

Confirmed 22 April 2004

MINUTES OF THE MEETING OF THE ELECTORAL COMMISSION HELD ON 25 MARCH 2004 IN LONDON.

Present: Sam Younger (SY) (Chair)
Pamela Gordon (PG)
Glyn Mathias (GM)
Sir Neil McIntosh (NM)
Karamjit Singh (KS)

In attendance: Roger Creedon (RC)
Jacqui Dixon (JD)
Roger Gough (RG)
Nicole Smith (NS)
Chris Welford (CW)
Rael Zackon (RZ)
Stephen Judson (SJ)
Doug Stewart (DS)
Mike Kelly (MK)

1. Improving performance in electoral services

- 1.1 Phil Kinn, of Vantagepoint, gave a presentation on this project, and outlined the emerging vision for local electoral services. PK invited the Commissioners to give their views on the key issues relating to the role of the Electoral Commission as part of the research. It was considered essential to clearly define the role of the Commission, and other bodies, in improving performance in electoral services.
- 1.2 The final report is due to be completed in April, for discussion by Commissioners in May. The report will include recommendations for action, which the Commission can take itself, and recommendations for working with other stakeholders. An implementation plan will also be recommended.

2. Referendums Statutory consultation: The Referendums (Referendum Expenses Limits for Permitted Participants) Order 2004

- 2.1 NS advised the Commissioners that the Government intended to introduce this order, and the following three orders, into Parliament the following week. Although the early laying of orders generally was to be welcomed, it was not necessary to lay these by 1 April. SJ expressed concern that the ODPM in particular was not involving electoral

administrators in their consultations. The views of the Commission did not necessarily reflect those of the electoral community. DCA were consulting with the Regional Returning Officers.

- 2.2 SJ presented the report on the order relating to expenses limits for permitted participants and highlighted the key issues.
- 2.3 **The Commissioners approved the draft response to the statutory consultation.**

3. Referendum Statutory consultation: The Regional Assembly and Local Government Referendums (Counting Officers' Charges) Order 2004.

- 3.1 SJ presented the report, and referred to the outstanding issue of quantum of charges. The Commissioners were concerned that, as there is to be no limit of the amount of exceptional claims, this would debase the concept.
- 3.2 The charges would be paid from the Consolidated Fund via the ODPM. Clear guidelines would be produced for the administration of the arrangements.
- 3.3 **The Commissioners approved the draft response to the statutory consultation, and agreed that a copy of the response should be sent to HM Treasury.**

4. Referendums Statutory consultation: The Regional Assembly and Local Government Referendums (England) Order 2004.

- 4.1 SJ presented the report, outlining the key issues, and highlighting the areas where the Commission's views had, or had not, been taken on board.
- 4.2 There was particular concern about delivery points and opening hours. SY referred to the need for some consistency of approach, and the potential effect on claims for exceptional costs. The lower the figure provided for in the Order, the greater the possibility of exceptional costs claims. However the CCO could direct the opening hours, which would help to ensure consistency and control over a key element.
- 4.3 NS advised the Commissioners that policy development was being taken forward on the same issues with two different Government departments, and it was frequently the Commission which was having to provide the link between the two processes.

- 4.4 The deadline for responding on this Order, and the following item, is 29 March 2004. The Order, once laid, cannot be amended. Given that it was not necessary to lay the Order at this time, the Commissioners remained concerned at the risk of policy for June and October not being 'joined up' and the fact that electoral administrators had not been involved in the consultation process. For this reason, the Commissioners accepted that the draft response should be agreed provisionally, subject to any further comments received from Commissioners by midday on 29 March, and the response should be sent that evening with a covering letter reflecting the Commission's concerns.
- 4.5 **The Commissioners approved the draft response to the statutory consultation, subject to any further comments received by midday on 29 March, and that the response should be accompanied by a covering letter outlining the Commission's concerns about timing and the potential need to make other changes in the future.**

5. Referendums Statutory consultation: The Conduct of Referendums Order 2004.

- 5.1 SJ presented the report, and highlighted the key issues, some of which resulted from insufficient time given for drafting. The deadline for response was 29 March 2004. The Commissioners expressed the same concerns on timing and consultation on this order, as they did on the previous item at paragraph 4 above.
- 5.2 The Commissioners agreed the draft response provisionally, subject to any further comments received by midday on 29 March 2004.
- 5.3 **The Commissioners approved the draft response to the statutory consultation, subject to any further comments received by midday on 29 March 2004, and that the response should be accompanied by a covering letter outlining the Commission's concerns about timing and the potential need to make other changes in the future.**

