

Agenda Item no. 3(a)

## Minutes of the meeting of the Electoral Commission held on Wednesday 20 January 2016 at 9.30 am

Present: Jenny Watson (JW)  
Anna Carragher (AC)  
Gareth Halliwell (GH)  
Tony Hobman (TH)  
John Horam (JH)  
David Howarth (DH)  
John McCormick (JMcC)  
Alasdair Morgan (AM)  
Bridget Prentice (BP)  
Rob Vincent (RV)

In attendance: Claire Bassett (CB)  
Carolyn Hughes (CH)  
Andrew Scallan (AS)  
Bob Posner (BP1)  
Alex Robertson (AR)  
Kairen Zonena (KZ)  
Rupert Grist (RG)  
Warren Seddon (WS)  
Chris Meade (CM)  
David Gomez (DG) – item 4  
Kate Engles (KE) – items 4 and 7  
Adrian Fryer (AF) – item 4  
Tom Hawthorn (TH1) - items 4 and 7  
Richard Cavanagh (RC) – item 7  
Phil Thompson (PT) – item 8  
Davide Tiberti (DT) – item 8  
Ben Brook (BB) – item 8  
Ailsa Irvine (AI) – item 8  
Charlene Hannon (CH) – item 8  
Lindsey Pack (LP) – item 8  
Mark Williams (MW) – item 8  
Katy Thomas (KT) – item 9  
Katharine Sparrow (KS) – item 9

The Commission Board congratulated Andrew Scallan on the award of his CBE for services to electoral democracy.

## 1 Apologies

John Horam had to leave at noon.

## 2 Declaration of Interests

2.1 All the nominated Commissioners had stood for election, and been nominated as Commissioners by political parties that had contested recent elections.

2.2 JW declared that her partner was a Board member (and therefore also a Council member) of the European Council on Foreign Relations, a pan-European forum for discussion of EU foreign policy. ECFR took no organisational position on the UK's membership of the EU but members of either the Council, which included politicians from a range of parties from across the EU, or the organisation's staff, might make arguments for or against Britain leaving the EU.

2.3 JW declared that Global Dialogue, a charity chaired by her partner, had registered with the Commission as a non-party campaigner.

2.4 JW reported that her sister, who had previously been an Assistant Borough Commander in the Metropolitan Police, was currently deployed in a non-operational role with the Met.

2.5 JW was acquainted with Brendan Barber through the Public Chairs' Forum of which they were both members, and he had recently joined the board of the Remain (pro-EU) campaign.

2.6 AC was a member of the Board of the Arts Council of Northern Ireland, and a Trustee of the Wildfowl and Wetlands Trust, both of which received EU funding.

2.7 JMcC had previously declared (in relation to the Scotland Independence Referendum) his friendship with Nigel Smith, who was now being approached by those on both sides of the forthcoming EU Referendum for advice on the conduct of referendum campaigns.

2.4 DH in 2008 drafted and put forward in parliament an amendment to the then European Union (Amendment) Bill, proposing an EU referendum in the terms 'Should the United Kingdom remain in the European Union?'

2.5 DH had stood for election on a manifesto supporting an in-out referendum on the European Union.

2.6 DH was a council member of Justice, an organisation which had in the past received EU funding.

2.7 DH reported that the European Parliament subsidised a regular annual visit by his Public Policy students to Brussels.

2.8 JH was a member of the pro-Europe Conservative Europe Group, the parliamentary group Conservative European Mainstream, and of the all-party parliamentary group on Reform, Decentralisation and Devolution Group, chaired by Lord Foulkes.

2.9 TH declared, in relation to EU referendum matters, that as a function of being CEO of the Occupational Pensions Regulatory Authority and subsequently the Pensions Regulator, he had been a UK representative on the Committee of European Insurance and Pensions Supervisors (CEIOPS) between 2003 and 2010. He had chaired the Occupational Pensions Committee of CEIOPS from 2007 to 2009 and had been a member of the Managing Board of CEIOPS from 2009 to 2010.

