

Liberty's Submission to the Youth Select Committee Inquiry into Votes at 16

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About Liberty

Liberty (The National Council for Civil Liberties) is one of the UK's leading civil liberties and human rights organisations. Liberty works to promote human rights and protect civil liberties through a combination of test case litigation, lobbying, campaigning and research.

Liberty Policy

Liberty provides policy responses to Government consultations on all issues which have implications for human rights and civil liberties. We also submit evidence to Select Committees, Inquiries and other policy fora, and undertake independent, funded research.

Liberty's policy papers are available at

<http://www.liberty-human-rights.org.uk/publications/1-policy-papers/index.shtml>

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Introduction

1. In 1969, the UK reduced the voting age to 18 years old. As the Home Secretary, James Callaghan, argued at the time

*“For years we politicians in our perorations have been use to telling young people that they hold the future in their hands. The fact is that young people already play a real part in the present, not in the future, and it is in the Government’s view that they should be enabled to take part in decisions of the present as well as the future.”*¹

2. Today, lawmakers and the public are debating the merits of lowering the age further to 16, an issue thrown into sharp focus by the imminent participation of 16 and 17 year olds in the referendum on Scottish independence which will take place in September 2014. In 2012 the Welsh Assembly also voted in favour of lowering the voting age to 16.

3. Liberty supports the enfranchisement of the more than 1.5 million 16 and 17 year olds in the UK. Young people that fall into this age category are entrusted with a long list of civic responsibilities—including the ability to join the armed services, work and marry—yet they are denied a political voice and a say in the wide range of issues affecting their lives. In an era of increased voter apathy, it is critical that the UK make a commitment to a small but significant expansion of the franchise that better reflects the role of 16 and 17 year olds in modern society and will instil a commitment to voting in the next generation.

The right to vote

4. The right to vote is a fundamental civil and political right that maintains the foundations of an effective and meaningful democracy governed by the rule of law. The UK has a proud history of the progressive realisation of more inclusive and equal voting rights. From the Reform Act of 1832 which extended the franchise from propertied men to men who rented property of a certain value to universal male franchise in 1918² followed by equal female franchise in 1928³ the UK has slowly recognised the importance of fair, equal and representative suffrage.

¹ Speaker’s Conference decision on voting age ‘a compromise,’ *The Guardian*, 27 November 1968, p. 18.

² Representation of the People Act 1918.

³ Representation of the People Act 1928.

5. Article 3 of the First Protocol to the European Convention on Human Rights (as incorporated by the *Human Rights Act 1998*) protects the right to free and fair elections and safeguards the right to vote. It states that “[t]he High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.” While the right is not absolute, any restrictions on it must pursue a legitimate aim and be shown to be proportionate. The European Court of Human Rights has said that “*in the twenty-first century, the presumption in a democratic State must be in favour of inclusion*”⁴ and that the exclusion of whole groups and categories must be approached with caution and objectively justified. In 2005, the Court held that the UK’s automatic ban on prisoners voting was disproportionate and not capable of such justification.⁵

Enfranchising 16 and 17 year olds is right in principle

6. Whereas disenfranchisement of groups on the basis of gender or race smacks more glaringly of discrimination, the disenfranchisement of a category of young people who are treated as civically mature and responsible in other ways, is a less visible, but still corrosive, form of discrimination and harm. Young people represent a minority in our political system and it is crucial that their voice is heard and interests represented.

7. While the right to vote can be legitimately restricted to require sufficient intellectual ability and maturity to understand and participate in the democratic process (and the voting age - as a proxy for maturity - will to some extent always be a blunt tool) it is beyond question that 16 and 17 year olds are mature and responsible enough to vote and there are many principled and practical reasons that the voting age should err on the side of inclusivity.

