

**The Not Proven Verdict and Related Reforms: Consultation**

# RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

[ ]  Individual

[ ]  Organisation

Full name or organisation’s name

Phone number

Address

Postcode

Email

**Information for organisations:**

The option 'Publish response only (without name)’ is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

The Scottish Government would like your

permission to publish your consultation

response. Please indicate your publishing

preference:

[ ]  Publish response with name

[ ]  Publish response only (without name)

[ ]  Do not publish response

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

[ ]  Yes

[ ]  No

For the purposes of analysing the responses to this consultation it would be helpful to know a bit more about your personal experiences of the criminal justice system that you feel are relevant to your response to this consultation. Please note that the question below is optional.

If you are responding to this consultation as an individual, please select any of the following that apply:

[ ]  Not applicable – this response is on behalf of an organisation

[ ]  I have been/I am a victim/complainer/survivor of a crime that was reported to the police

[ ]  I am a family member or friend of a victim/complainer/survivor of a crime that was reported to the police

[ ]  I have been charged with a crime

[ ]  I am a family member or friend of someone who has been charged with a crime

[ ]  I have been a juror in a criminal trial

[ ]  None of the above

If you are responding to this consultation as an individual: Have you ever worked professionally or volunteered in any of the following types of roles (please select all that apply)

[ ]  Not applicable – this response is on behalf of an organisation

[ ]  I have worked as a legal professional (for example, as a lawyer or judge)

[ ]  I have worked in another justice system organisation (for example, as a justice social worker, in a prison or for the Police)

[ ]  I have worked for a third sector organisation that operates in the justice system (for example, working for a charity that supports people convicted of crimes, provides rehabilitative interventions, or supports victims and witnesses)

[ ]  I have worked as an academic or professional researcher on issues related to the justice system

[ ]  I have not worked in any of the types of roles listed above

**Annex A: Summary of Consultation Questions**

If you have experience of jury duty and this has contributed to forming your views on these issues, please avoid giving any specific details of anything that took place on the juries you served on. This is because according to section 8(1) of the Contempt of Court Act 1981, “it is a contempt of court to obtain, disclose or solicit any particulars of statements made, opinions expressed, arguments advanced or votes cast by members of a jury in the course of their deliberations in any legal proceedings”.

You are encouraged to set out your views on these important issues and we recognise that your personal experience on a jury may have contributed to shaping those views. However, we recommend that you answer these consultation questions in general terms and do not disclose any details of the cases you decided or anything else specific that took place in any juries you have served on.

**THE NOT PROVEN VERDICT**

**Question 1**: Which of the following best reflects your view on how many verdicts should be available in criminal trials in Scotland?

* Scotland should keep all three verdicts currently available
* Scotland should change to a two verdict system

Please give reasons for your answer:

**Question 2**: If Scotland changes to a two verdict system, which of the following should the two verdicts be?

* Guilty and not guilty
* Proven and not proven
* Other

Please give reasons for your answer. If you have selected “other” please state what you think the two verdicts should be called:

**Question 3**: If Scotland keeps its three verdict system, how could the not proven verdict be defined, in order to help all people including jurors, complainers, accused and the public to better understand it?

**Question 4**: Below are some situations where it has been suggested a jury might return a not proven verdict. How appropriate or inappropriate do you feel it is to return a not proven verdict for each of these reasons?

1 – Appropriate

2 – Inappropriate

3 – Don’t know

* The jury returns a not proven verdict because they believe the person is guilty, but the evidence did not prove this beyond a reasonable doubt.
* The jury returns a not proven verdict because they believe the case has not been proven beyond reasonable doubt, but they wish to publically note some doubt or misgiving about the accused person.
* The jury returns a not proven verdict because they believe the case has not been proven beyond reasonable doubt, but they wish to indicate to complainers and/or witnesses that they believe their testimony.
* The jury returns a not proven verdict as a compromise, in order to reach agreement between jurors who think the right verdict should be guilty and others who think it should be not guilty.