6. Government information campaigns.

- 6.1 DS presented the report. This matter was first considered by the Commission in 2003. The Government intended to run information campaigns to explain the issues around the regional referendums planned for autumn 2004, in a neutral way. There was no legal barrier to the Government providing information up to the 28 day period. SY had written to Nick Raynsford on this issue, and a copy of the reply was provided to Commissioners. In Nick Raynsford's response, the Government was offering to halt their campaigns 28 days before the postal votes are issued, effectively halving the difference between the ten weeks suggested by the Commission and 28 days. They had given

Parliament an assurance that information would be issued and this could only take place during the campaign period.

- 6.2 The Commissioners welcomed the Government's willingness to be flexible and agreed that the response needed to include a statement of the Government's position, and further explanation of the issues involved. The draft position statement would be revised and e-mailed to Commissioners for agreement, and then be put on the Commission website.
- 6.3 **The Commissioners noted the recent correspondence between the Chairman and the Minister for Local Government, and agreed that the position statement, subject to the amendments discussed and to any further comments from Commissioners on receipt of the redraft, should form the basis of the response to the Minister. The agreed statement will be published on the Commission website.**

7. Statutory consultation: The Returning Officers (Parliamentary Constituencies) (Wales) (Amendment) Order 2004.

- 7.1 The Commissioners considered the report which raised no issues of concern. RC reported that the Commission had received a request from the National Assembly to report on the local elections in Wales in June 2004. This would be accepted, subject to resources and to timing.
- 7.2 **The Commissioners approved the draft response on the statutory consultation.**

8. Code of Conduct: postal voting

- 8.1 NS outlined the comments received from the Labour and Liberal Democrat parties, in particular, comments on the use of alternative formats for application forms. Application forms were being included in newsletters, and it was not possible in such as to include the address of each returning officer on the form.
- 8.2 In respect of the alternative forms, the Commissioners agreed to amended wording in the code to cover the points made in the letters from both parties. However the Commissioners remained of the view that the forms should go direct to the returning officers, not to the party.
- 8.3 The Commissioners requested that the letters from the Labour and Liberal Democrat parties be acknowledged, and the parties informed of the outcome of the discussion. It was noted that the code was still a draft, and further discussions would be held in the summer, after the June elections.

- 8.4 **The Commissioners approved the draft subject to the amendments discussed, and requested that the Labour and Liberal Democrat parties be informed of the outcome of the discussion on their comments.**

9. Statutory report on the Northern Ireland Assembly elections 2003.

- 9.1 KS and SM presented the report, and advised that they would meet the following week for a final discussion, before the launch of the report at Stormont on 29 April 2004. The Commissioners thanked all those involved in producing such a clearly written report, which was the first statutory report on an election in Northern Ireland.
- 9.2 SM stated that he was confident about the recommendations and the research which supported them. However the Commissioners recognised a need to explain, in the report, the context and background in which the report was written. The Commissioners considered proposed amendments to the presentation and wording of the report.
- 9.3 **The Commissioners approved the report, subject to the amendments discussed, and authorised SY and KS to agree the final version for publication.**

10. Candidates Election Expenses Returns: Brent East by-election.

- 10.1 CW presented the report and stated that there was an evident lack of understanding of how the forms should be completed. Some Returning Officers were still using out-of-date forms, and a reminder was needed to ensure that the correct forms were provided.
- 10.2 The Commissioners understood that the statutory role of the Commission was to monitor, and that any response should be proportionate. PG felt that there was a difference between those who sent forms in a few days late, those who send in inadequate information, and those who sent no returns at all, and that this difference ought to be recognised in the recommended action.
- 10.3 The Commissioners considered that at this stage warning letters should not be sent. A broader policy needed to be agreed on the action to be taken against independent and party candidates who failed to comply with the rules at elections generally. However the Commission should write to Returning Officers to remind them which forms should be used.

10.4 The Commissioners noted the report, and requested that a reminder should be sent to Returning Officers concerning the correct forms to be used.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Matters for information

12.1 The Commissioners received the following items for information:

- June 2004 pilot schemes