

Written evidence from The Cross-Border Services Group¹ (TEB 45)

Public Administration and Constitutional Affairs Committee The Elections Bill inquiry

Our Evidence

Britain has one of the highest emigration rates in the world, and given the overall trend, mobility is likely to increase not decrease. Currently, in contrast to other countries with large expatriate populations, British policymakers rarely appear to consider the interests of its overseas citizens, who constitute a great wealth of international “soft power” for the UK. We therefore recommend the government take this chance to acknowledge this situation and reinforce Britain’s connections with its citizens abroad.

Indeed, the current UK government’s 2015 manifesto pledged to extend voting for British citizens abroad beyond 15 years, and we welcome the proposal in this Bill to do so. However, we believe the government should not conflate fulfilling this promise with other potentially contentious provisions such as the requirement for voter ID. The latter is likely to encounter substantial opposition and therefore risk scuppering the whole Bill, jeopardizing the remaining welcome provisions.

The CBS Group has concerns about the implications of several parts of the Elections Bill which relate to voting and representation rights. These risk making an already inequitable situation worse. The inequity facing those members of the British diaspora who have lived overseas for more than 15 years was shown most starkly in the UK’s European Union membership referendum and its subsequent implementation, hence our focus on this.

The interests of significant numbers of British citizens resident in Europe were largely ignored during the referendum campaign and beyond. British politicians seemed to regard this cohort as politically irrelevant. Yet in fact the issue was one of fundamental importance to these people.

During pre-Brexit negotiations, senior members of the British government failed to pay adequate attention to the concerns and opinions of British citizens living in other EU/EFTA member states and to the advice given by citizens’ advice organizations such as British in Europe. As a result, the final citizens’ rights agreements failed to provide sufficient protection for their rights and livelihoods.

By introducing the ‘citizens of nowhere’ concept, Prime Minister May encouraged others to dismiss this cohort’s rights. And although the Conservative manifesto of 2015 – the same one

¹ The [Cross-Border Services Group](#) (CBS Group) was founded by two [British in Europe](#) Steering Team members – Zoe Adams Green and Debbie Williams MBE – in September 2020. In addition to Zoe and Debbie, the core team members are Nick Gammon, Emma Gledhill, Jayne Hamilton and Kim Sanderson. Our aim is to research, examine and raise awareness of the effects of the UK’s withdrawal from the European Union on the provision of cross-border services between the UK, EU and EFTA, including the rendering of services by British citizens resident in one EU/EFTA member state to clients in another EU/EFTA member state. The members of the CBS Group have expertise in the following sectors: aviation, IT, translation and interpreting, culture and media, maritime and skiing.

that brought the 2016 referendum – promised to deliver a vote to UK citizens living overseas who were disenfranchised due to the 15-year rule, it failed to do so.

Not only did these people have no voice in the referendum, but also as a direct consequence they lost the only suffrage they did hold – the right to vote in elections to the European Parliament and local elections in EU Member States. Significant numbers of British nationals living in Europe – and of course many others around the world – now hold no vote whatsoever, anywhere.

Foreign interference?

We are concerned that the Bill's proposed 'provisions to curb foreign interference' in elections 'by banning non-voting individuals and organisations based abroad' could potentially block one of the few means of expression currently open to British citizens resident abroad. Campaigns and advocacy groups established by British citizens abroad in an attempt to have their concerns addressed by political representatives in the UK could then also be thwarted by such provisions.

Lack of representation for Brits in the EU, EEA and EFTA

Membership of the European Union gave UK citizens the four freedoms, free movement of goods, capital, the freedom to establish and provide services and most importantly in this context the free movement of persons. Citizens moving within the EU (and EEA and EFTA countries that have adopted this *acquis*) took advantage of these freedoms, many at a time when they were not aware that these could be withdrawn.

Of the four *acquis* of the Single Market, freedom of movement within the Union and those countries with full access to the single market is a crucially important right for many of these UK nationals, and this was lost during the negotiations. As a single example relevant to the CBS Group, the loss of this right has led to inequality for those British people who still live and operate in the European Single Market, but who now find themselves landlocked: unable to trade in any of the 27 EU Member States, EEA and EFTA states other than the one in which they lived before the end of 2020 unless they meet the narrow definition of "frontier worker" in the citizens' rights agreements. Meanwhile their EU-citizen competitors living in the same country and operating in the same market can easily trade across European borders. Had these British people been properly represented politically, there is no doubt that this issue would have been addressed in the Withdrawal Agreement and its equivalents. We therefore consider it vital that lifetime voting rights be granted to all British citizens living abroad who would be eligible to vote if they lived in the UK.

Overseas voting

Currently, British citizens cannot vote in national elections in their host countries, unless they take on another nationality, which in some countries entails surrendering their British citizenship. Further, even where it is possible to acquire dual nationality, the waiting time for citizenship applications to be processed in some countries is several years.

