were politically motived. Justice was watered down for the miners.’ (Individual respondent)

### **Strike-related offences were largely minor in nature**

5.50 A third group of respondents who answered ‘no’ at Question 8 also understood the question as asking about **offending during the strike**. However, unlike the group above, this group argued that few offences committed during the strike could be regarded as ‘serious’. These respondents suggested that most offences committed during the miners’ strike would be unlikely to lead to a criminal prosecution today.

‘The overwhelming number of convictions in Scotland were for minor offences that today would not attract a criminal record and those involved would be



directed to undertake other activities to avoid prosecution. There are very few, if any, cases that would be described as severe.’ (Campaign response)

### **Strike-related offences were often the result of severe provocation**

5.51 Finally, the fourth main view in the comments at Question 8 was that any ‘serious’ offences committed during the strike were often the result of severe provocation. This view was mainly expressed by respondents who answered ‘no’ at Question 8. Those who expressed this view did not specifically state that some miners may have committed serious offences during the strike, but rather they suggested that if such serious offences **had** been committed, then they should be seen within the wider context of the strike and the policing of the strike.

‘Miners and others were forced into situations that was government orchestrated, which wouldn’t be tolerated today and was illegal then.’ (Individual respondent)

‘The state sponsored campaign against the miners was extreme. The campaign to save jobs and their industry was vital to the country. Their response to overwhelming force must be seen in this context. Severity of offending does not come into it when properly contextualised.’ (Individual respondent)

## 6. Consequences of conviction (Q9 to Q11)

6.1 The independent review group had suggested that miners whose convictions led to imprisonment should not receive a pardon. The Scottish Government wished to invite views on this issue. Questions 9 and 10 of the consultation asked whether the outcome of the conviction (i.e., whether a non-custodial or custodial sentence was imposed) should be a relevant consideration in determining eligibility to receive a pardon.

6.2 The consultation paper also noted that some miners lost their jobs as a result of a conviction relating to the strike, whilst others did not. The independent review had not included loss of employment as a consideration in its suggested criteria for receiving a pardon. However, the Scottish Government wanted to hear views on this issue. Question 11 asked respondents if they thought that loss of employment should be considered as a relevant criterion in determining eligibility for a pardon.

**Question 9:** Do you agree that miners whose conviction relating to the Strike resulted in a non-custodial sentence (such as a fine or a community service order), should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 10:** Do you think that miners whose conviction relating to the Strike resulted in imprisonment should be pardoned? [Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 11:** Thinking about the fact that some miners were dismissed by the National Coal Board, as a result of a conviction relating to the Strike, and others were not, which of the following statements most closely matches your view? (Please select one option only.) [All miners who meet the criteria should be pardoned, regardless of whether or not they were dismissed by the National Coal Board. / Only miners who meet the criteria AND were dismissed by the National Coal Board should be pardoned. / Neither of the above. / Don't know/No opinion]

Please explain your answer.

6.3 The sections below cover each of these questions in turn.

6.4 As with the questions discussed in the previous chapter of this report, a relatively large proportion of respondents did not fully engage with Questions 9 to 11 in their comments. In relation to all these questions, between a quarter and a third of respondents who provided further comments simply said 'see my previous answer' or 'see above'; or they repeated their views (expressed in relation to earlier questions) that **all** miners should be pardoned or (by contrast) that miners found guilty of an offence should **not** be pardoned; or they made some other type of statement which did not directly address the question – e.g. that 'it was industrial action' or (alternatively) that 'they broke the law and should pay the price'.

### Convictions resulting in non-custodial sentences (Q9)

6.5 Question 9 asked respondents if they agreed that a miner whose strike-related conviction had resulted in a non-custodial sentence should receive a pardon. Table 6.1

shows that the vast majority of respondents (88%) agreed with this proposal and a small minority (11%) disagreed. There was a similar pattern of response among individuals and organisations.

**Table 6.1: Q9 – Do you agree that miners whose conviction relating to the Strike resulted in a non-custodial sentence (such as a fine or a community service order), should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	256 (88%)	31 (11%)	3 (1%)	290 (100%)
Organisations	12 (92%)	1 (8%)	– (0%)	13 (100%)
<b>Total</b>	<b>268 (88%)</b>	<b>32 (11%)</b>	<b>3 (1%)</b>	<b>303 (100%)</b>

6.6 The campaign response answered 'yes' to this question.

6.7 Altogether, 149 respondents (11 organisations and 138 individuals) provided further comments at Question 9. The campaign response also included comments.

