



Northern  
Ireland  
Office

**The Rt. Hon. Conor Burns MP**  
**Minister of State**  
**Northern Ireland Office**

1 Horse Guards Road  
London  
SW1 2HQ

Erskine House  
20-32 Chichester St  
Belfast  
BT1 4GF

E: [correspondence@nio.gov.uk](mailto:correspondence@nio.gov.uk)  
[www.gov.uk/nio](http://www.gov.uk/nio)  
Follow us on Twitter @NIOgov

**Lord Jay of Ewelme GCMG**

Chair of the Protocol on Ireland/Northern Ireland Sub-Committee  
House of Lords  
London  
SW1A 0PW  
By email: [hlprotocol@parliament.uk](mailto:hlprotocol@parliament.uk)

25 March 2022  
Our reference: MC/22/77

Dear Michael,

**Article 2 of the Protocol on Ireland/Northern Ireland**

Thank you for your letter of 24 February addressed to Lord True, relating to Article 2 of the Ireland/Northern Ireland Protocol (“the Protocol”), which you sent in your role as the Chair of the Protocol on Ireland/Northern Ireland Sub-Committee. Lord True has passed this to me to respond to, as matters relating to Article 2 fall within my portfolio at the Northern Ireland Office. I am sorry that your letter did not reach my office in time to reply to you by 9 March as requested.

I understand that the Committee considered the Elections Bill recently and in particular considered the concerns raised with you by the Equality Commission for Northern Ireland (ECNI) and the Northern Ireland Human Rights Commission (NIHRC). I am grateful to you for attaching a copy of their letter.

You will have noted that I wrote to the Chief Commissioners of ECNI and NIHRC on this issue last week and a copy of my letter was also sent to you.

The Elections Bill currently before Parliament reflects the proposals discussed with the Commissions. Clause 13 and Schedule 8 of the Bill protect the voting and candidacy rights of EU citizens who were resident here by the end of the Withdrawal Agreement transition period (31 December 2020).

EU citizens who have arrived since 1 January 2021 will move to a position whereby future local voting and candidacy rights are granted where there is an agreement with individual European Union Member States to preserve these on a bilateral basis.

The Government's position is that the effect of the Elections Bill on rights previously available under Article 22 of the Treaty on the Functioning of the European Union (TFEU) are not within the scope of Article 2 of the Protocol. Article 22 TFEU confers a right to vote and stand as a candidate in municipal elections only in respect of EU nationals who are resident in another Member State, having exercised their rights of free movement and residence. As the UK is no longer a Member State, EU citizens self-evidently no longer enjoy the right to reside here under the EU Treaties and so the ancillary Article 22 TFEU right to vote and participate in municipal elections is no longer applicable to it in this context. This is entirely consistent with Part 2 of the Withdrawal Agreement (Citizens' Rights).

There is also no requirement under the Protocol for EU Member States to grant voting rights to people from Northern Ireland who are not citizens of a Member State arriving in the EU. Consequently, it would be irrational if Article 2 of the Protocol required the voting rights of new EU citizen arrivals to be retained in Northern Ireland when there are no reciprocal arrangements for people from Northern Ireland arriving in the EU.

Local voting and candidacy rights for EU citizens who arrived in the UK after 31 December 2020 will therefore rest on the principle of a mutual grant of rights, through agreements with EU Member States. The Government has already secured a number of these agreements and will continue to give EU Member States which are interested the opportunity to negotiate treaties.

British nationals living overseas in the EU will also be in a position to benefit from these reciprocal agreements.

I hope that this letter provides some clarity on this important commitment.

I am copying this letter to Baroness Drake, Chair of the Constitution Committee, Sir William Cash MP, Chair of the Commons European Scrutiny Committee, George Wilson, Clerk of the Commons European Scrutiny Committee, Simon Hoare MP, Chair of the Commons Northern Ireland Affairs Committee, Les Saunders and Donald Harris, Cabinet Office; Alex Badrick and Ellie Markham, Parliamentary Branch, Cabinet Office; and Sinéad McLaughlin MLA, Chair of the Northern Ireland Assembly Committee for the Executive Office.

A handwritten signature in black ink, appearing to read 'Conor Burns', with a horizontal line underneath the name.

**THE RT HON CONOR BURNS MP  
MINISTER OF STATE FOR NORTHERN IRELAND**