

The Electoral Commission – Key principles for Referendums

Background

The Political Parties, Elections and Referendums Act 2000 (PPERA) established the Electoral Commission and gave us statutory responsibilities in relation to elections and referendums. A referendum under PERA is the only electoral event that has a framework for national coordination and accountability.

Our powers and responsibilities relating to referendums include:

- commenting on the intelligibility of the referendum question
- registering those who want to spend significant amounts on campaigning in the referendum as ‘permitted participants’
- where appropriate, appointing lead campaign groups (‘designated organisations’) for each outcome
- ensuring that designated organisations have access to certain assistance, including grants that we determine within statutory limits
- making recommendations to Government on campaign spending limits for sub-UK referendums
- monitoring and reporting on campaign spending and
- reporting on the administration of the referendum

The Chair of the Commission (or someone they appoint) will be the Chief Counting Officer (CCO), responsible for the conduct of the referendum and ensuring the accuracy of the overall result.

The key principles that should inform the way referendums are run

- Our focus is on voters and on putting their interests first, and that underpins everything we do.
- Referendums should be administered in a way that engenders confidence, is credible, transparent, and open to scrutiny.
- Our objectives for referendums are:
 - they should be well-run and produce results that are accepted
 - there should be integrity and transparency of campaign funding and expenditure
- In that context, we set out here the principles we believe should inform the way referendums are run.

Voters

- There should be no barriers to voters taking part. This means:
 - those eligible can register to vote
 - voters can easily understand the question (and its implications)
 - voters are informed about the possible outcomes, and can easily understand the campaign arguments
 - voters can have confidence that:
 - campaign funding is transparent
 - distribution of any public support and access to media is fair
 - any rule-breaking will be dealt with
 - the voting process should be easy to take part in and well-run
 - the result and its implications should be clear and understood

Campaigners

- There should be no barriers to campaigners putting forward arguments for any of the possible outcomes. This means that:
 - it is easy to register as a permitted participant and to take part in campaigning
 - the rules that govern campaign spending and fund-raising activity are clear and fair
 - the process for designating lead campaign organisations for each outcome (and consequent distribution of public funds and access to media) is easy to understand, and accepted as fair

Administration

- The referendum should be administered efficiently and produce results that are accepted. This needs:
 - a clear legal framework with clear roles and responsibilities communicated to those who are bound by them
 - clear guidance and efficient procedures for voters, campaigners and administrators
 - Performance standards against which the performance of Electoral Registration Officers and Counting Officers at referendums is evaluated
 - an efficient process for distributing funds to campaigners and administrators
 - rapid and clear reporting on campaign funding and spending
 - a timely and persuasive report on how the referendum worked

The Key principles underpinning our role in future referendums

This section provides more detailed information about the principles on which the Commission will make decisions in areas where we have a statutory role in referendums - for example the criteria by which we will decide which organisations to designate.

Intelligibility of the question

- Our question assessment guidelines have been simplified and we republished them in November 2009.

- We also published our ‘preferred approach’ to question assessment, making clear that we want to undertake user-testing research, seek advice from experts on accessibility and plain language, and talk to campaign groups and other interested parties
- We have indicated that it is likely to take us 10 weeks after finding out what question is to complete our assessment work, and that we will undertake as much preparatory work as we can to ensure that we complete the steps as quickly as possible.

Public awareness activity

- We will give positive consideration to doing public awareness activity
- Our focus will be on providing voter information and ensuring that people are registered to vote
- A household voter information booklet will be the core communication (subject to delivery before postal votes arrive)
- The extent of the activity will be agreed on case-by-case basis, including the provision of information on the meaning of a ‘yes’ and ‘no’ vote in event that we can’t designate. This will be based on a variety of factors such as the level of campaigning underway and how much voters already know about the referendum issue:

The role of the Chief Counting Officer

- We have taken the decision that we will be the CCO in a UK-wide, Wales, or English regional referendum.
- We will work closely with existing Regional Returning Officer structure – RROs could be formal deputies.
- In managing a referendum, we will make the most of important inter-relationship between: a power of direction (which we seek); performance standards; counting officer management structure and our guidance materials.