#### Views supporting a pardon for convictions resulting in non-custodial sentences

6.8 Respondents who answered 'yes' at Question 9 sometimes made statements such as 'absolutely', or 'without question', without elaborating on their views. There was also a view that the 'sentence is not relevant'. Those who expressed this view argued that miners should be pardoned 'irrespective of the punishment imposed at the time' or 'regardless of the sentence imposed'. A third group simply stated that 'all convictions related to the strike should be pardoned', without addressing the specific issue of the sentence.

6.9 Those who provided reasons for their views often echoed points made in response to previous questions, for example:

- That the convictions were 'unsafe' and 'politically motivated' (i.e. based on unreliable evidence or 'trumped up charges')
- That the same offences committed today would have resulted in a caution, rather than a criminal record
- That some offences were the result of provocation or (perceived) goading by the police
- That miners had the right to fight for their livelihoods and their industry
- That some miners were arrested for 'just being on the picket line'
- That such convictions will now have been spent.

6.10 Respondents in this group argued that a non-custodial sentence will have been associated with a minor offence, and so should certainly be pardoned. Some respondents suggested that most miners should never have been charged for such offences in the first place.

6.11 Some organisational respondents expressed uncertainty about the meaning of this question, as they understood that miners without custodial sentences were precisely the group the independent review had recommended be pardoned.

‘... If we are considering the question of pardoning miners convicted, then it surely follows by default that, at the very least, a non-custodial sentence would have been imposed? There is no evidence in the final report [of the independent review] that miners were convicted and given suspended sentences. All of the evidence presented to the Independent Review was that... the overwhelming majority of those convicted were served with fines.’ (Organisational respondents – one (1) legal and two (2) trade union related bodies)

### **Views opposing a pardon for convictions resulting in non-custodial sentences**

6.12 In general, respondents who answered ‘no’ to Question 9 were opposed to the principle of a pardon for miners with convictions relating to the 1984/85 miners’ strike. Whilst some in this group acknowledged that a non-custodial sentence was likely to relate to a less serious offence, they nevertheless believed that a criminal offence had been committed, and it should not be pardoned.

‘The severity of an offence is reflected by the sentence imposed. The fact that an individual was not given a custodial sentence means that the court took this into consideration but does not alter the fact that a criminal offence was committed.’ (Individual respondent)

‘No, guilty is guilty.’ (Individual respondent)

6.13 Occasionally, respondents in this group suggested that the decision to pardon should be made on a case-by-case basis and should depend on the circumstances of the crime or the seriousness of the offence. These respondents suggested that convictions for minor offences (e.g. minor damage, breach of the peace on a picket line, or an offence resulting in a ‘low fine’) could be considered for a pardon, but that if the conviction was for anything more serious (i.e. assault), then it should not be pardoned.

6.14 Other views – usually expressed by just one or two individuals answering ‘no’ – were that:

- Miners should be required to formally appeal their convictions.
- Sentencing during the miners’ strike was more lenient than usual (resulting in a higher than normal proportion of non-custodial sentences) because of concerns about overcrowding in prisons and ‘political considerations’ at the time.

### **Convictions resulting in custodial sentences (Q10)**

6.15 Question 10 asked respondents if they thought miners should be pardoned if their strike-related convictions had resulted in imprisonment. Table 6.2 shows that, overall, more than three-quarters of respondents (78%) answered ‘yes’ to this question and 13% answered ‘no’. There was a similar pattern of response among individuals and organisations, although a slightly lower proportion of organisations than individuals answered ‘yes’, and a slightly higher proportion of organisations answered ‘no’.

6.16 It should also be noted that the proportion of respondents answering ‘yes’ at Question 10 (78%) is lower than the proportion answering ‘yes’ at Question 9 (88%). (See again, Table 6.1, above.)

**Table 6.2: Q10 – Do you think that miners whose conviction relating to the Strike resulted in imprisonment should be pardoned?**

Respondent type	Yes	No	Don't know / No opinion	Total
Individuals	226 (79%)	36 (13%)	25 (9%)	287 (100%)
Organisations	9 (69%)	3 (23%)	1 (8%)	13 (100%)
<b>Total</b>	<b>235 (78%)</b>	<b>39 (13%)</b>	<b>26 (9%)</b>	<b>300 (100%)</b>

Percentages may not total 100% due to rounding.

6.17 The campaign response answered ‘yes’ to this question.

6.18 Altogether, 155 respondents (12 organisations and 143 individuals) provided further comments at Question 10. The campaign response also included comments.

### Views supporting a pardon for convictions resulting in imprisonment

6.19 Among those who answered ‘yes’, one group of respondents simply argued that ‘all convictions relating to the strike should be pardoned’ irrespective of the sentence handed down at the time – without offering further explanation of their views.