8. We already expect young people in the UK to make complex and important decisions in a variety of arenas—from civic decisions such as joining the armed forces, entering the workforce and paying taxes to personal decisions such as consenting to sexual relationships or medical treatment or even getting married. This age group may also obtain tax and benefit credits; join a trade union and become director of a company. While some of those activities (such as joining the armed forces or marriage) require parental consent, these responsibilities nonetheless require a significant level of intellectual and emotional maturity,

⁴ *Scoppola v Italy* (No 3), 2012.

⁵ *Hirst v UK* (No 2), 2005.

and allowing 16 and 17 year olds to vote would be a natural extension of the expectations we already have for them.

9. Further, the responsibilities and obligations that we allow 16 and 17 year olds to undertake demand a more inclusive voting age. Thousands of youth aged 16 and 17 serve in our armed forces,⁶ and six of the first 100 British soldiers to die in Iraq were too young to have ever voted in an election.⁷ It is a striking incongruity that we have allowed young people to give their lives in service, but won't allow them a say in the political decisions of our country, including the decision to go to war. Indeed previous generations have acted to close this perverse and offensive situation. The extension of the franchise to all men over 18 and some women in 1918 followed World War I and was aimed at addressing the fact that millions who had served were not eligible to vote.

10. The same absurdity was raised by American soldiers during World War II, when they began to use the slogan "Old enough to fight, old enough to vote" to critique the fact that they (as 18 – 20 year olds) were able to join the armed services but were not permitted to vote until the age of 21. The slogan was often repeated by student activists during the Vietnam War, and this argument was an important reason behind the ratification of the 26th Amendment to the US Constitution in 1970, which lowered the voting age to 18.⁸ A similar slogan "no taxation without representation" which was coined ahead of the American revolution could equally apply here. Our 16 and 17 year olds are required to pay income tax and make national insurance contributions yet are not granted a say in how those taxes are spent.

Young people deserve a say in important political issues affecting their lives

11. Most of the hotly debated political issues of today will have the most significant impact on youth. Many of these decisions (such as university tuition fees or public investment in apprenticeships) have an immediate impact on 16 and 17 year olds whether they are in education; in the workforce or both. Others, for example those that relate to intergenerational policies such as climate change or national debt, may not affect young

⁶ UK Armed Forces Annual Personnel Report: 1 April 2013, Ministry of Defence, 23 May 2013, available at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/284564/uk-af-personnel-report-1-april-2013-revised.pdf.

⁷ The New Frontier: Votes at 16, Richard Reeves and Thishani Nadesan, Demos, April 2010, available at http://www.demos.co.uk/files/The_New_Frontier_EMARGOED.pdf?1270385835.

⁸ Records of Rights Vote: 'Old Enough to Fight, Old Enough to Vote,' The National Archives, 13 November 2013, available at <http://blogs.archives.gov/prologue/?p=12964>.

people immediately, but may ultimately have a greater impact on them than those who have already attained the voter eligibility age.

12. In any system of democratic representation, there is an ever-present risk that those who are disenfranchised are less well served by political leaders. If there are ‘no votes in it’ then government policy may well ignore matters of crucial importance to young people while, for example, prioritising health and pensions budgets that have a bigger impact on the lives of the older section of the population. As societies grapple with the division of resources and as our population proportionally ages it is even more important that our electorate is more inclusive of the generation who will live under the implications of far reaching decisions taken now.

13. The marginalization of children in our society has not gone unnoticed. When the UN Committee on the Rights of Child last reported on UK compliance with the Convention on the Rights of the Child in 2008 they noted their concern at the “*general climate of intolerance and negative public attitudes towards children, especially adolescents, which appears to exist in the UK, including in the media*”⁹. In this vein, Liberty has long had concerns about successive Government’s casual disregard for the civil liberties and human rights of children and a political narrative about young people which is rooted in suspicion. By way of example –

