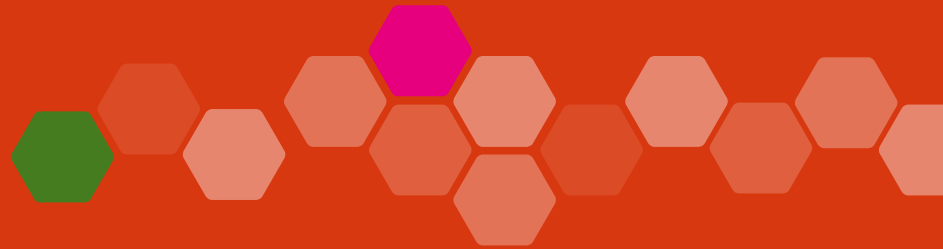


Scottish Prisoner Voting Survey 2022



PUBLIC SERVICES AND GOVERNMENT

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1. Executive Summary

Since 2 April 2020, the Scottish Elections (Franchise and Representation) Act 2020 has allowed prisoners serving sentences of twelve months or less to register and vote in Scottish Parliament and local government elections.

As part of a commitment to ongoing monitoring and evaluation of the policy, the Scottish Government alongside partner organisations, including the Scottish Prison Service (SPS) and the Electoral Commission, agreed to conduct a survey of prisoners eligible to vote in the 2022 Local Government elections.

All eligible prisoners were therefore invited to complete a short voluntary survey which was distributed in May 2022. The survey asked questions on a number of areas including; historical voting habits; whether eligible prisoners had registered to vote from prison; whether they had voted and whether they felt they had sufficient information to exercise their right to vote.

The survey went live in May 2022, shortly after the 2022 Local Government election had concluded and was open for responses until mid-June 2022. At the time the survey was launched, unpublished data received from the SPS demonstrated that there were 526 people in custody, who were over the age of 16 and serving sentences of twelve months or less who would be eligible to vote and therefore participate in the survey.

There were 61 eligible responses to the survey, giving a response rate of 11.6%. Responses were received from 10 establishments.

A summary of key findings is provided below.

Previous voting history

- 56% of respondents stated that they had never voted in a Local Government election before, 24% stated that they sometimes voted and 12% always voted. 8% of respondents stated they had not been eligible to vote at Local Government elections in Scotland before.

Registering to vote from prison

- Respondents were asked whether they had received a letter inviting them to register to vote in the 2022 Local Government election. 29% of respondents said they had received a letter inviting them to register to vote, 61% said they had not and 10% stated that they were not sure.
- When those who didn't register to vote were asked, 67% said that they did not know they were eligible to register due to their being sentenced to 12 months

or less in prison; 11% were not sure and 22% said that they had been aware that they could register to vote.

- When asked whether they felt they had enough information to be able to register to vote while in prison, 75% of respondents felt they did not have enough information, 18% said they had and 7% were not sure.

Participation in 2022 Local Government elections

- Respondents were asked whether they had voted in the 2022 Local Government elections, with 9% stating that they had voted, 84% had not voted and 7% either didn't know or preferred not to say.
- Of those who voted, 63% felt they did not have enough information about candidates and parties to inform how they voted while in prison, 25% were unsure and 13% stated that they felt they had enough information.

Discussion

The findings detailed in this report suggest that the majority of prisoners who voted in the 2022 Scottish Local Government elections, and who completed the survey, felt that the processes put in place to facilitate voting could benefit from further consideration and improvement. Areas for improvement included better information on how to register and who was eligible to vote, as well as information regarding political parties, candidates and their policy positions.

However it should also be kept in mind that the results of this survey are not necessarily reflective of the entire eligible population of prisoners. As such further research and information gathering may provide a more detailed understanding of how to encourage participation, and the broader views of prisoners on their recently acquired right to vote.

2. Introduction & Background

2.1. Introduction

Since 2 April 2020, the Scottish Elections (Franchise and Representation) Act 2020 has allowed prisoners serving sentences of twelve months or less to register and vote in Scottish Parliament and local government elections. This right applies where a person would have been ordinarily resident in Scotland if it were not for their imprisonment.

The Act does not affect the rights of civil prisoners and people on remand (e.g. people detained in prison awaiting trial or sentencing), as they are already entitled to vote.

Section 6 of the Franchise Act placed a legislative requirement on the Scottish Ministers to review the operation of the prisoner voting provisions with a view to considering whether the 12 month sentence threshold is appropriate, and to lay a copy of the report on that review before the Scottish Parliament no later than 4 May 2023. This duty was added to the Act in the context of discussion over the length of the 12 month threshold, with some arguing that enfranchising prisoners serving longer terms, e.g. 3 or 4 years, would be more likely to assist rehabilitation.

Partially in response to this requirement as well as a general commitment to ongoing monitoring and evaluation of the policy, the Scottish Government alongside partner organisations, including the Scottish Prison Service and the Electoral Commission, agreed to conduct a survey of prisoners eligible to vote in the 2022 Local Government elections.

All eligible prisoners were therefore invited to complete a short voluntary survey which was distributed in May 2022. The survey asked questions on a number of areas including; historical voting habits; whether eligible prisoners had registered to vote from prison; whether they had voted and whether they felt they had sufficient information to exercise their right to vote.

This report sets out the key findings from the survey as well as providing background information and possible course of action regarding prisoner voting.

2.2. Background

There has been in effect a longstanding blanket ban on convicted prisoners voting in all elections in the UK. The legal basis for this is the Representation of the People Act 1983, with Section 3 of the Act setting out in particular that any

convicted person is "legally incapable" of voting at any election while detained in pursuance of their sentence or while unlawfully at large.

The European Court of Human Rights (ECtHR) found in 2005 that the UK's blanket ban on convicted prisoners voting in elections was in breach of Article 3 of Protocol 1 of the European Convention on Human Rights (ECHR).

With the Scotland Act 2016, responsibility for the franchise for Scottish Parliament elections and Local Government elections was devolved to the Scottish Parliament. This included responsibility for ensuring compliance with the ECHR in relation to these matters.