6.20 Among those who provided further details, four main points were made.

6.21 The most common point made was that many miners were ‘targeted by the police’ and wrongfully convicted’ as a result of the political context of the time. Such views echoed comments made by respondents at previous questions, suggesting that the evidence upon which convictions were based was unreliable. Linked to this was a second point that sentencing during the miners’ strike was unnecessarily harsh. Some respondents suggested that any custodial sentences were probably not justified on the basis of the offence committed.

‘I know of miners jailed, and [they] were completely innocent, but convicted by a judge. If they had been tried by jury, the charges would have been laughed out of court.’ (Individual respondent)

‘The strike was a dispute politically driven by the Government of the day. Papers released under the 30-year rule show this. Miners who were imprisoned were collateral damage in the Government’s war against the NUM [National Union of Miners]. Those who were imprisoned were jailed because they were miners, they would not be in that position had they not been involved in the strike. They should be pardoned.’ (Campaign response)

6.22 Some respondents answering ‘yes’ at Question 10 commented that no evidence had been presented to the independent review to show that any miner in Scotland had been imprisoned because of strike-related activities. Respondents making this point suggested that there was merely some ‘anecdotal’ evidence that a small number of miners had been

held on remand whilst awaiting sentencing (usually due to breach of bail conditions). Occasionally, respondents in this group suggested that a separate process should be set up to consider the cases of the ‘handful’ of miners in this situation. (The suggestion made was that a separate independent inquiry should be held, with the possibility of establishing a future Pardons Tribunal.)

6.23 Finally, a small number of respondents answering ‘yes’ at Question 10 argued that miners who had been ‘wrongfully convicted’, or ‘wrongfully imprisoned’ should not only be pardoned, but should also be compensated because of the significant adverse impact of these convictions on their employment and future life opportunities.

‘Pardon all miners and pay them all the strike pay they lost and a massive bonus. They were wrongfully convicted, wrongfully ostracized, and deserve compensation.’ (Individual respondent)

### **Views opposed to a pardon for convictions resulting in imprisonment**

6.24 Respondents who answered ‘no’ at Question 10 generally did so because they were opposed in principle to pardoning miners convicted of offences during the miners’ strike.

6.25 A relatively small number of respondents in this group specifically referred to the issue of a sentence of imprisonment, arguing that if an individual was imprisoned then it must have been for a serious offence, and / or because they already had a criminal history. This group did not think that a pardon should be offered in these circumstances.

‘Imprisonment would indicate that the severity of the crime was too great to be pardoned, then and / or now.’ (Individual respondent)

‘There are again issues to be raised over the actual headline conviction which gave rise to the sentence of imprisonment. Was there a record prior to the conviction(s) for offences relating to conduct during the strike?’ (Organisational respondent – legal)

### **Convictions leading to dismissal by the National Coal Board (Q11)**

6.26 Question 11 asked respondents for their views about whether the loss of their job as a result of a strike-related conviction should be considered when determining whether a miner is eligible to receive a pardon. This was a closed question, and respondents were given four options to choose from, as shown in Table 6.3 below. The findings indicate that a large majority of respondents (84% overall) thought that all miners who meet the criteria for a pardon should be pardoned, regardless of whether or not they were dismissed by the National Coal Board (NCB) (option 1). Eight (8) respondents – all individuals – thought that only miners who meet the criteria for a pardon AND who were dismissed by the NCB should be pardoned (option 2). Around one in ten respondents (11%) answered ‘neither of the above’ (option 3) in response to Question 11. The remaining respondents (five in total) answered ‘don’t know / no opinion’ (option 4).



**Table 6.3: Q11 – Thinking about the fact that some miners were dismissed by the National Coal Board as a result of a conviction relating to the Strike, and others were not, which of the following statements most closely matches your view?**

<b>Respondent type</b>	<b>Individuals</b>	<b>Organisations</b>	<b>Total</b>
Option 1: All miners who meet the criteria should be pardoned, regardless of whether or not they were dismissed by the National Coal Board.	239 (84%)	12 (92%)	251 (84%)
Option 2: Only miners who meet the criteria AND were dismissed by the National Coal Board should be pardoned.	8 (3%)	– (0%)	8 (3%)
Option 3: Neither of the above.	33 (12%)	1 (8%)	34 (11%)
Option 4: Don't know/No opinion.	5 (2%)	– (0%)	5 (2%)
<b>Total</b>	<b>285 (100%)</b>	<b>13 (100%)</b>	<b>298 (100%)</b>

Percentages may not total 100% due to rounding.

6.27 The campaign response did not directly answer the closed part of this question; however, the comments – ‘All those who were convicted during the strike should be pardoned’ – suggested that the campaign respondents agreed with the majority view on this question.