ASBOs and demonization of children

14. The use of civil injunctions such as ASBOs has had a discriminatory and harmful impact on young people. Children accounted for 37.7% of all ASBOs issued between 1 June 2000 and 31 December 2011, and for 44.9% of all ASBOs breached.¹⁰ Of the ASBOs breached, 52.7% of individuals were given an immediate custodial sentence with an average custodial length of 5.1 months.¹¹ The disturbingly high and consistent breach rates for ASBOs, and the custodial repercussions for children, amount to an on-going failure of public policy. The *Anti-social Behaviour Crime and Policing Act 2013* has now received Royal Assent, bringing with it a new range of civil injunctions, sadly continuing this trend of punitive sanctions without judicial due process. The breadth of restrictions that can be imposed – and

⁹UN Committee on the Convention on the Rights of the Child, Concluding observations on the United Kingdom of Great Britain and Northern Ireland, September 2008, available at:

<http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.GBR.CO.4.pdf>

¹⁰ Statistical Notice: Anti Social Behaviour Orders Statistics England and Wales 2011, Ministry of Justice, October 2012, available at <http://www.homeoffice.gov.uk/publications/science-research-statistics/research-statistics/crime-research/asbo-stats-england-wales-2011/asbo11snr?view=Binary>.

¹¹ Ibid.

which will remain possible under the new regime - means that onerous and inappropriate requirements can be placed on individuals, including countless young people, who would arguably be better suited to a different type of intervention. For instance, in 2009 a 16 year old was given an ASBO which banned him from every street in the area in which he lives, except his own. This meant that he was unable to leave his road on foot and could only travel by bus or car.¹² The overly broad conditions are often impossible to comply with, resulting in individuals - and frequently young people - being alienated from their community and funnelled into the criminal justice system.

Stop and search

15. Lax stop and search powers have also allowed disproportionate targeting of young people, particularly Black and Asian boys. Among some communities it is seen as a fact of life that young boys will be inevitably searched by the police as they go about their daily lives, and such discriminatory policing leaves young people feeling alienated and disengaged. Numerous young people have spoken out about the harmful impact of stop and search practices on them and their communities. A young person working with Second Wave, a community arts organisation in south-east London, had this to say about stop and search:

“The thing about stop and search, is that a lot of it is in public. And say your auntie, or someone close to you, sees that, you haven’t done nothing, and they go and tell your mum. It just makes you look bad. And you don’t want your mum to be worrying about it, she’s gonna think you’re hanging around with the wrong crowd, and you haven’t done nothing. It’s embarrassing, as well, everybody’s gonna think ‘Oh, he’s done something bad.’”¹³

In 2013, Liberty’s client, a vulnerable 12-year-old black boy, who is autistic, was stopped by Metropolitan Police officers outside his youth club. They told him that there had been some robberies in the area and they wanted to check whether he had any stolen items on him. They went through his belongings and put their hands in his pockets, before checking the code in his mobile phone to see whether it was stolen. He had never before had any interaction with the police and the encounter, witnessed by a number of other children from

¹² See <http://www.statewatch.org/asbo/ASBOwatch.html>.

¹³ Young people’s experiences of stop and search, Runnymede, available at <http://www.runnymedetrust.org/events-conferences/econferences/ethnic-profiling-in-uk-law-enforcement/the-report/young-people-and-section-60/young-people-s-experiences-of-stop-and-search.html>.

his youth club, left him feeling humiliated and distressed. The officers did not provide their details, or a stop and search slip, and did not explain why they thought they had the power to stop and search him in this way.

Use of force and death in child prisons

16. Once in the justice system, young people face additional vulnerabilities and potential harms. Since April 2000, sixteen boys have died in youth detention. In 2004 Gareth Myatt, 15, died in Rainsbrook STC as a direct result of use of force triggered by his refusal to clean a sandwich toaster. He was 4 ft 10 and weighed under seven stone, yet was restrained by three members of staff who ignored his shouts that he was unable to breathe. He died of 'positional asphyxia' after he choked on his own vomit. Also in 2004 Adam Rickwood, 14, took his life at Hassockfield STC, a few hours after being restrained for discipline purposes. Adam was restrained by staff when he refused, when asked, to move from a communal area to his room. At the second inquest into Adam's death, the jury found that the use of force against Adam "more than minimally" contributed to his decision to take his own life.¹⁴