In 2019 the Scottish Government conducted a public consultation on who should be entitled to vote, and whether it should be linked to factors such as type of crime committed, and length of time remaining on custodial sentence. The consultation did not include options on whether to maintain a blanket ban on prisoner voting, nor on enfranchising all prisoners. The reason for this being that the status quo of prisoners being ineligible to vote had previously been deemed by the Scottish Government to be inconsistent with the ECHR and allowing all prisoners to vote was determined not to be necessary to ensure compliance with the ECHR. The results of this consultation were published on the Scottish Government website¹.

Following the consultation the Scottish Elections (Franchise and Representation) Act 2020 was enacted allowing offenders normally resident in Scotland serving sentences of 12-months or less to vote in Scottish Parliament, local government and national park elections.

With regards to the practicalities of implementing prisoner voting it was agreed that prisoners would vote via postal or proxy vote, rather than in person. In principle prisoners should register to vote using a previous address, as opposed to the prison address itself. However there is a provision to allow prisoners to use the address of the prison where no other alternative address is available.

Prisoners wishing to register to vote are required to send a paper form to an Electoral Registration Officer ("ERO") to register². Postal votes would then be sent to the prison address which prisoners have provided to EROs.

The first national election at which eligible prisoners could vote subsequent to passing of the legislation was the 2021 Scottish Parliament election. EROs reported that there were 38³ eligible prisoners registered to vote at the 2021 election and 49⁴ registered to vote at the subsequent 2022 Scottish Local

¹ [Prisoner voting consultation: analysis of responses - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/prisoner-voting-consultation-analysis-of-responses/pages/10.aspx)

² [Prisoners | Electoral Commission](#) for more details

³ [Report on the Scottish Parliament election on 6 May 2021 | Electoral Commission](#)

⁴ [Report on the May 2022 Scottish council elections | Electoral Commission](#)

Government election. This compares to an estimated eligible population of around 526 at the time of the election.⁵

While it is difficult to access comprehensive comparative data from other similar countries as a reference point, there is publicly available data on prisoner voting in the Republic of Ireland where all prisoners were given voting rights following the passage of the Electoral (Amendment) Act 2006⁶. Data from the most recent comparable election in Ireland (2019's Local Government, European and Divorce Referendum election), suggests that of the approximately 3,904 prisoners⁷, 224 registered to vote (5.7%) and 143 cast a vote (3.7%)⁸.

With regards to other United Kingdom elections, convicted prisoners detained in a prison or mental health hospital are banned from voting in UK Parliamentary elections and in local government elections in England, Wales and Northern Ireland. Further information regarding prisoner voting across the UK can be found here: [CBP-7461.pdf \(parliament.uk\)](#).

⁵ Please see further details about the prisoner population count in the methodology section below.

⁶ [Electoral \(Amendment\) Act 2006 \(irishstatutebook.ie\)](#)

⁷ [IPS-Annual-Report-2019-Web.pdf \(irishprisons.ie\)](#)

⁸ [Prisoner Data – Tuesday, 18 Jun 2019 – Parliamentary Questions \(32nd Dáil\) – Houses of the Oireachtas](#)

3. Methodology

3.1. Questionnaire Design, Dissemination & Returns

The survey questionnaire was developed in collaboration with colleagues from the Scottish Prison Service and the Electoral Commission. The survey was designed to gather views of prisoners serving sentences of twelve months or less on a number of topics including, length of sentence (to determine eligibility), previous voting history, experience of registering to vote in prison and participation in the 2022 Local Government election. A free text response was also provided to allow prisoners to provide additional information.

Consideration was given as to whether the survey could also include prisoners on remand however a decision was taken against this as it was felt that questions targeted at prisoners would not be relevant or appropriate for those on remand.

As noted above the majority of the questionnaire was designed with closed questions to ease completion as well as analysis, with one voluntary free text response provided for prisoners to provide additional detail if they felt so inclined. The full list of questions can be found in the annex to this document.

With regards to distribution of the survey, the SPS research team distributed the survey to local prisons⁹ where prison officers were responsible for circulation within the prison itself in paper format to eligible prisoners. Prisoners were provided with an envelope within which they could place their completed survey, and which could be sealed before being handed back to the prison officer. Responses were then collected and sent back to the SPS research team who scanned the results and forwarded these on in batches to the SG research team for analysis. The responses were then input and coded within Microsoft Excel for analysis by the SG research team.

It was made clear to respondents that participation in the survey was both voluntary and anonymous and prisoners were provided with a privacy notice¹⁰ setting out how the data would be used as well as their data protection rights.

3.2. Response Rate & Approach to Analysis

The survey was launched in May 2022, shortly after the 2022 Local Government election had concluded and was open for responses until mid-June 2022. At the time the survey was launched, unpublished data received from the SPS demonstrated that there were 526 people in custody, who were over the age of 16 and serving sentences of twelve months or less who would be eligible to vote and therefore participate in the survey.

⁹ A list of prisons is given in Annex C

¹⁰ Reproduced in Annex B

66 responses to the survey were received. 4 responses were removed as out-of-scope for the survey as either prisoners were serving sentences of longer than twelve months, or were awaiting sentence and therefore would not be eligible to vote or it would not be possible to determine whether they were eligible at the time of the survey. One duplicate response was also removed.

After these ineligible responses were removed, there were 61 responses to the survey, giving a response rate of 11.6%. Responses were received from 10 establishments. Just under half of all responses came from prisoners serving sentences within HMP Barlinnie. The latest Official Statistics on Scotland's prison population¹¹ (for the financial year 2021-22) suggest that of the eligible prisoner population, 20% were serving sentences at HMP Barlinnie. This would suggest that prisoners from HMP Barlinnie were overrepresented. Conversely, HMPs Edinburgh and Glenochil were underrepresented, with no responses received.

It should be noted that SPS counts of prisoners are not directly comparable to the Official Statistics average prisoner numbers (more information is available in the associated technical manual¹²); the above return and response rate are calculated using the SPS prisoner count.

