

Minutes of the meeting of the Electoral Commission held on 7 September 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)
Nicole Smith (NS)
Rael Zackon (RZ)
Doug Stewart (DS)
Martine Padwell (MP)
Scott Walters (SW)

1. Designation applications

- 1.1 SY reminded Commissioners of the process for consideration of the applicants.
- 1.2 The final decision was intended to be taken next Tuesday. If any further information was required from applicants after this meeting, they would be advised today and asked to provide the information no later than 4 pm on Friday 10 September.
- 1.3 SY referred Commissioners to the statutory tests to be applied as set out in subsections (4) and (5) of section 109 of the PPERA. He further referred to paragraphs 2.5, 2.6 and 4.3 in the Explanatory Notes for applicants, which set out the general approach that Commissioners had agreed to adopt, including guidelines as to the factors to be taken into account in applying the statutory tests. He noted that the Commissioners must first ask, in relation to each application in isolation, whether it provided evidence that the applicant '*adequately represented...*' Only if more than one applicant was found adequately to represent, would Commissioners need to go on to decide which of these did so to the greatest extent.
- 1.4 It was agreed to adopt a three stage approach in respect of the applications:

- i. Prior to reaching any substantive conclusion on the merits of any application, to consider first, in relation to each application whether there was sufficient information on which to reach a conclusion as to the statutory test set out in subsection 109(4): whether each applicant organisation could be said adequately to represent those campaigning – and if not, whether to ask an applicant for further information;
- ii. as soon as sufficient information was available in respect of any given application, to consider each application in isolation and reach a conclusion as to whether it adequately represented those campaigning; and
- iii. having reached a conclusion in respect of each applicant organisation in respect of stage (ii), if more than one organisation met the statutory test under subsection 109(4), then to consider further the applications of those organisations, to determine which of them, according to the requirement in section 109(5), represented those campaigning for the respective outcomes to the greatest extent.

1.5 If any further information was required from the applicants, they would be advised today and asked to provide the information no later than 4pm on Friday 10 September. SY reminded the meeting that it was the policy of the Commission to favour designation if possible, since campaigning groups would be best placed to take the debate forward. It was noted that this was consistent with the statutory obligation to designate 'unless' the statutory requirements were not met. The threshold must not be set so high as to exclude applicants unjustifiably.

1.6 The Commissioners discussed each of the four applications separately, with the objective [stage (i)] of determining whether or not further information was required. If Commissioners were to conclude in respect of any application that no further information was needed in order to decide that the applicant adequately represented those campaigning for an outcome, Commissioners could also go on to reach the conclusion [stage (ii)] that the application had met that requirement.

1.7 Yes 4 The North East

1.7.1 Commissioners noted that Yes 4 The North East had been in existence for a number of years in different guises, and that a number of its supporters were registered permitted participants.

1.7.2 SY said the application included only limited information. However, all three of the other registered participants on the 'yes' had provided statements of support. A range of organisations appeared to support the application, but there was no indication of support in the community at large, or of consultation. The material supplied was also very thin on organisational structure, the capacity to deliver and how the campaign would be managed.

1.7.3 Commissioners agreed with these points. They did not infer that the applicant did not adequately represent those campaigning for a 'yes' outcome; but more information was needed in order to enable Commissioners to reach a conclusion as to adequacy.

1.8 **BNP**

1.8.1 NM began the discussion. The application included only limited information. As to support, it was not clear that three locally-based groups from the North East which had provided letters of support were separate from each other, or what level of representation they have achieved. Commissioners agreed. They noted that no permitted participant other than the BNP appeared to support the application. Two of the supporting organisations were nationally based; and Commissioners queried the extent to which these were representative of opinion in the region or represented a range of support.

1.8.2 The application gave information of the structure of the BNP; but though that might provide something to build on, the application supplied no evidence of organisational structure for the campaign.

1.8.3 The application appeared to be narrowly focussed on the BNP. The material supplied did not contain enough evidence of the range of those the applicant represented, or of the applicant's capacity to deliver campaign messages. On the basis only of the information supplied so far, it had not been established that the applicant adequately represents those campaigning for a 'no' outcome. More information should be requested on those aspects to help the Commissioners reach a final conclusion.