17. Despite tragic incidents like these, the Coalition Government has proposed a legislative scheme that specifically allows for use of force in soon to be created Secure Colleges to enforce 'good order and discipline'. This would allow staff at Secure Colleges to use force against children who, for example, refuse to follow an instruction or break a rule. The use of force against children in detention to enforce good behaviour is contrary to basic human rights standards and notions of decency. It has also recently been found to be unlawful by the Court of Appeal.¹⁵

18. Enfranchising 16 and 17 year olds will create accountability for policies directly impacting young people, and push politicians to pay greater attention to their needs and demands. In addition, it will permit young people to have a say about these and a range of other issues that affect their lives. As Sarah Champion MP argued in the recent Westminster Hall debate on votes at 16 "*by being accountable to 16 and 17-year-olds, the system will become skewed such that politicians, policy makers and the Government will naturally gravitate towards greater consideration of youth issues in policy formation. That is especially important in a system where young people feel so disengaged.*"¹⁶

¹⁴ *Deaths of Children in Custody: Action Taken, Lessons Learnt*, Youth Justice Board, 2014 available at <http://www.justice.gov.uk/downloads/youth-justice/monitoring-performance/deaths-children-in-custody.pdf>.

¹⁵ [2009] QB 657.

¹⁶ Westminster Hall, Votes at 16, 6th May 2014, Hansard Column Column 6WH, Sarah Champion MP.

Young people are the future of our democracy

19. Lack of voter engagement is a real and often discussed problem in the UK and voter turnout has been on a downward trajectory since 1950. Then, 84% turned out to vote compared with an overall turnout rate of only 65% in 2010.¹⁷ The highest turnout was among voters 65 and older, who voted at a rate of 74.7% - compared to a 51.8% turnout rate among 18 – 24 year olds. Membership of political parties has similarly fallen dramatically over this period. These statistics are troubling. Equally troubling is one recently suggested fix – making voting compulsory for young people (on pain of a fine).¹⁸ Democracy is not borne of authoritarian compulsion but sustained through individuals' right to it and belief and participation in it. As the UK continues to reel from scandals and loss of trust in our democratic institutions, extending the franchise to 16 and 17 year olds would be a far more enlightened way to herald a much needed renewal in our democracy. This has certainly been the experience in allowing 16 and 17 year olds to vote in the Scottish referendum.

20. Research shows that voting is habit-forming—indeed, the best predictor of whether someone will vote is whether he or she has voted before. In addition, young people whose parents vote are more likely to vote themselves.¹⁹ Indeed, as Shadow Justice Secretary Sadiq Khan recently noted,

“Getting the public into the habit of voting is clearly a key part of any solution if we are to raise the numbers of those who participate in elections. We need to get people hooked on voting at an early age because the evidence shows if you vote when you first become eligible you're more likely to keep on voting for the rest of your life. Don't vote when you're young and you're more likely to never vote.”²⁰

As such, the long-term health of our democracy depends on our investment in young people's political participation.

¹⁷ Elections: Turnout, House of Commons Library, 3 July 2013, available at www.parliament.uk/briefing-papers/SN01467.pdf.

¹⁸ Young Voters Should be Required to Vote First Time Round, IPPR, April 2013, <http://www.ippr.org/news-and-media/press-releases/young-voters-should-be-required-to-vote-first-time-round>

¹⁹ CIRCLE Working Paper #73: Joining Young, Voting Young: The Effects of Youth Voluntary Associations on Early Adult Voting, Reuben J. Thomas and Daniel A. McFarland, August 2010, available at http://www.civicyouth.org/wp-content/uploads/2010/08/WP_73_Thomas_McFarland.pdf?%3E.

