

Written evidence from the3million (TEB 40)

Public Administration and Constitutional Affairs Committee The Elections Bill inquiry

ABOUT THE3MILLION

the3million is the largest not-for-profit organisation for EU citizens in the UK. It was formed after the 2016 EU referendum to protect the rights of EU citizens and their family members who have made the UK their home. the3million is and continues to be Brexit-neutral and is not party political. It carries out a range of activities, including advocacy, media, social media and monitoring work, in collaboration with the migration sector.

In response to the Elections Bill, the Young Europeans Network, the3million's youth wing, is collaborating with Polish Migrants Organise for Change organisation on a campaign¹ focusing on preserving voting and candidacy rights in local elections for EU citizens after 2021 and expanding those rights to all UK residents. the3million believes that reversing the ability for EU citizens residing in England to vote and stand in local elections is out of step with what the rest of the United Kingdom is doing and remains deeply concerned about inclusive and fair democratic representation of people who choose to make the UK their home.

We believe that all residents should have a say in decisions impacting them directly at the local level. Migrants in the UK, and among them EU citizens, make up over 10 % of the population, with some areas having an even higher share of non-British residents². They contribute council tax, utilise local services and are part of our communities. Yet, many migrants are unable to shape how services are run as they do not have the right to vote in England or in Northern Ireland.

We argue that the most democratic electoral system is one that allows all residents to vote in local elections, including citizens of other countries who have permission to enter or stay in the UK. This would not only be a fairer model, but one that is easier to implement in practice and one that has been successfully implemented in two of the UK's nations - Scotland and Wales.

Residence-Based voting model in Scotland and Wales

In Wales and Scotland, British and Irish citizens, as well as citizens of other countries who have permission to enter or stay in the UK (or who do not need permission), can vote in both local elections and elections for the Welsh (Senedd) and Scottish (Holyrood) Parliaments³.

This is generally referred to as a residence-based voting rights approach, academically also known as 'postnational'⁴, which allows citizens of other states to vote locally based on residence as opposed to citizenship or bilateral agreements. This approach contrasts with the

¹ For more information on the #ourhomeourvote campaign, please visit: <https://www.ourhomeourvote.co.uk/>

² <https://migrationobservatory.ox.ac.uk/resources/briefings/migrants-in-the-uk-an-overview/>

³ See Clauses 14-18, 40-48 and 49-56 of Scottish Elections Bill available at: <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-elections-franchise-and-representation-scotland-bill/stage-3/bill-as-passed-scottish-elections-franchise-and-representation-bill.pdf>

⁴ Jean-Thomas Arriighi and Rainer Bauböck (2017) 'A multilevel puzzle: Migrants' voting rights in national and local elections', *European Journal of Political Research* 56: 619–639

approach in England or Northern Ireland, where voting in local elections depends on citizenship. Until 2021, EU citizens have had the right to vote in local elections alongside British, Irish and qualifying Commonwealth citizens who can vote in UK general elections. We believe that the fairest and easiest approach from an operational point of view is to expand voting rights for local elections to all residents, thus creating a UK-wide approach. This voting model has been defended by numerous democratic theorists who have argued that those subjected to the laws of the country they lawfully reside in should have a claim to political representation⁵.

The benefits of residence-based voting have also been reflected in the views of non-British UK residents and councillors who were consulted as part of our campaign:

"I vote in the Scottish elections because Scotland is my home and I care about my home. I am not a visitor here and I refuse to be treated like one within my own home. If my money is good enough for the government to accept [it], then my vote on what is to be done with it ought to be too. [...] One's dignity is intrinsically linked to one's right to political self-determination."

Jade Kouletakis, Greek national living in Scotland

"I support Residence-based voting rights because it's only fair that people who pay council tax have a say on how their services are run. Britain's strength has always been its global outlook so bringing more people to our local democratic process can only reinforce that. Spreading democracy, especially at a time when it is in retreat in many places, is an important signal we should be making."