### 3a Minutes of 9 December 2015 (EC 01/16)

**Agreed:** That the minutes of the Commission Board meeting held on 9 December 2015 be approved as an accurate record and the Chair be authorised to sign them.

### 3b Decision/Action tracker (EC 02/16)

**Noted.**

## 4 Update from Chief Executive for January (EC 03/16 plus TABLED supplementary EC 03a/16 on Policy Development Grants)

4.1 Para 1.3 – **allegations of electoral fraud** – The Board noted that in presenting the numbers, it would be important to make clear the difference

between cases relating to offences which might not generally be included in the public's understanding of fraud (such as missing or incorrect imprints on election material) and those that were commonly thought of as fraud (such as personation, undue influence or bribery, for example). Staff would also be careful to make clear where figures referred to allegations rather than proven cases. On the positive side, higher reported number of cases could also represent an increased confidence in reporting concerns.

4.2 Para 1.8 – **publication of campaign expenditure** – the Board should consider the split between national and constituency spending limits, and how well it worked. This would come to Board later this year.

4.3 Para 1.10 – **candidate spending returns** – Returning Officers were obliged to send in the candidate spending returns they received, and to publish and retain them for two years. Although the 80% received was sufficient to identify trends, it was far from satisfactory in terms of complete transparency, and BP1 confirmed that part of the new PEF programme would consider how to tackle this issue. He confirmed that if over-spending by candidates were picked up by staff scrutiny of the returns, further action would be considered.

4.4 Para 1.13 – **electoral integrity - higher risk profiles** – one local authority (Bristol) had been added to the list of areas where there was a higher risk of electoral fraud allegations as a result of allegations reported at the May 2015 polls. RV asked what lessons had been learned from our work with those authorities and how they would inform our future practice. The Board would review this after the May polls.

4.5 Para 1.25 – **mini-count in Northern Ireland** – the method of conducting secure and high-quality counts at lower levels and then aggregating eg constituency figures had been used elsewhere and was being trialled in Northern Ireland, for implementation at the May polls, and with a view to overcoming previous difficulties with the count there. The same approach would be adopted for the EU Referendum.

**JW and AS as Chief Counting Officer and Deputy Chief Counting Officer left the room for consideration of the following item.**

#### **TH in the Chair**

4.6 Programme 3 – **EU Referendum, timings, designation, and our position** – BP1 updated the meeting on the possible implications if a June referendum date was to be agreed. Our recommended timings for the regulated period and designation process were greater than the minimum set in PPERA and it was not known what timings the Government would opt for, but it was possible that they would legislate for timings shorter than our recommended periods. Our best practice recommendations were based on

the experience of the 2011 AV Referendum and the 2014 Scottish Independence Referendum. AR informed the meeting that when the orders were published we would provide briefings on our policy position, whilst ensuring that the policy reasons for our recommended positions were clear. Should the timescales become so short as to threaten our ability to carry out designation properly, we would say so in the clearest terms. Meanwhile we would continue background briefings to clarify our role and earlier position on timing.

4.7 The risks around designation and wider process were discussed.

**JW and AS returned to the room – JW in the Chair.**

4.8 In relation to para 3.8, secondary legislation a question was raised about provision of a **national recount** in the EU Referendum, and whether it had been considered and rejected. Our previous position on the Scottish independence referendum had been that there was no need to provide for a recount across the whole referendum area. Our briefings to Parliament on the EU Referendum had referred to the lack of a provision for a national recount as the Board had requested.

4.9 There were concerns on the one hand that statistically tiny errors locally could have a decisive effect on an extremely close national result, and on the other hand that a national recount would be a major and potentially open-ended undertaking. Efforts had instead been focussed on ensuring as accurate and secure a count at local level as possible.

4.10 Ultimately, campaigners who believed that the count was inaccurate could seek to judicially review the result. Meanwhile, CCO and DCCO made clear that the approach to counting and mitigating the risks identified during the discussion would be raised with Regional Counting Officers at the next EU Referendum Management Board meeting on 3 February.