Unique identifiers were applied to each prisoner to aid analysis. Some prisoners chose not to answer all questions, the analysis therefore only includes valid responses for each question and therefore a different base number may exist per variable.

With regards to how the data has been analysed and presented within this report it should be noted that the findings have not been weighted or had confidence intervals applied, nor has any statistical significance testing been conducted. There is therefore an unknown margin of error associated with each result.

¹¹ [Scottish Prison Population Statistics 2021-22 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/prison-population-statistics-2021-22/pages/introduction.aspx)

¹² [Scottish prison population statistics technical manual - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/prison-population-statistics-technical-manual/pages/introduction.aspx)

4. Findings

4.1. Beginning and length of sentence

61% of respondents began their sentence before 1st April 2022; 39% on or after that date.

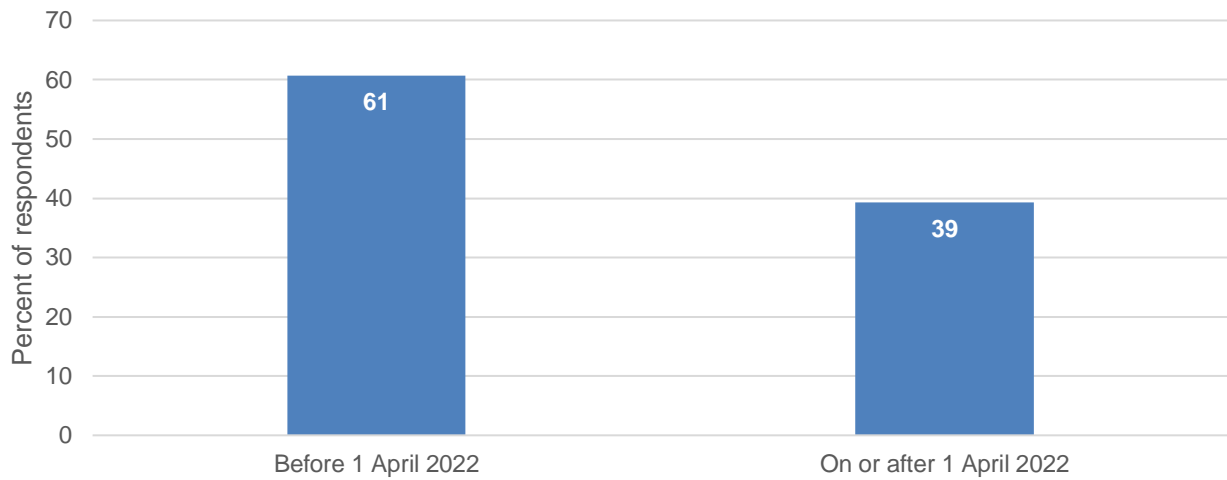
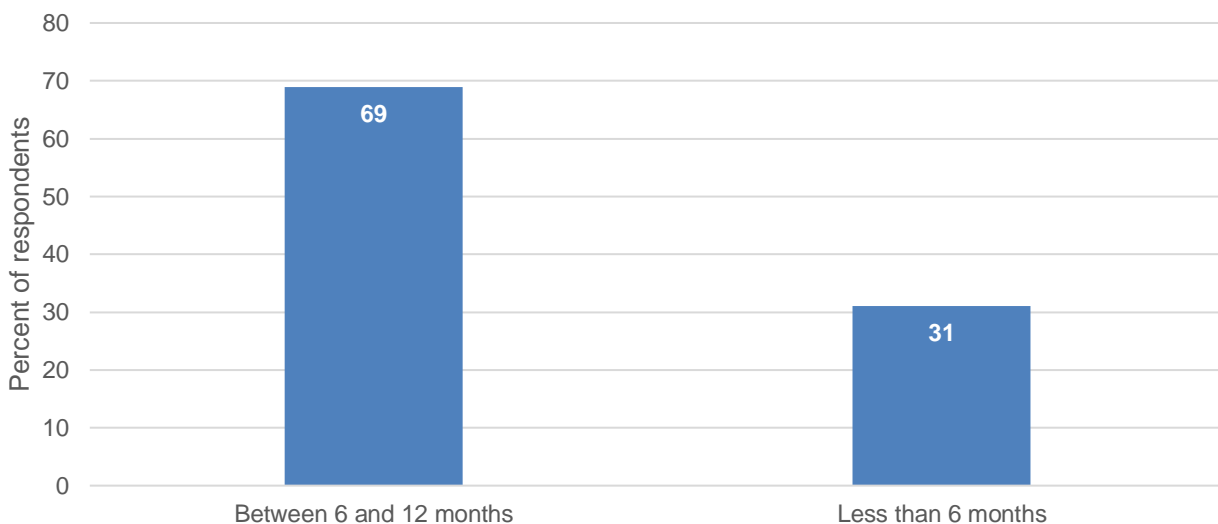


Figure 1: When sentence began

To be eligible for the survey, respondents had to have been sentenced to 12 months or less in prison. Of eligible respondents 31% were sentenced to less than 6 months and 69% were sentenced to between 6 and 12 months.