Cllr Gio Spinella, Camden Borough Council, Conservatives

Residence-Based voting models across the world

In addition to Scotland and Wales, England and Northern Ireland can draw inspiration from many other countries which give non-citizen residents the right to vote in at least local elections. Some countries, like New Zealand⁶, have allowed migrant residents to vote in national elections since 1975. Like Scotland and Wales, these case studies below show that a residence-based voting rights model in local elections is possible and has already been successfully implemented in many countries across the world.

The following is a non-comprehensive list of countries which give voting rights to non-citizens in local elections:

- **Australia:** In most cases, local government electoral rolls in Australia are open to all adults, including non-citizens, who meet other criteria – such as residency requirements.⁷

⁵ López-Guerra, C. (2005). Should expatriates vote? *Journal of Political Philosophy* 1(1): 216–234;

Abizadeh, A. (2008). Democratic theory and border coercion: No right to unilaterally control your own borders. *Political Theory* 36(1): 3

7–65; Beckman, L. (2009). *The frontiers of democracy: The right to vote and its limits*. Basingstoke: Palgrave Macmillan;

Owen, D. (2012). Constituting the polity, constituting the demos: On the place of the all affected interests principle in democratic theory and in resolving the democratic boundary problem. *Ethics and Global Affairs* 5(3): 129–152.

⁶ <https://vote.nz/enrolling/get-ready-to-enrol/are-you-eligible-to-enrol-and-vote/>

⁷ <https://www.aec.gov.au/enrol/>

- **Belgium:** In 2004, voting rights in municipal elections were extended to non-EU citizens living in Belgium, with the conditions that non-EU citizens have been living in Belgium for at least five years before becoming entitled to vote.⁸
- **South Korea:** Since 2005, foreign nationals aged 19 years and older who have lived in South Korea for more than three years after obtaining permanent residence visas can vote in local elections.⁹
- **Denmark:** In 1977, voting and candidacy rights were granted to citizens of countries in the Nordic Passport Union who fulfilled a 3 year residence condition for municipal and county elections. These rights were extended to all foreign residents in 1981.¹⁰
- **Estonia:** In 1996, all foreign residents were granted voting rights for municipal elections with a 5-year residence condition.¹¹
- **Iceland:** In 1986, voting rights were granted to citizens of countries in the Nordic Passport Union, who fulfilled a 3 years residence condition for municipal elections. These rights were extended to all foreign residents in 2002 with a 5 years residence condition.¹²
- **Ireland:** EU and non-EU citizens can vote in elections in Ireland regardless of the type of residence they hold. Asylum seekers can also vote in Ireland.¹³
- **Luxembourg:** In 2003, local voting rights were granted, with no nationality restrictions, to all foreigners who have been resident in Luxembourg for at least 5 years on the date on which electoral registration closes (around 3 months before the election itself).¹⁴
- **Slovakia:** In 2002, local voting rights were granted to 3-year residents.¹⁵

The potential repercussions of the proposed approach

We believe that the impact of residence-based voting benefits the country's economic and socio-political impacts because:

(i) The proposed approach will create an unnecessary administrative burden, bureaucracy and practical difficulties for registering to vote as well as voting on polling day.

Registration rates are lower among eligible non-UK nationals than among UK or Irish nationals and completeness of electoral register entries is also lower in the former groups¹⁶. Complex eligibility criteria and differing rules around who can vote in which elections has often caused widespread confusion among voters and community groups alike and in addition to individual registration as well as other socio-economic factors may result in further decline in voter registration among these groups impacting the idea of a democratic process¹⁷.