4.11 Para 4.6 – **Law Commissions' review - report** – BP1 said publication of the report was expected the following week. CB had already written to the Minister, in anticipation of the report, urging his backing for sustaining momentum and getting the project to its next stage.

4.12 Paras 4.8 – 4.10 – **party registration** – the review of Party Identity Marks was nearly completed, and the Board recorded its thanks to staff for their work on an important piece of work to keep party identity marks understandable and clear to the electorate.

**Policy Development Grants**

4.13 Paras 4.23 – 4.29 and EC 03a/16 (TABLED) - BP1 introduced the item by reminding the Board that at its last meeting it had agreed to consulting political parties on the Government's intended 19% reduction to policy

development grant (PDG), on the basis of an equal reduction or a weighted reduction. The results of the consultation, which concluded on 15 January, were in the supplementary paper. Responses had been received from Plaid Cymru, the SDLP, the SNP, the DUP, the Labour Party, the Liberal Democrats, and the Conservatives. The UUP had not commented.

4.14 The larger parties broadly supported the equal reduction, but acknowledged the disproportionate impact on the smaller parties. The smaller parties also objected to the speed and timing of the change and its impact on them in the run up to the May polls in the devolved legislatures.

4.15 The rationale for our support for a variable reduction was set out at section 5 of the supplementary paper.

4.16 Discussion followed. DH dissented from the decision on the weighted reduction, and thought that any reduction should be equal.

**Agreed: That:-**

- (a) The lessons learned from our risk profiling of local authorities where there was a higher risk of allegations of electoral fraud, together with lessons learnt from practice so far and how applied to the current list of local authorities, be reviewed by the Board after the May polls;
- (b) The split between national and constituency spending limits, and how well it worked will be considered by the Board later this year;
- (c) The Board be sent the line we were taking in briefings about timings within the EU Referendum process, and updated at its next meeting;
- (d) It be noted that issues about counting in the EU Referendum discussed at minute 4.18 to 4.14 above were to be raised with Regional Counting Officers at the EU Referendum Management Board on 3 February; and

**In relation to Policy Development Grants:**

- (e) Government, in its declared aim of reducing the PDG, be recommended to adopt an approach which would result in a proportionally smaller reduction in the allocations for smaller eligible parties compared with the reduction for larger parties, and to do this by implementing a smaller reduction to the baseline amount that is divided equally amongst parties, and a comparatively higher reduction to the variable amounts that parties receive (the variable amount being linked to the number and scale of elections contested and related electorate); and
- (f) Our further intention to review the Policy Development Grant Scheme again in due course be made clear in our recommendation to Government, together with a comment on the timing and speed with which we had been asked to consider the reduction in grant funds.

## 5 Chief Counting Officer/Deputy Chief Counting Officer update for January (EC 04/16)

5.1 The meeting with Royal Mail had been useful and they were fully seized of the importance of handling election mailings effectively.

**Noted.**

## 6 Chair's and Chief Executive's meetings (EC 05/16)

**Noted.**

## 7 EU Referendum – approach to reporting (EC 06/16)

7.1 After a brief introduction by AR, discussion focussed on the role of independent reports, detailed at paragraph 4.7 of the paper, and where these would sit in relation to our own report. Some comments would be summarised in our report, but published in full elsewhere. We would commission someone to gather the views of Regional Counting Officers, Counting Officers and other interested parties, to ensure as wide a picture as possible. This would give us independent verification of certain issues (as opposed to the whole Referendum, which was for us to report on). The EU Referendum Management Board would be invited to comment on the draft report before publication. We anticipated a good deal of public and parliamentary scrutiny of the report after publication.

7.2 We would comment on the views of international observers within our report as appropriate.

7.3 The spending report would be published later but, it was hoped, during the term of JW as the Chief Counting Officer.

7.4 While the Commission would be statutorily required to report on the referendum, including reporting on elements which we had run (such as the management of the poll, public awareness activities and regulatory compliance), we would also want to highlight this to Parliament and invite it to review our report if appropriate.