6.28 Among those who submitted substantive responses to the consultation, 131 respondents (11 organisations and 120 individuals) provided further comments at Question 11. The sections below consider, first, the views of those who selected option 1 (i.e. they thought all miners who meet the criteria for a pardon should be pardoned, regardless of whether or not they were dismissed from their jobs). Then, the views of those who chose option 3 (‘neither of the above’) are discussed. Only three people who selected option 2 and one person who selected option 4 provided further comments. Comments from these respondents are discussed briefly at the end of this section.

6.29 Note that there appeared to be some confusion among respondents about what this question was asking. Occasionally, respondents explicitly said that (i) they did not understand the question, or (ii) they thought the question was open to misinterpretation. In addition, it was relatively common for comments made by respondents at Question 11 not to directly address the question of whether dismissal by the NCB should (or should not) be a criterion for a pardon – which may also suggest that respondents did not understand the question. The comments of some respondents appeared to suggest that they thought the question was asking about the justification (or not) of actions taken by the NCB to sack miners (both those who had been convicted, but also those who had been arrested and / or played leading roles in the strike). Some who selected option 1 affirmed the unfairness and / or lack of consistency in the way miners were dealt with by the NCB during and after the miners’ strike, whilst some who selected option 3 argued that the actions taken by the NCB may have been reasonable in the circumstances. These types of responses suggest that the figures shown in Table 6.3 above should be treated with caution.

6.30 Some respondents (as with previous questions in the consultation) simply stated that ‘all miners should receive a pardon’, or (by contrast) that ‘no pardons should be given’. It is unclear from these responses whether the individuals who made them had fully engaged with the question.



## Views supporting a pardon for all miners, regardless of their dismissal by the NCB

6.31 There were three main views among respondents who selected option 1 at Question 11 (all miners who meet the criteria should be pardoned, regardless of whether or not they were dismissed by the NCB).

6.32 The most common view was that whether or not a miner was dismissed following their conviction (or arrest) was not a relevant factor in deciding whether they should receive a pardon. Respondents argued that (i) these were separate matters and (ii) the relevant issue with respect to eligibility for a pardon was whether the individual was convicted of a criminal offence.

‘The National Coal Board’s decision should have no bearing on a person being included in the pardon.’ (Individual respondent)

6.33 Second, respondents repeated points they had made at previous questions – i.e., that arrests and convictions during the miners’ strike were politically motivated and that miners were often targeted for dismissal because of their role in the strike. One individual in this group also noted that submissions to the independent review had highlighted the speed with which dismissal often followed arrest, suggesting the possibility of coordination / collusion between the NCB and the police, and contributing to the sense of injustice which miners experienced during the strike.

6.34 Third, and less often, respondents (particularly organisational respondents) commented that the independent review had not suggested that dismissal by the NCB should be a factor in determining eligibility for a pardon.

6.35 Other points made by this group (usually by one or two respondents) were that:

- Evidence submitted to the independent review showed that the NCB in Scotland took a harder disciplinary line with strikers arrested and convicted of strike-related offences as compared with the NCB in other parts of the UK.
- All miners should be pardoned, but those who were sacked could be given priority, given the particularly high price they (and their families) paid for their involvement in the strike.
- The pardon should be given in relation to non-violent offences only.

6.36 Although this group saw the issues of pardon (for convictions) as separate from the actions taken by the NCB, there were nevertheless questions about whether miners who were pardoned could (or should be able to) make a claim against their former employers for unfair dismissal, and if so, whether that claim could also be made (for example, by family members) on behalf of miners who were now deceased.

‘[J]ustice must still be delivered to those miners who were sacked by the NCB Scotland Area because of their support for and participation in the Strike. Those miners sacked by the NCB in Scotland lost not just their jobs and income, but their standing in society, the loss of [a] job they loved, as well as the loss of their future potential entitlement to redundancy payments that would otherwise have been due to them because of the eventual demise of the mining industry in

Scotland, but also the reduction of their pension benefits, both in terms of state retirement pension contributions and to the Mineworkers Pension Scheme.’  
(Organisational respondent - trade union related body)

6.37 There were also suggestions that, in addition to the pardon offered to those with strike-related convictions, the Scottish Government should also publicly acknowledge the significant adverse impact that job losses had on mining communities.

‘Dismissal came at considerable social and economic costs. Men lost connections to their workplaces that they had taken industrial action to defend in the first place and also struggled in increasingly harsh labour markets. Blacklisting affected striking miners, with trade union activists excluded from jobs that could have used skills they developed in the industry, and some men were condemned to long-term unemployment. Given the impact of job loss, I do hope that the Scottish Government can communicate its regret for the Scottish miners who were dismissed for strike-related activities along with a pardon for all miners convicted of strike-related offences.’ (Individual respondent)

### Views opposing a pardon for miners

6.38 Respondents who selected option 3 (‘Neither of the above’) in response to Question 11 were generally opposed to the principle of a pardon for miners.