In theory, British citizens who have lived abroad for under 15 years should still be able to vote in person, by post or by proxy at their last registered address in the UK ([NI-registered voters cannot vote by post from abroad](#)). However, anecdotal evidence suggests that in the past voting papers sent by post, for example for the EU Referendum, did not arrive in time and often failed to arrive at all. We regret the lack of investigation into this issue, which would have provided us with firm proof as to whether or not this reported problem was widespread. Such investigation could also have formed the basis for any changes that may have been deemed necessary as a result. The Elections Bill presents an opportunity to address this issue.

After 15 years outside the UK, British Citizens living abroad currently lose their right to vote in the UK. They are not represented at government level or in the UK Parliament. Given the large number of British citizens left with no voting rights anywhere, it could be argued that this loss contravenes what [the UN describe](#) as “the right to take part in the conduct of public affairs, including the right to vote and to stand for election, is at the core of democratic governments based on the will of the people.” It could further be seen as conflicting with the right to freedom from discrimination. We therefore welcome the proposal in the Bill to scrap the 15-year limit.

Often the argument is made that having left the UK for over 15 years, these UK nationals have little interest in matters affecting the constituencies where they once held a vote. Yet any time limit such as the 15-year rule is arbitrary. Living abroad is not synonymous with losing citizenship: a citizen has a permanent right to return. In that sense, all citizens are still concerned by all national issues. Removing the 15-year rule would bring the UK into line with most democratic countries which set no limit, and ensure citizens have a say in issues affecting their own countries.

While domestic concerns variously impact the British diaspora overseas, it should also be understood that they also form their own constituencies and have their own particular concerns - as the experience of the British living in Europe demonstrates.

To understand the scale of the present inequity, it should be remembered that over 1.5 million UK citizens live in Europe alone. If that figure is divided by the average UK constituency electorate of about 70,000, then that means around 21 MPs who should speak for these UK nationals are currently missing from the House of Commons.

There is therefore an undeniable argument that Britain should follow France’s example in its *troisième circonscription des Français établis hors de France* (Third constituency for French residents overseas) and make arrangements for its overseas constituents to have representation in parliament.

Voting and candidacy rights of EU citizens

Arguably, Britain lost its North American territories in 1776 to a slogan: “No taxation without representation”. This galvanized the American Revolution and delivered a message that we would do well to remember today. The democratic principle remains; it is simply wrong to tax people without allowing them a say in how that money is spent. In Britain, the principle of enfranchising its residents from abroad is well established, for example both Irish and most Commonwealth citizens already have the franchise if resident in the UK.

Yet there are approximately 5 million European citizens who live in Britain. The majority are permanent residents of over five years’ standing who make a substantial contribution to the society and the economy in which they live. They should be afforded voting and candidacy rights in local and national elections.

In terms of local elections, the Bill proposes to make EU citizens’ candidacy and voting in local elections conditional on being either ‘a citizen of an EU member state with which the UK has a voting rights agreement (currently Spain, Portugal, Luxembourg, Poland)’ or ‘continuously resident in the UK or Crown Dependencies since before the Implementation Period completion date - 31 December 2020’. Without physical proof of EUSS status, it is difficult to see how election officers could enforce this, with the risk of even those who are eligible being turned away at the polling station, as happened at the 2019 EU elections.

The CBS Group believes Britain should afford the EU citizens who hold permanent residence in Britain voting rights in national polls, regardless of any individual bilateral agreements. We would then hope for EU countries to reciprocate, but this should not be a condition for granting these rights. In Britain it could only be a cohesive force to allow all permanent residents to fully engage in the country where they live and work. At the very least, it would mean Britain could hold its head high, having demonstrated adherence to the most basic of democratic principles. Once again, the UK would be doing the right thing and setting a precedent worthy of being followed.

Voter ID

The Bill’s requirement to produce ID in order to vote is not something CBS Group can support unreservedly. It has the potential to disenfranchise already-disadvantaged citizens resident in the UK who do not currently have valid photo ID, although we note the proposed acceptance of ‘A broad range of documents’ and the ‘free, local Voter Card’.

Ironically, although many non-UK citizens are very familiar with requests to show photo ID, this requirement would not make it easier for EU citizens legally resident in the UK to vote in local elections – and in national elections in line with our proposal above. Their vote would presumably be dependent on their ability to prove they have Settled Status in the UK, although as stated earlier there is currently no physical proof of this available to them.

Recommendations

- We support the proposal to remove the 15-year limit on the eligibility of British citizens resident abroad to vote in UK national elections.
- We ask that any changes to postal and proxy voting also address existing issues affecting British voters abroad.
- We recommend introducing overseas constituencies to ensure the interests of British citizens abroad are represented.
- We ask that the proposal to restrict ‘all third-party campaigning to UK-based entities and eligible overseas electors’ be adapted to ensure British citizens living abroad can represent their interests through campaign groups during national election campaigns.
- We ask that the Bill grant EU citizens the right to vote in both national and local elections in the UK.
- We ask that photo ID not be required in order to vote.

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