



Department for Levelling Up,
Housing & Communities

Baroness Scott of Bybrook OBE
*Parliamentary Under Secretary of State for
Faith and Communities*
2 Marsham Street
London
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Our reference: 29210716

Lara Parizotto
Migrant Democracy Project

18v August 2023

Dear *Lara*

Thank you for your recent letter to Dehenna Davison MP, about the forthcoming changes to European Union (EU) citizens' voting rights in England and Northern Ireland. I am replying as the Minister responsible for this policy area.

You raised a number of concerns about the policy and its implementation which I will seek to address here.

Franchise change in the Elections Act

Through the Elections Act (EA) 2022, Parliament resolved to update the franchise for EU citizens to reflect our new relationship with the European Union. The Government position has always been that after our exit from the EU, voting and candidacy rights should be maintained where possible, but based on agreements with individual EU member states to ensure we are protecting the rights of UK citizens living in EU countries in turn. Individual EU member states set their own rules for local voting and candidacy rights for third country nationals, and so it is reasonable that we do likewise.

In future, the rights of EU citizens living in the UK will rest on the principle of a mutual grant of rights, through agreements with EU Member States. We have already secured such agreements with Spain, Portugal, Luxembourg, and Poland. The UK remains open to negotiating bilateral agreements with other EU member states.

In line with the Government's commitment to respect the rights of EU citizens who chose to make the UK their home prior to the end of the Implementation Period, all EU citizens who have been living in the UK since before 31 December 2020 (the end of the Implementation Period) will also retain their voting rights, provided they retain lawful immigration status. This policy is in keeping with the spirit of the EU Settlement Scheme. The Government is committed to ensuring that they will have no lesser rights in the UK than they had before, including the right to participate in local democracy.

Residency-based model of voting rights and wider considerations

In your letter, you urge the Government to consider introducing a residency-based approach to the franchise, whereby foreign nationals' resident in the UK would be eligible to vote in local elections. As you note, the Scottish and Welsh Governments have adopted such an approach in elections for which they have responsibility under the devolution settlements. The UK Government's position on this remains unchanged: that is, that the right to reside in the UK should not automatically confer the right to participate in our democratic processes. Citizenship restrictions are the norm for participating in elections in most democracies, including the UK. The intention behind the provisions on EU voting rights is to preserve

existing rights, rather than to create new rights where they did not previously exist. Therefore, the Government has no plans to introduce this model.

You note that being on the electoral register also has implications for credit access. Indeed, credit agencies record information contained on electoral registers on individuals' credit files, which helps lenders and other service providers to confirm the name and address of an individual. However, lenders and providers can ask for alternative evidence to confirm an individual's name and address. The primary purpose of the electoral register is to enable those who are eligible to vote to register and ensure that only people who are eligible to vote are permitted to do so.

Implementation of the Elections Act

As you note, Government has laid in Parliament a Statutory Instrument which makes necessary regulatory changes to implement the franchise change in the Elections Act. All changes have been designed to align with existing practices and processes as far as possible. The policy intention is to minimise, where possible, additional burdens and confusion for electoral administrators and electors alike and ensure parity of treatment between different groups of electors within the registration and franchise framework.

Necessary changes to the application and determination process will be made to enable eligible EU citizens to apply to register to vote under the new eligibility criteria and ensure that applicants are provided with accurate information about the criteria, and the application process, at the point of application. My officials are working closely with their counterparts in the Home Office and with the independent Electoral Commission to develop clear guidance for Electoral Registration Officers (EROs) on how to effectively determine eligibility under the new criteria.

EROs have a legal duty to maintain accurate registers. To do this, a review process will enable them to check the eligibility of already-registered EU citizens. This one-time process has been designed to be fair and transparent for review subjects. EROs will be able to confirm the ongoing eligibility of the majority of already-registered EU electors using data already available to them, with no further action from the elector. For example, an ERO could use nationality data or registration history prior to 31/12/2020 to determine whether an elector remains eligible under the new criteria (either as an EU citizen from country with bilateral treaty with UK or an EU citizen who lived in the UK before the end of the Implementation Period).

Where an ERO is unable to confirm ongoing eligibility using existing data, EROs will be required to contact the elector to determine this. Similar to the application process, the elector will be asked to confirm their eligibility under the new criteria by answering a 'yes/no' question. My officials are working closely with the Electoral Commission and the Home Office to make this question as clear and accessible as possible.

EROs will have to make at least three attempts to contact electors in writing, and at least one attempt to contact electors in person, before they may determine a person to be ineligible under the new criteria based on non-response. Where a person is deemed ineligible, and removed from the register, on the basis of non-response, they will be sent a registration form with a pre-paid envelope and invited to re-apply if they believe they are eligible to do so.

All persons who are reviewed, either through existing data or correspondence, will be sent a written notice to inform them of the franchise change and to notify them of the review outcome, confirming their eligibility or ineligibility to vote. The Electoral Commission will design the review communications to ensure clear and consistent messaging.

To further ensure transparency, upon completion of the review, EROs will be required to report on the operation of the review process by reporting certain anonymised data to the Electoral Commission - including, for example, the number of people who were reviewed and the number of people deemed to be ineligible on the basis of non-response. In line with the Government's commitment in the Elections Act 2022 to review the operation of the Act, the Secretary of State for Levelling Up, Housing and Communities will require the Electoral Commission to prepare a report on implementation of EU voting and candidacy rights changes and present it to Parliament.

As with all the measures in the Elections Act 2022, the Government will provide funding to EROs to support the implementation of this policy. My officials have engaged with representatives of the electoral sector and relevant interest groups in the development of this policy and will continue to engage in preparation for implementation.

I hope the above information is helpful in resolving your query and thank you for writing on this important subject.

Yours sincerely,

A handwritten signature in black ink that reads "Scott of Bybrook". The signature is written in a cursive, slightly informal style.

BARONESS SCOTT OF BYBROOK