6.39 A small number of respondents in this group also suggested that the NCB may have been justified in dismissing miners who had been arrested or convicted of an offence during the strike. It was also suggested that, if any of the dismissals had seemed ‘unfair’ at the time, that miners would have had recourse to an appeal system.

‘Dismissals done in response to breach of terms and conditions of employment are correct.’ (Individual respondent)

‘Dismissal by the NCB is not a court matter so a pardon would be inappropriate. Dismissal should go before an employment tribunal.’ (Individual respondent)

6.40 There was also a suggestion within this group that the issue of whether a miner was dismissed or not was irrelevant as a factor in determining eligibility for a pardon. Instead, eligibility for a pardon should be based solely on the nature and severity of the offence.

### Other views

6.41 There was a small number of respondents who selected option 2 (‘only miners who meet the criteria AND were dismissed by the NCB should be pardoned’) or option 4 (‘don’t know / no opinion’) at Question 11. This group generally made similar comments to those who supported a pardon for miners regardless of whether or not they were dismissed by the NCB (i.e. those who selected option 1).

## 7. Further criteria and comments (Q12 and Q13)

7.1 The consultation paper stated that as well as considering the criteria proposed by the independent review panel, the Scottish Government also wished to explore whether any additional criteria (additional to those identified by the independent review) should be considered in determining eligibility for a pardon. Part 5 of the consultation included a specific question on this issue (Question 12) and an additional question inviting any further comments about the criteria (Question 13).

**Question 12:** Are there any other criteria that should be added to those mentioned above?  
[Yes / No / Don't know/No opinion]

Please explain your answer.

**Question 13:** Do you have any further comments that you would like to make concerning the criteria? If so, please use the box below.

7.2 There was a great deal of overlap in the views expressed at Question 12 and Question 13. As such, the comments for both these questions have been analysed together and are discussed in the sections below.

7.3 Question 12 asked respondents if they thought any other criteria should be added to those already mentioned in preceding questions. Although Question 12 in the consultation paper was a two-part question, no table is shown in this chapter for the responses to the closed part of the question. The analysis of the comments revealed little distinction between those who answered 'yes', 'no' or 'don't know / no opinion'. As such, the results of the quantitative analysis do not contribute to an understanding of the views of respondents. The analysis presented here is based solely on the comments made.

7.4 Question 13 was an open question inviting respondents to provide any further comments that they would like to make concerning the criteria for a pardon.

7.5 The analysis below is based on respondents' comments at both Questions 12 and 13. Altogether:

- 65 respondents (57 individuals and 8 organisations) commented at Question 12. The campaign response did not include comments on this question.
- 103 respondents (94 individuals and 9 organisations) commented at Question 13. The campaign response also included comments at Question 13.

7.6 The majority of comments at both of these questions were general in nature, often relating to views on the strike; the (perceived) motivation and conduct of different parties (i.e. miners, the National Union of Mineworkers, the police, the government) in the strike; the impact of the strike on miners, their families and communities; and overall support for or opposition to the proposed pardon, and the varied reasons for this. These comments often repeated points made at earlier questions, and so are not discussed here again. Instead, the analysis focuses on those comments made across both questions that are more directly related to the detail and operation of the proposed pardon. The analysis is

presented under the following three headings: (i) the criteria for the pardon; (ii) the implementation of the pardon; and (iii) other possible measures sought by respondents.

### The criteria for the pardon

7.7 For the most part, comments relating to the criteria for the pardon reflected points made in response to earlier questions. Most commonly, respondents expressed views on the appropriate scope of the pardon. Here, the dominant view was that the pardon should apply to all offences / all offences related to strike / all miners, or it should be designed as a 'blanket pardon'. The options being considered by the government (and the recommendations of the independent review) were seen as 'too narrow' or 'too restrictive'. Respondents in this group thought it was important that the pardon did not differentiate between miners in different circumstances:

'Those men lost everything... How can you justify giving some a pardon and others not. It's all or nothing.' (Individual respondent)

'[The] criteria cannot be used to pick and choose specifics of who gets a pardon. Pardon one, pardon all.' (Individual respondent)

7.8 Related to these points were the views that:

- There should be 'no criteria' as this would lead to some being excluded.
- There was a need for a 'simplified' approach, ensuring that 'all convictions arising from the period of the miners' strike should be pardoned unconditionally'.

7.9 Indeed, one respondent said that they would prefer to see no pardon rather than a pardon that discriminated between miners:

'I fully appreciate the intentions of the pardon, but I would ask that the pardon is not given. As a former sacked miner, I would argue that those who have campaigned for this never wanted the criteria attached or the effect and stigma on those miners who fail to meet the criteria of the pardon.' (Individual respondent)

7.10 Less often, respondents used their comments at Questions 12 and 13 to restate their opposition to the proposed pardon.