⁸ <https://www.vlaanderen.be/en/elections-in-belgium>

⁹ <https://web.archive.org/web/20070620222910/http://www.immigrantvoting.org/material/world.html#KOREA>

¹⁰ <https://www.norden.org/en/info-norden/right-vote-denmark>

¹¹ <https://www.eesti.ee/en/citizenship-and-documents/citizenship/the-right-to-vote>

¹² <https://www.norden.org/en/info-norden/voting-rights-iceland>

¹³

https://www.citizensinformation.ie/en/government_in_ireland/elections_and_referenda/voting/right_to_vote.html

¹⁴ <https://www.justarrived.lu/en/administrative-procedures/voting-luxembourg/>

¹⁵ https://www.slovensko.sk/en/life-situation/life-situation/_right-to-vote-of-union-citizen/

¹⁶ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes>

¹⁷ Toby James (2014) “The Spill-Over and Displacement Effects of Implementing Election Administration Reforms: Introducing Individual Electoral Registration in Britain” *Parliamentary Affairs* 67(2): 281–305

Under the current proposals of the Elections Bill, to prove that they were in the UK before the end of the implementation period, EU citizens, for example, will need to produce additional evidence on top of demonstrating status under the EU Settlement Scheme. It is unclear how this will be implemented in practice, adding a bureaucratic barrier to voter registration and participation.

In 2021, only 11% of people felt that they had a great/fair influence on politics and public affairs¹⁸. This trend was greatest in England and it is likely that overly confusing rules, such as those proposed in the Elections Bill, will lead to even higher voter uncertainty and lower participation in democratic processes. A UK-wide approach, in which voting rights in local elections are the same for all residents, will not only make the electoral system more transparent, but also easier to manage and understand by political parties, organisations and the public.

If we take the example of the Scottish Elections Bill¹⁹, and particularly its extension of the franchise to all residents, it demonstrates that, not only would a residence-based voting system result in as little practical change as possible in terms of electoral registration and administration, but it would also simplify the administrative process for Electoral Registration Officers rather than further complicating it. According to the Scottish Elections Bill Policy Memorandum “Foreign nationals will be able to register with exactly the same options as existing voters, such as via a declaration of local connection, and make use of existing processes”.²⁰

(ii) The current approach will disenfranchise countless EU citizens.

The Bill proposes that only EU citizens who arrived in the UK before the end of the implementation period would keep their local election voting rights. This will create a situation where some EU citizens will have voting rights whereas others will not despite being born in the same countries. Additionally, EU family members with pre settled or settled status, as well as EEA citizens under the EU Settlement Scheme, may not be eligible to vote. The EU Settlement Scheme has provisions for joining family members reuniting after the end of the implementation period. These family members would be excluded from the franchise, despite having a status under the EU Settlement Scheme.

A dismay of not being included within the political process despite being an active tax paying citizen has been reflected by people we consulted as part of the campaign such as Elise and Leni who are both working in England but are unable to vote.

“I am really upset I can't vote to be honest, neither in national or local elections. It really should not matter where I am from to vote on what happens to my local park, school or bins. I have lived in England for six years now and have never had a say. It feels extra cruel as I work in local government”

Elise Anly, Norwegian living in England

“I've lived in England for 22 years (exactly, at the time of writing), and I've not even been able to vote in a local election for all that time, because I'm 'only' an EEA

¹⁸ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes>

¹⁹ <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-elections-franchise-and-representation-scotland-bill/stage-3/bill-as-passed-scottish-elections-franchise-and-representation-bill.pdf>

²⁰ <https://www.parliament.scot/-/media/files/legislation/bills/current-bills/scottish-elections-franchise-and-representation-scotland-bill/introduced/policy-memorandum-scottish-elections-franchise-and-representation-scotland-bill.pdf>

national, rather than an EU national. I have now got Settled Status, and would very much like to be able to vote and have a say in how what's been my home for over two decades is governed. I pay tax and council tax just like British citizens, so why should I not have a say in politics and government? I was raised to consider voting as one of my civic duties, and for the last 22 years I've not been allowed to perform that duty - something that's extremely vexing considering that a UK national living in my country of birth can vote in local and regional elections after a few years' residency. Why is that right not reciprocated in the UK?"

Leni McCormick, Norwegian living in England

The significance of residence-based voting system

We would like to highlight that a residence-based voting system is a model which is followed by other nations and considered by many the most democratic approach to foster a democratic society based around values of inclusivity and fair political representation.