Figure 2: Length of sentence

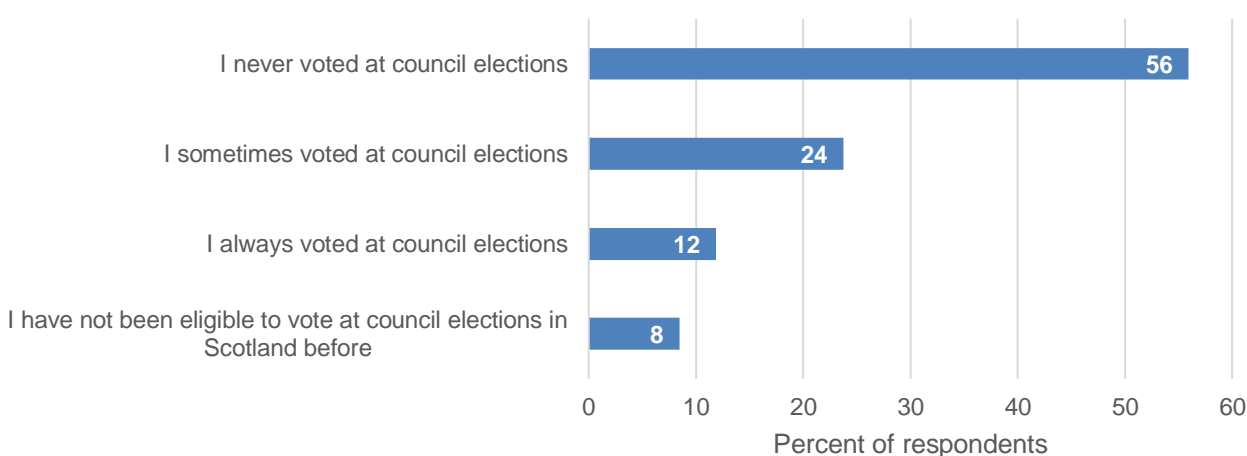


4.2. Previous voting history

Respondents were asked questions regarding their previous voting history in order to understand how politically engaged they had previously been, with specific regard to voting in Local Government or Scottish Parliament elections.

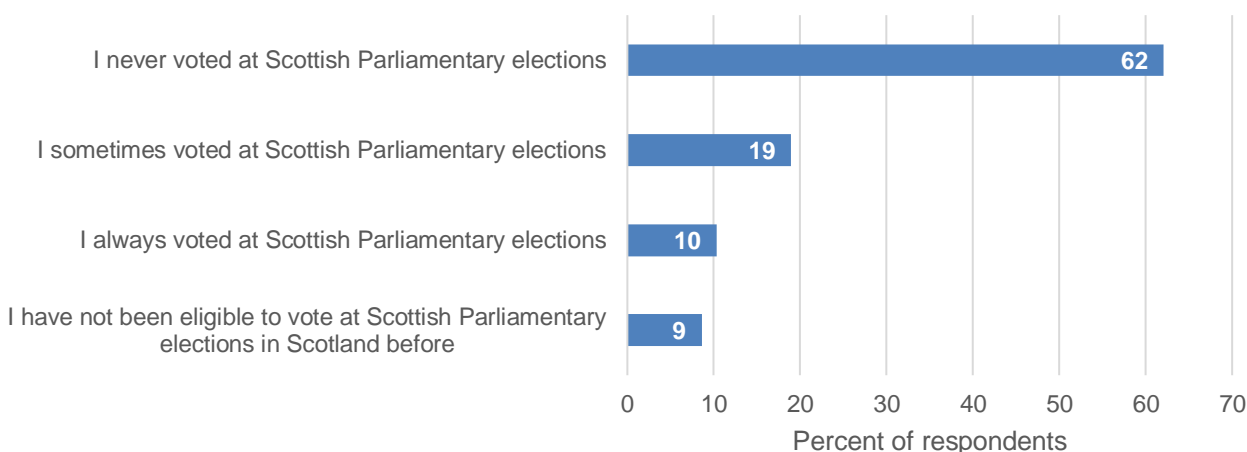
As can be seen in figure 3 below, 56% of respondents stated that they had never voted in a Local Government election before, 24% stated that they sometimes voted and 12% always voted. 8% of respondents stated they had not been eligible to vote at Local Government elections in Scotland before.

Figure 3: Voting history in Local Government elections



Similarly with regards to Scottish Parliament elections, the largest group of respondents were those who stated that they had never voted in a Scottish Parliamentary election (62%), followed by 19% who sometimes voted and 10% who always voted. 9% stated that they had not been eligible to vote at Scottish Parliament elections before.

Figure 4: Voting history in Scottish Parliamentary elections

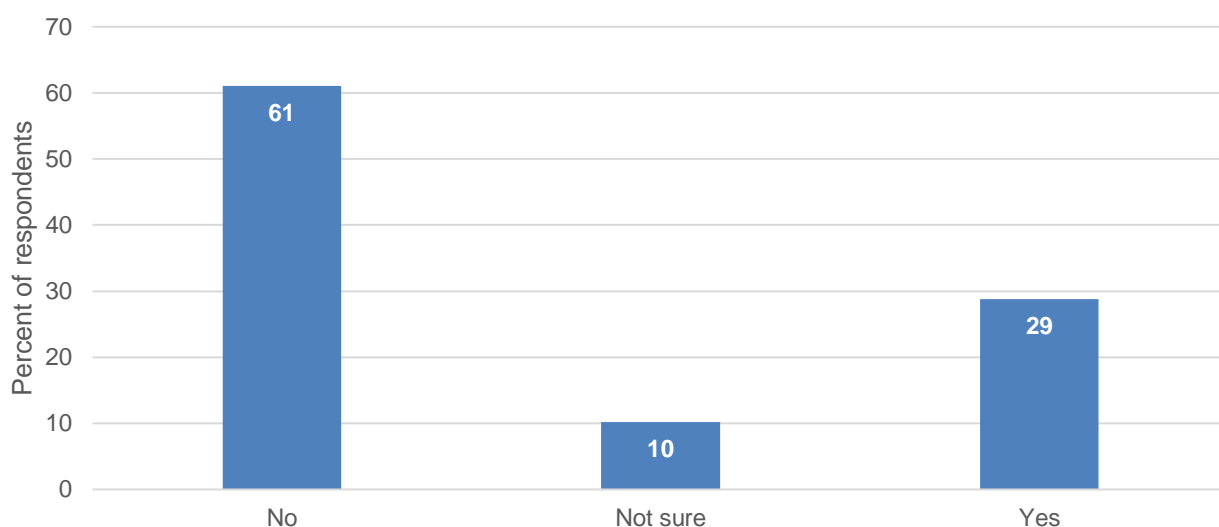


The results suggest approximately similar levels of political engagement with regards to voting history across both Local Government and Scottish Parliament elections.