7.11 In a few cases respondents repeated their views (discussed earlier in this report) on the types of offences that should be eligible or ineligible for a pardon, and how this might be reflected in the criteria for the pardon. These respondents mainly suggested that serious or violent offences (including violence against the police, and intimidation of working miners) should be excluded from the pardon, with one organisational respondent reiterating their view that the principal criterion should be 'gravity of offence, not sentence' and another organisation stating:

'There must be criteria set as no matter what the background to the political situation was at the time, there is criminal conduct resulting in convictions that arose that should still remain inexcusable. It is about maintaining a balance in recognising the

background to the strike that occurred over forty years ago and specifically, in the affected communities, given the challenging situations that arose and was highly divisive for many involved who found themselves on opposing sides.’ (Organisational respondent – legal)

7.12 Alternative views, also expressed by a few respondents, were that the pardon criteria should take account of the strength of evidence in a case or be restricted to cases where a miscarriage of justice had taken place.

7.13 One further issue raised in a range of comments at Questions 12 and 13 (and at other consultation questions), was the issue of who should be eligible for a pardon, with suggestions that the pardon should be extended to various categories of people who were **not** miners, but who may also have been convicted of strike-related offences. These included the wives or other members of miners’ families, other trade unionists, and members of the public who had taken action in support of the miners. There was also a specific call from a small group of legal and trade union respondents that the impact on ‘non-male members of the NUM’ should be considered. This group were concerned that the independent review recommendation explicitly referred to a pardon for **men** convicted for matters related to the strike.

7.14 Some respondents endorsed the Scottish Government’s stated intention that the pardon should apply posthumously.

7.15 Finally, there was a view (expressed by one organisational respondent) that the independent review recommendations should be implemented in full.

### The implementation of the pardon

7.16 Some respondents commented on how the proposed pardon might be implemented.

7.17 In particular, there was a call for legislation relating to the proposed pardon to be brought forward early in the new parliamentary session. One organisational respondent noted the time that had elapsed since the end of the strike (37 years) and the fact that many of those affected would now be quite elderly, or may have passed away, and said:

‘It is therefore imperative that legislation should be introduced quickly to enable the pardons to take place as soon as possible’. (Organisational respondents - other)

7.18 In addition, one legal organisation stressed the need for:

- Clarity about the process for securing a pardon and clarity about the criteria, including in relation to the timing of the strike, the definition of a miner and the definition of a strike-related offence
- Effective publicity about the pardon, targeted at appropriate communities
- Legal advice and assistance for those potentially eligible for a pardon (or their families) to ensure they understand the criteria, and the implications and effect of the pardon.

## Other possible measures

7.19 Across Questions 12 and 13 (and again reflecting comments made in response to previous questions), some respondents who were broadly supportive of the proposed pardon made a range of suggestions relating to other action which they thought was merited, given the circumstances of the strike. There were, for example, a range of calls for:

- Compensation for miners – including compensation for loss of job and earnings, the impact of ‘blacklisting’ as a result of involvement in the strike, the impact on miners’ lives following the end of strike, and for the way miners were treated during strike
- The reinstatement of pension rights for sacked miners
- The repayment of any fines paid by miners for strike-related offences, and compensation for imprisonment as a result of a strike-related convictions
- The pardon to be extended to non-court disposals such as cautions
- Miners convicted elsewhere in the UK of strike-related offences to be pardoned and / or a UK-wide inquiry into the policing of the national miners’ strike.

7.20 In addition, there was also a view, expressed by a small group of respondents, that the police and politicians should be held accountable for their actions during the strike – including through criminal prosecution. That notwithstanding, one respondent suggested that the ‘effective pardon’ extended to police officers involved in the strike who had not been held accountable for their conduct provided a ‘compelling reason why it is in the interests of fairness that the miners should now be pardoned unconditionally’ (311).

7.21 However, in contrast to the comments above, there were also occasional calls for an apology and / or compensation for police officers harmed or otherwise negatively affected by their involvement in the strike.

## 8. Partial Equality Impact Assessment (Q14)

8.1 The consultation paper stressed the importance of ensuring that no negative impacts arose for individuals with protected characteristics under the Equality Act 2010 as a result of the introduction of the proposed pardon. The consultation included a partial Equality Impact Assessment (EQIA) which considered possible equality impacts and how these might be avoided. The final question in the consultation invited comments on the draft to inform development of a final version of the EQIA.

**Question 14:** If you have any comments on the partial EQIA, please tell us, using the box below.

8.2 Nineteen (19) respondents (2 organisations and 17 individuals) provided comments at Question 14. Individual respondents often said they did not understand the question, or they made comments which were unrelated to the partial EQIA.