**Agreed:** That our statutory report on the Referendum on the UK's membership of the European Union be prepared in line with the approach set out in the paper, and be published three months after the poll.

## 8 IER – overview of February report on registers of 1/12/15 (TABLED slides - EC 08/16)

8.1 AS gave a brief introduction to the slides, which gave the headlines of the Commission's forthcoming report on the electoral registers on 1 December 2015 in the wake of the early conclusion of Individual Electoral Registration.

8.2 PT, addressing slides 3-5, reported problems arising from the fact that of the three EMS (electoral management software) suppliers, only one had produced an accurate set of data, and that the figures overall were therefore more provisional and incomplete than would have been hoped at this stage. The most notable issues were in relation to the number of attainers, and the question of how much of the drop in numbers generally was due to the removal of duplicate entries, or to the loss of electors.

8.3 BB, on slide 6 'Finalising ERO performance standards assessments,' said that a handful of Electoral Registration Officers were being looked at further as they might not have met the performance standards. In the case of the remaining EROs, final data was awaited to allow for a confident assessment of their performance. Decisions on performance would be moderated by the Electoral Advisory Board, prior to publication. In response to a question, he confirmed that lessons learnt from this round of performance standards would be incorporated into the next set of standards and their application.

8.4 AS covered slides 7 and 8 ('what happens next?' and 'key messages and recommendations for the report'), touching on the pilots being prepared for the accuracy and completeness study being carried out for July 2016.

8.5 TH1 said that the Minister had been invited to the Electoral Advisory Board as part of (slide 9) our engagement with him on his vision for electoral administration. The report aimed to identify some of the crucial questions to be tackled in the further development of electoral registration. While we collated the responses of others to these questions, we would also be formulating our own vision and views, to be set out in more detail in our summer 2016 report on accuracy and completeness.

8.6 Overall our message would be that the mechanisms for IER had been successfully delivered, but that problems had arisen from bringing forward the end of transition. Even if the completeness and accuracy study in July (based on the December registers) would not indicate how many of those removed from the register had been done wrongly, it was still the case that our recommendation on the end of transition was right: we had warned of the dangers of bringing forward the end of transition without data to confirm that it was safe to do so.

8.7 Key questions or messages to include were:

- was why it was so difficult to get accurate data?



- we believed it was important for registers to be accurate at times other than scheduled elections (eg critical by-elections, boundary review)
- to be aware of the workload on small registration teams in local authorities, and the cut-off date for registers and the implications for change
- an opportunity to work positively with the Minister in moving these and other points forward.

**Agreed:** That, together with the points raised during discussion, the key messages for the report at slide 8, and the key questions for further transformation and modernisation on slide10, all be agreed.

## 9 Strategic review – terms of reference (EC 07/16)

### 9.1 CB introduced the paper, adding that:

- a contingency timetable was being developed to take into account the timing of the Referendum
- following the staff event the feedback would be used to help define more clearly what the strategic review was and why we were doing it, as well as showing how it fitted with Vision 2020
- the stakeholder engagement plan would make the most of existing contacts we had mapped over the next 2-3 months
- we would identify areas where particularly specialised expertise was needed, and bring that in.

9.2 In response to how we would sustain the review's momentum during a referendum, it was pointed out that the two project managers were in areas less likely to be wholly absorbed by the Referendum. It was intended to complete the review during 2016. This phase involved identifying all the possible areas we might want to pursue, and then, by the summer, focus on narrowing it down to those we should pursue.

**Agreed:** That the Commission undertake a strategic review as defined in the Project Definition Document.

## 10 Appointments to Committees (EC 09/16)

**Agreed:** That:-

- a)** Tony Hobman's appointment as Chair of the Remuneration and Human Resources Committee be extended until 31 December 2016; and
- b)** Anna Carragher be re-appointed to the Remuneration and Human Resources Committee until 31 December 2017.

## 11 Meeting wash-up (Commissioners only)

The meeting ended at 12.10 pm.

\_\_\_\_\_Chair