4.3. Registering to vote from prison

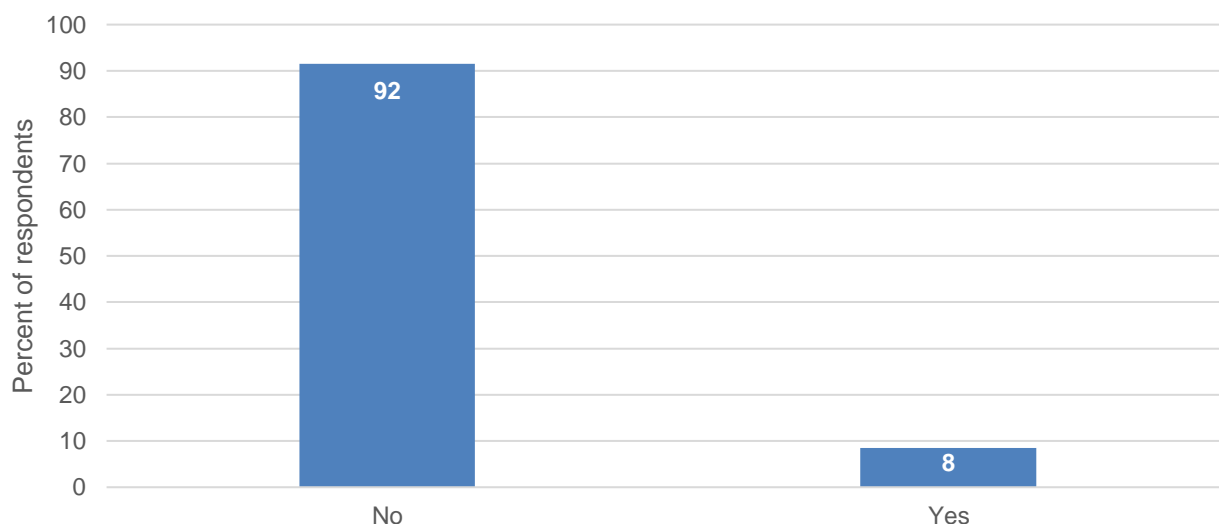
Respondents were asked whether they had received a letter inviting them to register to vote in the 2022 Local Government election. 29% of respondents said they had received a letter inviting them to register to vote, 61% said they had not and 10% stated that they were not sure.

Figure 5: Whether received a letter inviting to register to vote in the 2022 Local Government election



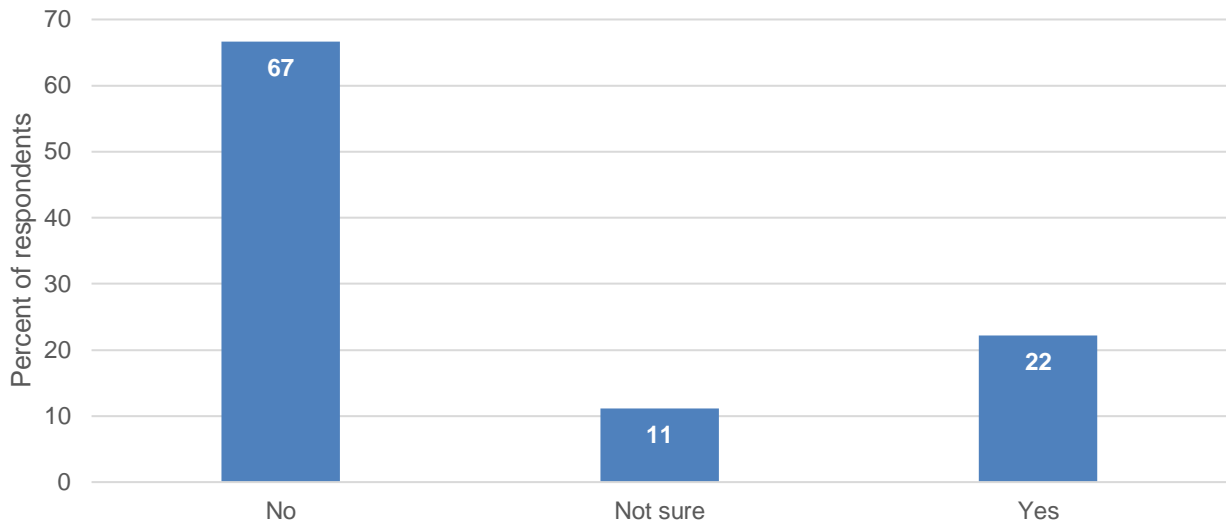
Only 8% of respondents went on to say that they had subsequently registered to vote in the 2022 Local Government election.

Figure 6: Whether registered to vote from prison in the 2022 Local Government election



As can be seen in figure 7 below when those who didn't register to vote were asked 67% said that they did not know they were eligible to register due to their being sentenced to 12 months or less in prison; 11% were not sure and 22% said that they had been aware that they could register to vote.

Figure 7: (If didn't register to vote) Whether knew they could register to vote



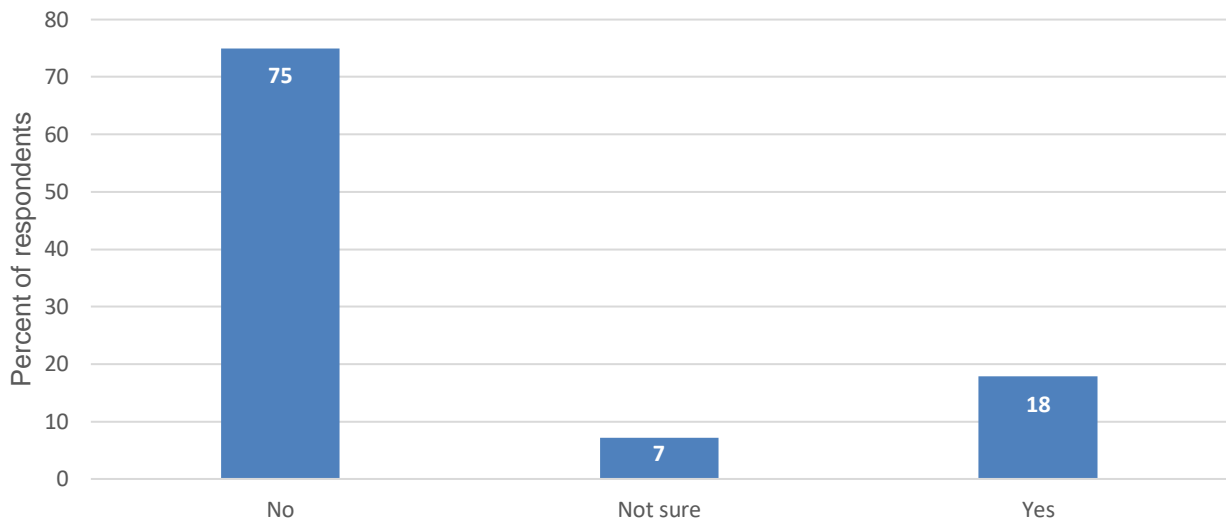
This was supported by responses to the free text question.