8.3 A small number of individuals highlighted the impact of the strike on miners and their wives and families. One individual simply said that 'the EQIA covers all bases'.

8.4 The two organisational respondents responding to this question, commented as follows:

- One organisation agreed with the conclusions in the partial EQIA that the proposed pardon is expected to advance equality of opportunity specifically on the grounds of age. This organisation also suggested that the policy to provide a pardon would contribute to the national outcome that 'we live in communities that are inclusive, empowered, resilient and safe and that we respect, protect and fulfil human rights and live free from discrimination'.
- The second organisation stated:  
['The Miners' Strike 1984/85 Pardon has serious Equality implications relating to age, disability and sex. These three protected characteristics should be taken into consideration throughout this process.'](#) (Organisational respondent – other)



## **Annex 1: List of organisational respondents**

The consultation received 13 responses from the following organisations:

### **Trade unions and related bodies (5)**

- Aberdeen Trades Union Council
- National Union of Mineworkers (Scotland area)
- SNP Trade Union Group
- Unite the Union
- Irvine & North Ayrshire Trades Union Council

### **Legal (2)**

- The Law Society of Scotland
- Thompsons Solicitors Scotland

### **Local authority (1)**

- Dumfries and Galloway Council

### **Other (5)**

- Committee for an SNP free Scotland
- Dunpender Community Council
- National Mining Museum Scotland Trust
- Newburgh Community Council
- Orgreave Truth and Justice Campaign

## Annex 2: Campaign responses

The text for the 59 standard campaign responses was as follows:

### **Q1 Do you agree that miners convicted of breach of the peace that is related to the strike should be pardoned?**

Yes – the miners' strike was a time where policing was politicized and directed by the then Conservative Government who saw this as an opportunity to take revenge on the National Union of Mineworkers for their success in previous industrial disputes. They believed that if they defeated the well-organised and powerful miners' union they could follow this with an all-out attack on the entire trade union movement. Scottish miners were disproportionately impacted – many were arrested and then sacked for offences that today would see them diverted from criminal prosecution. They would not have carried a prosecution against their name for the rest of their lives.

### **Q2 Do you agree that miners convicted of breach of bail that related to the strike should be pardoned?**

Yes – Given the heightened atmosphere, political direction of the police by the state and hostility shown towards pickets many were being arrested for very minor offences. Breach of bail was used as a convenient reason to target union activists nullifying their ability to coordinate picketing.

### **Q3 Are there any other offences which miners were convicted for and which related to the strike that you think should be included in the qualifying criteria?**

No – All those who were arrested should be considered for a pardon.

### **Q4 Do you think that miners who were convicted of a single offence related to the strike should be pardoned?**

Yes – All those who were arrested should be considered for a pardon.

### **Q5 Do you think that miners who were convicted of multiple offences related to the strike should be pardoned?**

Yes – Some were victims of repeated and unfair Police attention because of their trade union activity or leadership role in the NUM. This was a tactic to diminish the union's ability to organise and sustain the strike. They should all be considered for pardon.

### **Q6 Do you agree that miners who had been convicted of an offence before the strike began in March 1984, should be pardoned for offences committed during the strike?**

Yes – Previous convictions for example, a road traffic offence or failure to pay a TV licence, bear no relation to convictions during the strike. Miners who were convicted during the strike should be pardoned.

**Q7 Do you agree that miners who were convicted of an offence after the strike ended in March 1985, and which did not relate to conduct during the strike, should be pardoned for a conviction related to the strike?**

Yes – Post-strike convictions for example, a road traffic offence or failure to pay a TV licence bear no relation to convictions during the strike. Miners who were convicted during the strike should be pardoned.

**Q8 In considering your responses to Question 6 and Question 7, do you think that the severity of the offending is relevant?**

The overwhelming number of convictions in Scotland were for minor offences that today would not attract a criminal record and those involved would be directed to undertake other activities to avoid prosecution. There are very few, if any cases that would be described as severe.

**Q9 Do you agree that miners whose conviction relating to the strike that resulted in a non-custodial sentence (such as a fine or a community service order). should be pardoned?**

Yes – The overwhelming number of convictions in Scotland were for minor offences that today would not attract a criminal record and those involved would be directed to undertake other activities to avoid prosecution. All should be pardoned.

**Q10 Do you think that miners whose conviction relating to the strike that resulted in imprisonment should be pardoned?**

Yes – The strike was a dispute politically driven by the Government of the day. Papers released under the 30-year rule show this. Miners who were imprisoned were collateral damage in the Government's war against the NUM. Those who were imprisoned were jailed because they were miners. They would not be in that position had they not been involved in the strike. They should be pardoned.

