

Minutes of the meeting of the Electoral Commission held on Monday 23 August 2010 at 10.00am

Present: Jenny Watson (JW) Chair (by teleconference)
Max Caller (MC)
Tony Hobman (TH)
Ian Kelsall (IK) (by teleconference)

In attendance:

Carolyn Hughes (CH)
Lisa Klein (LK)
Stephen Rooney (SR)
Andrew Scallan (AS)
Bob Posner (BP)
Christie Dennehy (CD)
Gemma Rosenblatt (GR)
William Reburn (WR)
Rhydian Thomas (RT) (by teleconference)
Joel Blackwell (JB)

1 Apologies

Apologies were received from Henrietta Campbell and John McCormick.

2 Declaration of Interests

The Chair declared to the Board that from 1996 to 1998 she was employed by Charter88, the Welsh arm of which was part of the 'yes' campaign during the last Welsh referendum in 1997. IK declared that he had been Director for CBI Wales during the 1979 Wales Referendum and that CBI Wales had supported the 'no' campaign. It was agreed that these declarations did not make withdrawal from decision or discussion necessary.

- 3 Wales Referendum – question assessment (EC64/10, EC64a/10, 66/10)
 - 3.1 Discussion on the question assessment report began with questions for clarification. MC asked for legal clarification on the lawfulness of the referendum question proposed by the Secretary of State for Wales. This was in response to comments made in the report by interested parties as to whether the question must explicitly refer to the relevant provisions of the Government of Wales Act 2006 (GOWA). BP advised the Board that the question need not necessarily refer specifically to the legislative provisions of the GOWA in express terms in order to be lawful. JW asked that the post-referendum report make reference to this issue.
 - 3.2 SR confirmed that the referendum public information campaign would consist of three elements: (1) advertising; (2) voter information leaflet; and (3) the Commission website.
 - 3.3 Discussion took place on the suggested redraft of the referendum question. JW sought clarification on the reason why the redrafted version of the referendum question replaced the term ‘some matters’ with ‘certain matters’. CD explained that the use of ‘certain’ reflected the fact that the list of matters were defined and agreed in legislation. It was agreed that further consideration should be given to whether the change to ‘certain matters’ was necessary, in the light of the research. If so, then the report should be amended to clearly explain the rationale for that form of words. If it was decided that a term other than ‘certain matters’ was to be used, any proposed change would be circulated to Commissioners for approval.
 - 3.4 The Board considered the proposal to include in the redrafted question a list of six examples of the 20 subject areas the Assembly can make laws on as opposed to including a list of all 20. There was concern expressed over the proposal and a discussion took place on the rationale behind the decision not to include a full list of subject areas in the redrafted question. It was noted that the evidence gathered did not suggest a desire for including the full list of 20 areas on the ballot paper nor that it would improve voter understanding of the question. Commissioners also questioned why certain areas had been included and others omitted. GR explained that the subject areas used as examples were ones that most people would recognise and understand and, where possible, the examples were taken from the original question, with changes made in response to the research findings. Commissioners reiterated the importance of ensuring that a full list of the 20 areas would be available to voters from a range of sources including the Commission’s voter information leaflet and website. The possibility of making this information available to voters at the point at which they cast their vote was also discussed. The Board expressed the view that the report should clearly explain the decision to include a list of examples as opposed to the full 20 subject areas and that the

report should highlight where the full list of 20 subject areas will be available to voters. Commissioners accepted the proposal to include a list of six examples of the 20 subject areas in the redrafted question.

- 3.5 Commissioners acknowledged the certain level of risk associated with presenting a revised question to the Secretary of State for Wales without having the new question user-tested beforehand. However, the Board fully supported the decision to propose a redraft of the question citing that the approach was a constructive and positive one and the proposed changes to the original question were clearly rooted in the research findings. Commissioners asked that the report be amended to reiterate that it was ultimately for the Secretary of State to decide on the final wording of the question.
- 3.6 Following on from the Board decision by correspondence on 16 August, SR informed Commissioners that the report and advice on the assessment of the Wales referendum question was to be given to the Secretary of State for Wales 24 hours before publication (publication on 2 September). The Commission had written to the Secretary of State advising her of this. There had been no response from the Wales Office about the decision. JW asked that the Commission's logo be removed from the Research Report (EC 66/10), on the grounds that it was a report to the Commission not by the Commission, and that a disclaimer be added making clear the status of the report.
- 3.7 The Board wished to express their thanks to staff for producing an excellent, evidence-based report.

Agreed: That:

- (a) The main report (EC 64/10) be revised to take into account the points made by Commissioners in discussion
- (b) Subject to these amendments, the suggested redraft of the question be adopted and the report be approved, and;
- (c) A disclaimer be added to the research report (EC 66/10) and the Commission's logo be removed.

The meeting ended at 10:50 am.

Signed:

Chair