1.9 **North East Says No**

1.9.1 PG began the discussion. The applicant organisation seemed very professional, and had evidently prepared their application with great diligence. It was impressive on organisational structure, very clear on campaign messages, and contained lists of many different campaigning organisations supporting the application. There was a possible query about the applicant's ability to get its message out to people on the ground.

1.9.2 The Commissioners agreed, and added some further points:

- The application was supported by the Conservative Party and UKIP (both registered as permitted participants), in addition to the rest of the wide range of support evidenced in the application;

- although the grassroots campaign had not been so well developed, the application recognised the need for this;
- the financial strategy seemed clear;
- The fact that the applicant organisation had only been formed in July, and the possible weakness in respect of grassroots support meant there was still a need for caution. The applicant had not provided evidence to back up its claim to be supported by thousands.
- Commissioners agreed that the letter from UKIP should be regarded as a letter of support for the organisation's application for designation, although this was not made absolutely explicit.

1.9.3 Overall, the Commissioners concluded that the application had adequately covered the issues required to be addressed; and agreed that they did not require any further information on this application. In the case of this application, Commissioners agreed that the material supplied was sufficient to enable them to reach a conclusion as to adequacy (stage (ii) above). On the basis of their consideration of the material, the Commissioners concluded that the applicant adequately represented those campaigning for a 'no' outcome.

1.10 North East No Campaign

1.10.1 KS began the discussion. The application raised several questions. There was evidence of much activity, but little evidence of organisational structure. Much of the activity noted in the application concerned media appointments and speaking at events not organised by the applicant. The impression given was of a small group of people doing a lot. It was not yet clear that the applicant organisation had in place what was needed to run a campaign as a designated organisation.

1.10.2 Additional points made by Commissioners included:

- The individual at the centre of this application had a track record of high profile advocacy against a regional assembly. The fact that he had spoken at so many events may suggest that he is getting his message across;
- that the application was very unfocussed;
- that the application gave no sense of the applicant bringing other groups together and no other permitted participants appeared actually to be supporting the application;

- many of the letters included with the application referred to an earlier organisation (NEARA); there needed to be evidence of support for the applicant organisation itself.

1.10.3 Commissioners concluded that the application as it stood did not enable them yet to conclude that the applicant adequately represented those campaigning for a 'no' outcome. Further information needed to be provided on organisational structure and planning, and on range of representation.

1.11 Next steps

1.11.1 The Commissioners did not take any decision at this meeting on designation. It was agreed that further information would be requested from three of the applicant organisations, to be submitted to the Commission by 4pm on Friday 10 September 2004. The Commissioners agreed that if an applicant organisation asked whether further information had been requested from other applicants, the Commission would explain that others had been asked, but would not say what information had been asked of any applicant.

1.11.2 The Commissioners agreed to ask for further information as set out below:

Yes 4 North East

i) Information which demonstrates that the applicant has in place the organisational structure and planning to enable the applicant, and those they represent, to deliver campaign messages about the referendum to voters.

BNP

i) Information which demonstrates that the applicant has in place the organisational structure and planning to enable the applicant, and those they represent, to deliver campaign messages about the referendum to voters.

ii) Information on the range of opinion and interests that the following organisations represent:

Land and People
Pro-democracy League
Northumberland Says No
Teesside Says No
County Durham Says NO

North East No Campaign

i) Information which demonstrates that the applicant has in place the organisational structure and planning to enable the applicant, and those they represent, to deliver campaign messages about the referendum to voters.

ii) Information as to whether the organisations listed below support the application, and if so, signed statements from their Chief Executives to that effect:

The Democracy Movement
Labour Euro Safeguards
The Freedom Association
Campaign for an English Parliament
Campaign for an Independent Britain

iii) In relation to the correspondence between various organisations and The North East Against a Regional Assembly (NEARA) attached to the application, confirmation as to whether these organisations formally support the application, and if so, signed statements from their Chief Executives to that effect.

1.11.3 Commissioners also agreed that would be worthwhile to consider whether, in future cases, it might be appropriate for the Commission to be more prescriptive in its guidance to applicants for designation. For example, it might be possible to ask for membership numbers and location details for organisations supporting an application to avoid the need to seek additional information. DS was asked to consider this as part of the review process.