**Q11 Thinking about the fact that some miners were dismissed by the National Coal Board, as a result of a conviction relating to the strike, and others were not, which of the following statements most closely matches your view (please select one option only)?**

All those were convicted during the strike should be pardoned.

**Q12 Are there any other criteria that should be added to those mentioned previously?**

No.

**Q13 Do you have any further comments that you would like to make concerning the criteria? If so, please use the box below.**

Legislation should be introduced early in the new session of the Scottish Parliament to enable pardons to take place. It should be introduced as early as possible in the new term.

**Q14 If you have any comments on the partial Equality Impact Assessment (EQIA), please tell us, using the box below.**

No comments.

## Annex 3: Response rates to individual questions (substantive responses only)

### Part 1: Range of offences suggested by the independent review group

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
1. Do you agree that miners convicted of Breach of the Peace related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]	291 (99%)	13 (100%)	304 (99%)
Please explain your answer.	212 (72%)	12 (92%)	224 (73%)
2. Do you agree that miners convicted of Breach of Bail related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]	289 (98%)	12 (92%)	301 (98%)
Please explain your answer.	183 (62%)	12 (92%)	195 (64%)

### Part 2: Other offence-related matters for consideration

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
3. Are there any other offences which miners were convicted for and which related to the Strike that you think should be included in the qualifying criteria? [Yes / No / Don't know/No opinion]	284 (97%)	12 (92%)	296 (96%)
If yes, please tell us what other offences you think should be included in the criteria.	104 (35%)	8 (62%)	112 (36%)
4. Do you think that miners who were convicted of a single offence related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]	290 (99%)	12 (92%)	302 (98%)
Please explain your answer.	156 (53%)	12 (92%)	168 (55%)
5. Do you think that miners who were convicted of multiple offences related to the Strike should be pardoned? [Yes / No / Don't know/No opinion]	286 (97%)	12 (92%)	298 (97%)
Please explain your answer.	154 (52%)	12 (92%)	166 (54%)

### Part 3: Previous or subsequent convictions

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
6. Do you agree that miners who had been convicted of an offence before the Strike began in March 1984 should be pardoned for offences committed during the Strike? [Yes / No / Don't know/No opinion]	289 (98%)	13 (100%)	302 (98%)
Please explain your answer.	150 (51%)	12 (92%)	162 (53%)
7. Do you agree that miners who were convicted of an offence after the Strike ended in March 1985, and which did not relate to conduct during the Strike, should be pardoned for a conviction related to the Strike? [Yes / No / Don't know/No opinion]	285 (97%)	13 (100%)	298 (97%)
Please explain your answer.	137 (47%)	12 (92%)	149 (49%)
8. In considering your responses to question 6 and question 7, do you think that the severity of the offending is relevant? [Yes / No / Don't know/No opinion]	284 (97%)	13 (100%)	297 (97%)
Please explain your answer.	124 (42%)	10 (77%)	134 (44%)

### Part 4: Consequences of the convictions

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
9. Do you agree that miners whose conviction relating to the Strike resulted in a non-custodial sentence (such as a fine or a community service order), should be pardoned? [Yes / No / Don't know/No opinion]	290 (99%)	13 (100%)	303 (99%)
Please explain your answer.	138 (47%)	11 (85%)	149 (49%)
10. Do you think that miners whose conviction relating to the Strike resulted in imprisonment should be pardoned? [Yes / No / Don't know/No opinion]	287 (98%)	13 (100%)	300 (98%)
Please explain your answer.	143 (49%)	12 (92%)	155 (50%)
11. Thinking about the fact that some miners were dismissed by the National Coal Board, as a result of a conviction relating to the Strike, and others were not, which of the following statements most closely matches your view (please select one option only)? [All miners who meet the criteria should be pardoned, regardless of whether or not they were dismissed by the National Coal Board. / Only miners who meet the criteria AND were dismissed by the National Coal Board should be pardoned. / Neither of the above. / Don't know/No opinion]	285 (97%)	13 (100%)	298 (97%)
Please explain your answer.	120 (41%)	11 (85%)	131 (43%)

## Part 5: Further criteria / comments

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
12. Are there any other criteria that should be added to those mentioned above? [Yes / No / Don't know/No opinion] <b>The table for Q12 is not presented in the report. See paragraph 7.3.</b>	272 (93%)	12 (92%)	284 (93%)
Please explain your answer.	57 (19%)	8 (62%)	65 (21%)
13. Do you have any further comments that you would like to make concerning the criteria? If so, please use the box below.	94 (32%)	9 (69%)	103 (34%)

## Part 6: Equality Impact Assessment

Question	Individuals (294 responses)	Organisations (13 responses)	Total (307 responses)
14. If you have any comments on the partial EQIA, please tell us, using the box below.	17 (6%)	2 (15%)	19 (6%)



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