Designating lead campaign organisations

- We will consider applications for designation against the statutory test in PPERA. We must designate lead campaigning organisations on both sides of the referendum question, or not at all.
- We can only designate an organisation if it adequately represents those campaigning for the relevant outcome. If there is more than one applicant seeking to campaign for a particular outcome, we must designate the applicant which represents those campaigning for that outcome to the greatest extent.
- We will seek to make the designation process as transparent as possible:
 - We will invite applications via an application form that will seek specific evidence of how each applicant represents those campaigning for the relevant outcome
 - We will publish applications for designation on our website so that all those with an interest can see who is seeking designation and how they are making their case
 - We will explain the reasons for our designation decision

- In deciding which campaigning organisations to designate we will give particular consideration to evidence of:
 - The extent to which the applicant is an ‘umbrella organisation’ coordinating the activities of a number of member organisations
 - the level of support for each applicant
 - the level of grassroots campaigning associated with the applicant
 - the applicant’s capacity to deliver their campaign, and
 - the range of interests represented by the applicant
- We will also look at, but give less weight to, factors such as:
 - how long the applicant’s organisation has been in existence
 - its fundraising capacity, and its organisational structure
 - its capacity to ensure the proper use of public grant money
- These latter factors may help to indicate how effective an applicant might be in representing those campaigning for an outcome, but do less to show if they ‘adequately represent’ the campaign.

Setting grants to designated organisations

- We set the level of grants that are payable to designated lead campaigning organisations, within a statutory maximum of £600,000 per organisation. We are responsible for setting the terms and conditions of these grants and for administering their payment.
- We will set grants at a level that will help to ensure that voters are well-informed about arguments on both sides.
- Our view is that the level of grant to be provided for any given referendum campaign:
 - should be sufficient to help cover the basic infrastructure costs of each lead campaigning organisation, such as staff and office costs, but not the costs of campaigning materials. We will look at comparable costs in the relevant geographic area when assessing what the level of grant should be.
 - should take into account the duration of the statutory referendum period, which may be between 10 weeks and six months, as well as the size of the electorate.
 - should allow for any particular infrastructure issues in a given referendum, such as whether it may be desirable for lead campaigning organisations to establish multiple offices in order to communicate with voters effectively.
- Taking all these factors into account, the grant for a short campaign period in a sub-UK referendum will usually be much lower than the statutory maximum.
- We will need to set terms and conditions that will enable designated organisations to campaign effectively, while ensuring that public money is properly safeguarded. This is particularly important since designated organisations may in some cases be set up specifically to campaign in the referendum.
- We asked for views on our proposed approach to grant setting earlier this year (as outlined above) and will be setting out our response on points raised well in advance of any referendum period starting.

Reporting on the administration of the referendum

- We will report in a way that ensures confidence, is credible, transparent, and includes scrutiny.
- For a referendum we are in ‘operator’ mode, rather than ‘regulator’ mode – as we would be for an election, so we will be describing what we did, not how well we did it.
- At the outset of a referendum, we will say what we propose to do and invite comment.
- We will, for example, have post-election seminars independently chaired; invite evidence; answer questions and be open to scrutiny in committee hearings at relevant democratic institutions.

Campaign expenditure limits

- Spending limits for UK-wide referendums are set out in PPERA. The Government will set the limits for sub-UK referendums but must have regard to our views.
- Our advice will be based on the principle that limits should be set at a level which allows effective campaigning for all outcomes of a referendum, deters excessive spending, and is not so low as to distort reasonable campaigning behaviour and affect transparency, for instance by giving campaigners an artificial incentive to split their spending between multiple campaigning bodies.

The combination of referendums and elections

- We will consider each proposal for combination on its merits
- Any combined event should be well run and delivered in a way that is easy for voters to understand and participate in
- We will advise on what risks are likely to arise in the particular proposed combined event and how these can be mitigated
- Combination may not be appropriate in certain circumstances, such as when a significant administrative change in electoral process would be introduced at the same time. However, there are potential benefits which could be achieved through combination, for example, increased turnout.