



Irish Council for **Civil Liberties**

**ICCL Submission to the
Public Consultation on Voter Registration**

March 2019

Terms of Public Consultation

The present consultation builds on prior consultations with other stakeholders including local authorities. The present process focuses on the overall impact of the proposed new voter registration scheme, and what risks might arise under the new proposals and these risk might be ameliorated.

The Key Proposals being put forward for consultation are:

1. Change to one single standard voter registration form
2. A rolling register which is accessible to voters
3. Optional On-Line registration using My Gov.ie
4. Individual registration only
5. Enabling single national register database with unique identifiers
6. Verified identity by PPSN
7. Data sharing to ensure accuracy

The Consultation documents also set out a number of additional related issues on which submissions are also invited:

1. Allowing provisional registration for young people aged 16-17 who could get on the register, through a schools programme for example,
2. Specific provision for people with no fixed address
3. Provision for anonymous registration for people whose safety may be at risk
4. Removal of provision for the edited register

Background to our Submission

ICCL approaches the subject of regulation of elections and political activity from the perspective of ensuring that any regulations in this area (statutory or otherwise) should advance and respect human rights standards. In particular, we are concerned that restrictions on political activities should be based in law, necessary and proportionate, with specific reference to the need to respect the rights to freedom of expression and freedom of association.

We are also concerned with ensuring all system so data collection and processing protect individual privacy. We are concerned in particular with the potential threat to individual privacy posed by the use of large database systems, and the sharing of personal data across such systems. As a general principle, it is essential that measures to make the administration registration system less burdensome must not be achieved at the expense of individual civil liberties and the rights of citizens to participate in elections.

We focus in this submission on the matters addressed in Key Proposals 3-7. We also make general points regarding the other matters raised.

1. We support measures to streamline and standardise voter registration

Accuracy of voter registration system is important to ensure security and integrity of democratic process. In this regard, ICCL supports the objectives of Key Proposals 1 and 2 which should contribute to a more accurate and accessible voter register. We do note and recognise the risks identified in the Consultation Paper regarding ensuring the security of the processes.

2. We support measures to facilitate greater democratic participation

Under international human rights law, the State has an obligation to ensure enjoyment of democratic rights and to encourage political participation by all sections of society. The consultation paper contains many useful proposals to secure wider electoral participation. Allowing provisional registration for young people; provision for registration by people with no fixed address; and provision for anonymous registration for people whose safety may be at risk; are all welcome initiatives in this regard.

We also note that on-line system of registration may improve accessibility for some categories of voters, including voters with visual impairment – with the caveat that any such system must meet the highest standards of accessibility.

The proposed system of individualised applications is compatible, in principle at least, with the autonomy and privacy rights of individuals. However, any move to such a system must ensure that there are no obstacles to electoral participation by categories of persons such as those in congregated settings (nursing homes, long-term hospitals, mental hospitals, direct provision centres, prisons, child detention centres etc.), or other persons who may require the assistance of others in the registration process (young people, older people, people with disabilities).

3. We are concerned regarding the requirement that Online Registration will be based on the My Gov.ie identity system

ICCL has consistently voiced its concerns about the operation of the Public Service Card and MyGov.ie system. We note that there is currently ongoing an investigation by the Data Protection Commissioner into the legal basis for the current system. Concerns have also been voiced by data protection experts with regard to the compatibility of these systems with the General Data Protection Regulation (GDPR).

Given these persistent doubts hanging over the Public Service Card/MyGov.ie system, we strongly recommend against grounding any system of on-line registration on these systems at this time.

A balance needs to be struck between maintaining the integrity of the voter register and ensuring citizen's ability to register without "mandatory" identity requirements that create vulnerabilities for our personal data. While the Consultation Paper provides for an option of on-line registration, in the context of the stated objectives of the Government's E-Government Strategy, it is reasonable to assume that on-line registration may become the sole system of registration in the future.

Any movement towards making enfranchisement dependent on the possession of a national identity registration system, reinforces arguments that the reform of the electoral registration system could be used as a means of compelling people to register for the MyGov.ie and/or Public Service Card system or risk being disenfranchised. We believe any such approach would be completely unacceptable.

4. We are concerned re Voter Identification Requirements

Protecting the integrity and security of the voting process generally, and specifically combatting potential personation at the polling station, are legitimate aims of any reform of voter identity verification measures. However, it is not clear that there is any evidence of a significant problem of voter personation in Irish elections that would justify voter identification requirements. It has been recognised internationally¹, that strict voter identification requirements may have the indirect effect of excluding certain communities from the voting process.

We are particularly concerned about the use of the PPSN as the sole acceptable form of identification in this system. There is no justification for such a requirement. Citizens are not required to have a PPSN, and many categories of people who may be entitled to vote may not possess or be eligible to obtain a PPSN (e.g asylum seekers or some categories of migrants). Other means of establishing identity / documentary forms of identity are practically available to citizens and acceptable to relevant authorities.

5. We are concerned re Use of Databases

Clearly, there are a host of issues relating to data protection that will result from the agglomeration of the many registers currently in existence into a single data-set – with there being much scope for potential misuse if the highest and most exacting standards of data protection are not applied. There are in general serious risks to creating centralised databases of personal information. We have seen a plethora of examples where such databases can be breached, abused, or have their contents disclosed without consent or

¹ See media report of recent concerns in the UK <https://www.theguardian.com/politics/2018/jul/30/compulsory-voter-id-uk-government-urged-halt-plans-vulnerable-disadvantaged-charities-warn>

legal authorisation - by state officials and private actors alike. When these databases are linked or easily accessed by multiple parties, the risk of these occurrences increases.

There is also a general concern in civil society that the sanctions for breaches of GDPR do not apply to government or to state agencies, and this has led to a general concern that in the absence of such sanctions, the state, ironically, could become a “weakness” in the overall system of data protection.

Given the critical significance of data privacy and security, and the real risk of data such as that which will be contained in the register being breached, or shared inappropriately or in a non-transparent manner., we would advise that considerable attention be paid in your proposals to demonstrating why data minimization principles are not being employed, why the need for linked databases outweighs the well-established risks posed to personal data and privacy, and how data protection and privacy-assurance standards will be achieved and enforced in light of these risks.