It is important that our local politics reflects the diversity of our country and different voices of migrants which is reflected by voting for their preferred political representatives on a local level. This also is central for a democratic values in which power and civic responsibility are exercised by all adult citizens through their freely elected representatives. Voting for your local representative is central to democracy and encourages a more inclusive and representative society. Extending voting rights to all residents ensures that all people choosing to make the UK their home can be part of local decision making processes.

Many academics have supported residence-based voting on a normative level. More specifically, the normative argument for residence-based voting systems states that all residents who have a genuine link²¹ to the polity they reside in, and depend on the collective self-government and flourishing of the political community, should have the right to be included in those polities, at least at the local level²². Similarly, academics have argued that, by reaching out to immigrants at the local level, states can bring legitimacy to their democratic processes and elections in particular - "Conceiving of all residents [...] as stakeholders in local self-government restores democratic legitimacy where sedentary populations have become minorities."²³

In addition to the normative argument made by academia, the same conclusion is reflected by people we consulted as part of the campaign:

"I think we should have the right to vote because we work and pay taxes. We are part of the society, and the consequences of elections are also ours"

Juliana Campanha, Brazilian living in England

"I have been living in the UK for 5 years now, studying at University and now working. I had to rent a place for the first time and didn't have much support at the beginning especially with the legal aspects. It would have been great if I could have closer contact with my MP, as in who represents me and have more control over such

²¹ By taking up residence in a particular society and community, migrants become important stakeholders in those communities and have a claim to political inclusion and participation (Arriighi and Bauböck, 2017).

²² Bauböck, R. (2007). Stakeholder citizenship and transnational political participation: A normative evaluation of external voting. *Fordham Law Review* 75(5): 2393–2447.

²³ Bauböck, R. (2015). Morphing the demos into the right shape: Normative principles for enfranchising resident aliens and expatriate citizens. *Democratization* 22(5): 820–839

issues. [...] I would have wanted to be able to try to change this or at least voice my concerns - if I was able to vote”

Tawfik Rames, Egyptian living in England

The Government is pursuing a bilateral treaty approach on voting rights for EU citizens who arrived in the UK after the end of the transition period. However, several EU countries²⁴ already provide local voting rights to all residents, including British citizens. It would, therefore, be expected in good faith that EU citizens from these countries living in the UK are given reciprocal rights automatically. A bilateral treaty should not be necessary in these situations. However, the Government has made no acknowledgement of this fact. In any case, it would be a far simpler and more inclusive solution to implement full residence-based voting rights for all residents.

RECOMMENDATIONS

Based on the above arguments we advise the committee to:

1. Recommend an amendment to the Elections Bill ensuring that all residents with leave to enter or remain are granted the right to vote in local elections in England and Northern Ireland;
2. Consider the negative repercussions of provisions in the Elections Bill (in particular schedule 7) which, as demonstrated by the evidence above, will disenfranchise large groups of non-British residents;
3. Consider the administrative burden associated with the current proposals, comparing them to those of a possible residence-based approach;
4. Further consult academia, civil society and non-governmental organisations to better understand both the positive and negative effects of residence-based voting systems;
5. Consider the differing approaches across the United Kingdom’s nations and examine the need for a consistent approach to voting rights across all its nations;
6. Reflect upon progressive residence-based voting models implemented in various European and non-European democracies. Many of these examples serve as evidence of the benefits of such an approach as well as the practicalities and costs surrounding its implementation.

August 2021

²⁴ European Parliament (2013) ‘Franchise and electoral participation of third country citizens residing in the European Union and of European Union citizens residing in third countries’ p. 54. Available Online at: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO_ET\(2013\)474441_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/474441/IPOL-AFCO_ET(2013)474441_EN.pdf)

This shows Belgium, Estonia, Hungary, Ireland, Lithuania, Luxembourg, The Netherlands, Slovakia and Slovenia give local electoral rights to third country citizens (TCC), and do not discriminate between different groups of TCC. Finland, Sweden, Denmark Greece give local electoral rights to all foreign residents subject to minimum residence requirements.