²⁰ Labour plans to lower voting age to 16, *The Guardian*, 23 January 2014, available at <http://www.theguardian.com/politics/2014/jan/23/labour-voting-age-16-mayoral-elections>.

21. Other European countries have been moving towards lower voting ages as well. In 2007, Austria lowered its voting age to 16. Though turnout statistics are not available by age, estimates for the 2008 election show that newly-enfranchised voters participated in a rate comparable to the rest of the electorate – approximately 73%.²¹ Some 16 and 17 year olds can also vote in Norway, Sweden and Germany.²²

22. There is certainly a strong appetite for votes at 16 among young people. The Votes at 16 Coalition is led by the British Youth Council and has been campaigning on the issue for over 10 years. In November 2013, the UK Youth Parliament voted to make the issue its national campaign after balloting 478 000 young people across the country. In the Westminster Hall debate on votes at 16 Sarah Champion MP reported that

“Since the debate was announced, I have heard from many 16 and 17-year-olds throughout the country on why securing the vote is so important to them”.²³

23. This strong appetite to vote certainly chimes with Liberty’s experience of a younger generation that is active and engaged when allowed to be. Liberty is regularly contacted by young people seeking to participate in campaigning for democratic rights and values and we speak to, and engage with, thousands of young people in schools across the country about issues that concern them and how they can participate in democratic life. Every year we shortlist and award a Human Rights Young Person Award at our annual Human Rights Award ceremony choosing between inspirational campaigns by young people seeking to raise awareness about social issues and achieve political change. Last year our shortlist included Jinan Younis, who overcame widespread hostility to set up a feminist society at her all-girls’ school; the NUS Black Students’ Campaign, for their work promoting religious freedom and cultural expression in persuading Birmingham Metropolitan College to make a common-sense u-turn on its Muslim face veils ban; and May Gabriel, for her campaign to encourage more open discussion about mental health. In our view, giving younger people more formal responsibility in our society would certainly make our politics more dynamic, inspiring and fair.

24. Young people currently face a number of disincentives to democratic engagement. Liberty represented a number of young children who were kettled during the protest against tuition fees in 2010. One young girl detailed her experience of being kettled for 5 hours

²¹ The New Frontier: Votes at 16, Richard Reeves and Thishani Nadesan, Demos, April 2010, available at http://www.demos.co.uk/files/The_New_Frontier_EMARGOED.pdf?1270385835.

²² Ibid.

²³ Ibid at footnote 17, Hansard Column 2WH.

during a nonviolent student protest in November 2010. She explained that, despite showing proof that she was a full-time student, she and others were prohibited from leaving the area, even after it got dark and cold. After 5 hours, she was among the first to be released—and she explained that some young people were not allowed out until 11pm.²⁴ Tactics such as kettling and plans to use water cannon in public order policing carry the potential to chill wider political engagement. Reducing the voting age to 16 would not simply build participation into our formal political processes, it would give young people a stronger voice on broader issues of democratic participation including free expression and privacy online and the protection of peaceful protest.

25. Enfranchisement of older teenagers will not, on its own, secure a strong and meaningful voice for young people in the shape of our political future. Schools have an incredibly important role to play in educating young people about our democracy and politics and the importance of the right to vote. Citizenship education introduced in 2002 has arguably helped in the political education of young people in the UK but Liberty is concerned that there is still insufficient time and resource dedicated to this crucial form of teaching. Sarah Champion has told Parliament that *“When I asked young people in my constituency about citizenship education and what they had learned about politics as part of that, some of them in their final year of school replied that they had only three or four sessions in which they had talked about politics in the entirety of their secondary education.”*²⁵

Alongside extending the franchise to 16 and 17 year olds Liberty also endorses exploring additional ways to engage young people in politics including the expansion of citizenship education and other strategies.

²⁴ Inside the Kettle, ‘Rosa,’ 29 November 2010, available at <http://www.liberty-human-rights.org.uk/news/latest-news/inside-kettle>

²⁵ Ibid at footnote 17, Hansard Column 3WH.