When asked “Is there anything that would have made it easier to register and/or to cast your vote from prison during your sentence?”, a number of prisoners signalled that they were unaware of the fact they were eligible to vote. Some relevant quotes are detailed below:

- “Wasn't informed you could vote from prison”
- “Under the impression that prisoners can't vote, so had no information at all regarding voting. This came as a surprise”
- “I did not know you could vote while doing [your] sentence or on remand”

As can be seen in figure 8 below, when asked whether they felt they had enough information to be able to register to vote while in prison, 75% of respondents felt they did not have enough information, 18% said they had and 7% were not sure.

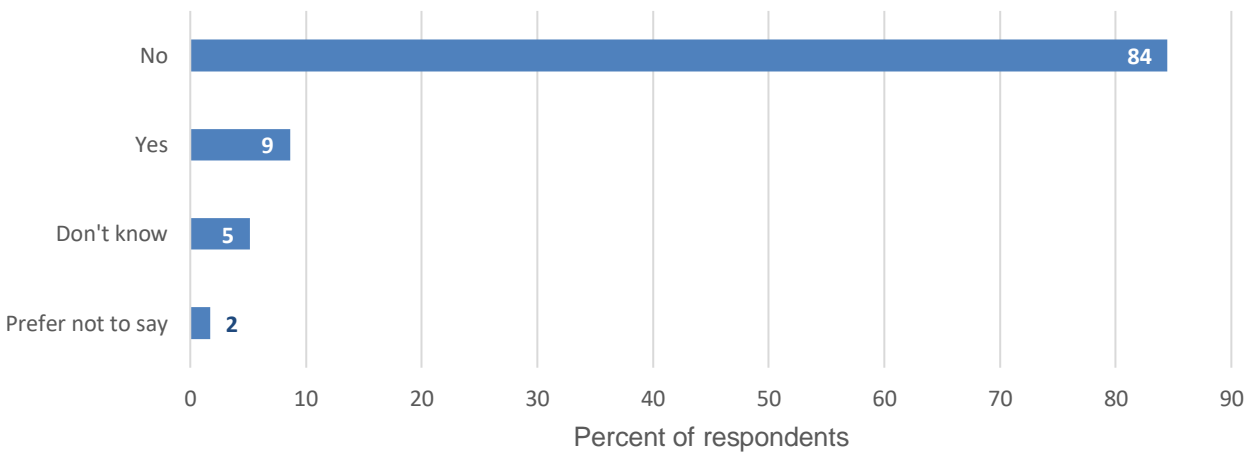
Figure 8: Whether felt they had enough information to be able to register to vote while in prison



4.4. Participation in 2022 Local Government elections

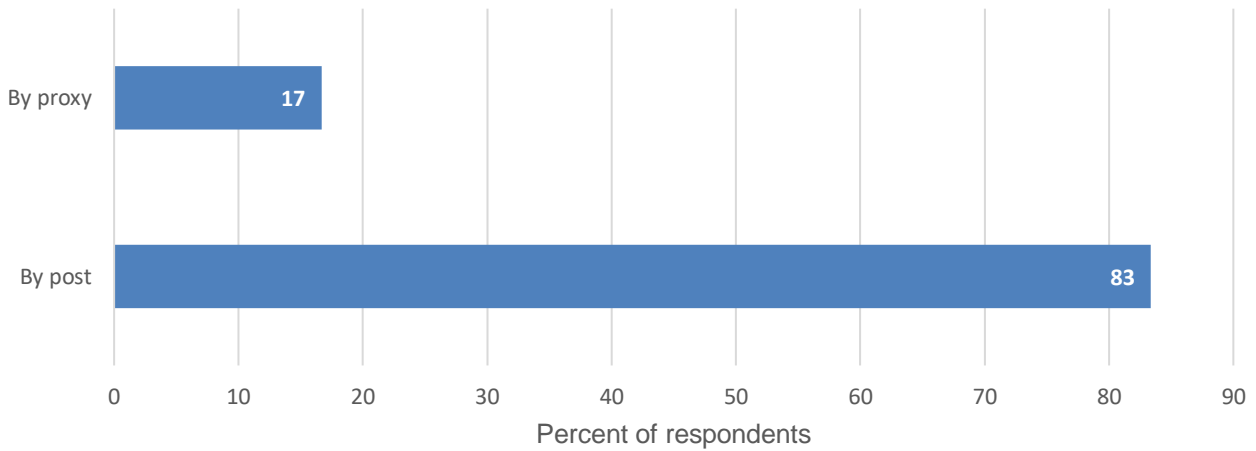
Respondents were asked whether they had voted in the 2022 Local Government elections, with 9% stating that they had voted, 84% had not voted and 7% either didn't know or preferred not to say.