**Question 5**: Do you believe that the not proven verdict acts as a safeguard that reduces the risk of wrongful conviction?

Yes/No/Unsure

Please give reasons for your answer and explain how you think it does or does not operate to prevent wrongful convictions.

**Question 6**: Do you believe that there is more stigma for those who are acquitted with a not proven verdict compared to those acquitted with a not guilty verdict? Yes/No/Unsure

Please give reasons for your answer:

**Question 7**: Do you believe that the not proven verdict can cause particular trauma to victims of crime and their families?

Yes/No

Please give reasons for your answer:

**JURY SIZE**

**Question 8**: Which of the following best reflects your view on jury size in Scotland?

If Scotland changes to a two verdict system:

* Jury size should stay at 15 jurors
* Juries should change to 12 jurors
* Juries should change to some other size

If you selected “some other size”, please state how many people you think this should be:

Please give reasons for your answer including any other changes you feel would be required, such as to the majority required for conviction or the minimum number of jurors required for the trial to continue:

**JURY MAJORITY**

**Question 9**: Which of the following best reflects your view on the majority required for a jury to return a verdict in Scotland?

If Scotland changes to a two verdict system:

* We should continue to require juries to reach a “simple majority” decision (8 out of 15).
* We should change to require a “qualified majority” in which at least two thirds of jurors must agree (this would be 10 in a 15 person jury, or 8 in a jury of 12).
* We should reduce the jury size to 12 and require a “qualified majority” of 10 jurors for conviction as in the system in England and Wales.
* We should change to some other majority requirement.

If you selected “some other majority requirement”, please state what proportion of the jury you feel should have to agree to the decision:

Please give reasons for your answer including any other changes you consider would be required such as to the minimum number of jurors required for the trial to continue:

**Question 10**: Do you agree that where the required majority was not reached for a guilty verdict the jury should be considered to have returned an acquittal? Yes/No/Unsure

Please give reasons for your answer:

**THE CORROBORATION RULE**

**Question 11**: Which of the following best reflects your view on what should happen with the corroboration rule in the following situations?

* If Scotland remains a three verdict system and keeps the simple majority:
	+ Scotland should abolish the corroboration rule
	+ Scotland should reform the corroboration rule
	+ Scotland should keep the corroboration rule as it is currently

Please give reasons for your answer:

* If Scotland changes to a two verdict system and keeps the simple majority:
	+ Scotland should abolish the corroboration rule
	+ Scotland should reform the corroboration rule
	+ Scotland should keep the corroboration rule as it is currently

Please give reasons for your answer:

* If Scotland changes to a two verdict system and increases the jury majority:
	+ Scotland should abolish the corroboration rule
	+ Scotland should reform the corroboration rule
	+ Scotland should keep the corroboration rule as it is currently

Please give reasons for your answer:

**Question 12**: If the corroboration rule was to be reformed, rather than abolished, what changes do you feel would be necessary?

**Question 13**: Do you feel further safeguards against wrongful conviction should be in place before any reform or abolition of the corroboration rule? Yes/No

Please give reasons for your answer, including what other safeguards you believe would be appropriate and why:

**Question 14**: If the corroboration rule was kept or reformed, what else could be done to help people, including those involved in the justice system and the general public, to understand it better?

**EQUALITY AND HUMAN RIGHTS**

**Question 15**: Considering the three needs of the public sector equality duty – to eliminate discrimination, advance equality of opportunity and to foster good relations – can you describe how any of the reforms considered in this paper could have a particular impact on people with one or more of the protected characteristics listed in the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation)?

**Question 16**: Are there any other issues relating to equality which you wish to raise in relation to the reforms proposed in this paper?

**Question 17**: Do you feel that any of the reforms considered in this paper would have an impact on human rights?

**OTHER IMPACTS AND COMMENTS**

**Question 18:** Do you feel that any of the reforms considered in this paper would have impacts on island communities, local government or the environment?

**Question 19**: Do you have any other comments about the content of this paper?