Figure 9: Whether voted in 2022 Local Government elections



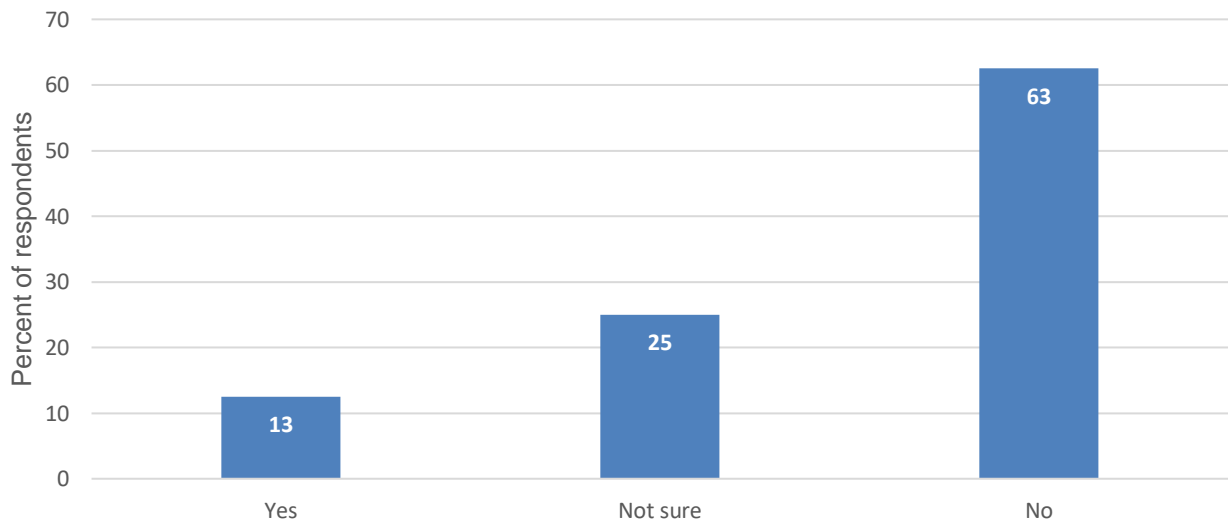
As can be seen in figure 10 below, of those who did vote, 83% did so by post, while 17% voted by proxy.

Figure 10: (If voted) Whether voted by post or by proxy



As can be seen in figure 11 below, of those who voted, 63% felt they did not have enough information about candidates and parties to inform how they voted while in prison, 25% were unsure and 13% stated that they felt they had enough information

Figure 11: Did you feel you had enough information about candidates and parties to be able to informatively cast your vote while in prison?



A free text question asked respondents to provide further detail on how respondents felt about whether they had received enough information to cast their vote informatively. Generally the majority of respondents commenting on this topic felt that they would have appreciated more detailed information on who they were voting for, the respective parties' policies and how this might affect them. Some particularly relevant quotes are detailed below:

- “[I’d like] more information about the parties and their pledges”
- “More information about what I was voting for & what my vote would mean and how it would change things.”
- “More info of local candidates so I could make a more knowledgeable vote”.

However, it should also be noted that some respondents indicated they chose not to vote, regardless of awareness of their right to register. This suggests that amongst respondents there were varied levels of political engagement and not only those that were interested in voting chose to respond to the survey. Some quotes from respondents of this view are detailed below:

- “I’ve never voted, probably never will, not interested in governments.”
- “I am not interested in voting. I pay no attention to politics.”
- “There is no political party worthy of my vote at the moment.”

5. Discussion and conclusion

5.1. Discussion

Prior to discussing the findings it is important to note that the response rate to the survey was low (11.6%) and that as demographic and other salient data items (such as crime committed for example) were not collected, it is not possible to determine how representative of the overall eligible prison population the respondents to this survey were. As such the results should be understood as the views of respondents only and not the general population of eligible prisoners.

Nonetheless it is also interesting to note that the sample achieved did not appear to be biased towards only those prisoners who were politically engaged, vis-à-vis voting. As noted in the findings section of this report, the majority of respondents stated that they had not previously voted during either a local government (56%) or Scottish Parliamentary election (62%). This fact, coupled with a number of respondents making it clear within the free text section of the survey that they had no interest in voting or politics at all suggests that the sample was likely to be unaffected by a selection bias favouring politically engaged prisoners.

With regards to the processes associated with registering to vote, the majority of survey respondents felt that they had not received the relevant information inviting them to register (61%), and with a majority also stating that they did not have access to the enough information to facilitate registration (75%). Similarly, 67% of those who had not registered stated that they did not know that they could register. These findings suggest that for respondents of the survey they felt that there was a general lack of information and communication which could help facilitate registration.

Of respondents, 9% stated they voted in the 2022 Local Government election and of those the majority (83%) did so by postal vote. However of those that voted, 63% of respondents also felt that they did not receive as much information from candidates and parties as they would have liked to facilitate informed voting. Some respondents specifically stated that they would like more information to be made available regarding political parties, candidates and their policies.

With regards to findings on processes that were put in place to facilitate prisoner voting it should be noted that as per the methodology section, just under half of all responses received were from one prison. Therefore the findings detailed above are not to be interpreted as reflective of the registration process across all institutions in Scotland.

5.2. Conclusion

The findings detailed in this report suggest that the majority of prisoners who voted in the 2022 Scottish Local Government elections, and who completed the survey, felt that the processes put in place to facilitate voting could benefit from further consideration and improvement. Areas for improvement included better information on how to register and who was eligible to vote, as well as information regarding political parties, candidates and their policy positions.

However it should also be kept in mind that the results of this survey are not necessarily reflective of the entire eligible population of prisoners. As such further research and information gathering may provide a more detailed understanding of how to encourage participation, and the broader views of prisoners on their recently acquired right to vote.

Annex A: Survey questions

	Question	Possible answers
Question 1	Which prison are you serving your sentence in? Please write in.	[Free text]
Question 2	When did your sentence begin?	Before 1 April 2022; On or after 1 April 2022
Question 3	How long is your sentence?	Less than 6 months; Between 6 and 12 months
Question 4	Before you received your prison sentence, were you registered to vote?	Yes; No; Not sure
Question 5	Which of these statements best describes your attitude towards voting at council elections in Scotland prior to your prison sentence?	I always voted at council elections; I sometimes voted at council elections; I never voted at council elections; I have not been eligible to vote at council elections in Scotland before
Question 6	Which of these statements best describes your attitude towards voting at Scottish Parliamentary elections in Scotland prior to your prison sentence?	I always voted at Scottish Parliamentary elections; I sometimes voted at Scottish Parliamentary elections; I never voted at Scottish Parliamentary elections; I have not been eligible to vote at Scottish Parliamentary in Scotland before
Question 7	While you were in prison did you receive a letter inviting you to register to vote for this year's council elections?	Yes; No; Not sure
Question 8	Did you register to vote from prison for this year's council elections?	Yes; No
Question 9	[If not] ... Did you know that you could register to vote if serving 12 months or less?	Yes; No; Not sure
Question 10	Did you feel that you had enough information to be able to register to vote while in prison?	Yes; No; Not sure

	Question	Possible answers
Question 11	Did you vote at this year's council elections?	Yes; No; Prefer not to say; No
Question 12	[If yes] ... How did you cast your vote at this year's council elections?	By post; By proxy (asking a trusted person to cast your vote for you)
Question 13	Did you feel that you had enough information about candidates and parties to be able to informatively cast your vote while in prison?	Yes; No; Not sure
Question 14	Is there anything that would have made it easier to register and/or to cast your vote from prison during your sentence?	[Free text]

Annex B: Survey Privacy Notice

The Scottish Government takes the security of your data very seriously. This statement sets out why we need your information, what we need and how we will use it.

Why do we need data about you?

The information from the attached survey will be used to gain a better understanding of the views of those serving sentences of 12 months or less with regards to voting in Scottish elections at both local government and parliamentary levels.

Your responses will make a valuable contribution to our understanding of how changes to legislation in relation to prisoner voting are working in practice.

Lawful Basis

Under data protection law we are required to identify a 'lawful Basis' from Article 6 of the United Kingdom General Data Protection Regulation (UKGDPR) – in this case, it is "performance of a task in the public interest" (commonly referred to as 'public task'). Furthermore, Section 6 of the Franchise Act placed a legislative requirement on the Scottish Ministers to review the operation of the prisoner voting provisions

How will we collect information?

Analysts in the Scottish Government have been working with the Electoral Management Board for Scotland (EMB), the Electoral Commission (EC), Scottish Prison Service and Scottish Assessors Association to organise this survey.

All prisoners serving a sentence of 12 months or less are invited to take part in the survey so that we can gain a better understanding of your views on voting in Scottish elections. Taking part in the survey is entirely voluntary and anonymous. We will not ask any questions which can be used to identify you nor questions on your political beliefs or who you voted for. Rather we wish to understand what your views are on voting both previously and while serving your current sentence.

How will the information be used?

Outputs from the survey will be developed into a report which will be shared between the organisations involved in the design of the survey for research purposes, namely to develop a better understanding of the views of prisoners who are eligible to vote in Scottish elections.

As stated above all responses will be treated as anonymous and you will not be identified within any report that is produced.

Your Data Protection Rights

Under data protection legislation you have a number of rights available to you:

- Right to be informed about the use of your data – this is done through this privacy notice
- Right of rectification, to have verifiably inaccurate data we hold corrected or updated
- Right to have your data deleted, where we do not have an obligation to retain it
- Right to object to or restrict our use of your data, where we do not have an obligation to process it
- Rights related to automated decision making – we are not using this data to make decisions about individuals

You can read more about your data rights at the [Information Commissioner's Office website](#).

Please note that these rights are not absolute, and may be subject to exemptions under the Data Protection Act 2018. Where an exemption is applied to a requested right you will be informed of this.

Contacts for Further Information

To contact the Scottish Government analysts leading on the this project, please contact Arfan.iqbal@gov.scot or call 07738368420.

If you wish to make a complaint about our use of data, you can contact the Scottish Government's Data Protection Officer at: dataprotectionofficer@gov.scot.

If you have any concerns about how your information is being used, you have the right to complain to the Information Commissioner's Office, the supervisory authority responsible for data protection in the UK. More information is available at their [website](#).

Annex C: List of prison establishments

Prison establishments

HMP Addiewell
HMP Barlinnie
HMP Castle Huntly (Open Estate)
HMP Cornton Vale
HMP Dumfries
HMP Edinburgh
HMP Glenochil
HMP Grampian
HMP Greenock
HMP Inverness
HMP Kilmarnock
HMP Low Moss
HMP Perth
HMP Polmont
HMP Shotts*
The Bella Centre Community Custody Unit**
The Liliac Centre Community Custody Unit**

*HMP Shotts generally houses prisoners serving sentences greater than 12 months, who are not eligible to register to vote and so not eligible for the survey.

**Opened after May 2022 and so was not surveyed.

How to access background or source data

The data collected for this social research publication:

- are available in more detail through Scottish Neighbourhood Statistics
- may be made available on request, subject to consideration of legal and ethical factors. Please contact Fergus.Christie@gov.scot for further information.
- cannot be made available by Scottish Government for further analysis as Scottish Government is not the data controller.



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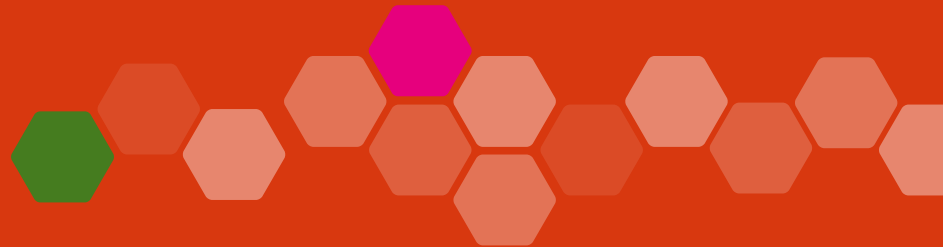
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The views expressed in this report are those of the researcher and do not necessarily represent those of the Scottish Government or Scottish Ministers.

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