

Classification: Unprotected



Minutes of the meeting of the Electoral Commission held on Wednesday 19 January 2011 at 9.30am

Present: Jenny Watson (JW) Chair
Baroness Browning (AB)
Max Caller (MC)
Henrietta Campbell (HC)
David Howarth (DH)
Ian Kelsall (IK)
John McCormick (JMcC)
Rt Hon George Reid (GR)
Tony Hobman (TH)
Lord Kennedy of Southwark (RK)

In attendance: Peter Wardle (PW)
Clare Ettinghausen (CE)
Carolyn Hughes (CH)
Lisa Klein (LK)
Alex Robertson (AR)
Tom Hawthorn (TH¹) (for Andrew Scallan)
Bob Posner (BP)
Kairen Zonena (KZ)
Joel Blackwell (JB)

Tony Stafford (TS) – for Item 6
Michael Gallagher (MG) – for Item 6
Steve Goodrich (SG) – for Item 6
David Aikin (DA) – for Item 7
Louisa Parry (LP) – for Item 8

1 Apologies

Andrew Scallan for absence.

2 Declaration of Interests

- 2.1 The Chair declared to the Board that from 1996 to 1998 she was employed by Charter88, an organisation which no longer existed but which at the time campaigned for constitutional change, including voting reform. She was initially employed as a Press Officer and towards the end of 1997 became the Campaign and Communications Manager. She was not the principal spokesperson for the organisation, but might on occasion have been quoted in a professional capacity on this issue. Since leaving the organisation she had had no personal involvement in any campaign for voting reform. The Chair also declared that the Welsh arm of Charter88 was part of the 'yes' campaign during the last Welsh referendum in 1997.
- 2.2 IK declared that he had been Director for CBI Wales during the 1979 Wales Referendum and that CBI Wales had supported the 'no' campaign.
- 2.3 AB declared that she sat in the House of Lords and took the Conservative Whip.
- 2.4 RK, when he joined the meeting at 9.45 am, declared that he was a member of the political party which had called the referendum on Welsh devolution in 1997. He also declared that he sat in the House of Lords and took the Labour Whip.
- 2.5 It was agreed that none of these declarations made withdrawal from discussion or decision necessary.

3a Minutes of the Commission Board meeting of 15 December 2010 (EC 1/11)

Agreed: That the minutes of the Commission Board meeting held on 15 December 2010 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC 2/11)

Noted.

4 Update from Chief Executive for January (EC 3/11)

4.1 PW highlighted key aspects and added a number of other points which had arisen since the report had been produced, as follows:

- **Donations and loans in Northern Ireland** – The UK Government had recently announced that it would not be moving forward with the relaxation of the confidentiality arrangements for donations and loans to political parties in Northern Ireland. Commissioners noted the disappointment voiced in some of the press coverage in Northern Ireland on the announcement and expressed the view that the Commission should press the UK Government for early primary legislation on this issue.
- **Wales Referendum** (Para 1.4) – an application had been received for designation as lead ‘yes’ campaigner in the Wales Referendum. PW outlined the next stage of the process in the event that an application for the ‘no’ campaign was not received.

[RK arrived – 9.45 am]

- **PEF Online** (Para 1.6) – the results of the interim Gateway 4 report had reported that the Commission was not yet in a position to give a firm date for ‘going live’. At the time of the May 2011 polls, Returning Officers would need a reliable system to confirm registered party names and emblems when nomination closed in order to print ballot papers. It might therefore be safer to retain the existing system for this time-critical stage, and this was being considered as one of the issues in relation to the decision on the implementation timetable. Executive Team (ET) were receiving weekly updates on the situation. A further update would be provided to the Board at its next meeting. In response to a question about whether any of the difficulties identified by the load testing had been anticipated, LK confirmed that the load testing had been expected to reveal some residual weaknesses with the system. She also confirmed that the party which had appeared initially resistant to the new system was now participating. Attempts were being made generally to enable bigger parties to use PEF Online with as few changes to their internal systems as possible.
- **Parliamentary Voting System and Constituencies (PVSC) Bill** (Para 2.2) - The Commission had advised all Counting Officers to continue with their preparations based on an assumption of a referendum on 5 May unless and until they heard otherwise from the Chief Counting Officer. Project plans and risk registers had to be submitted by 28 January, and as they related as much to elections as to the referendum there was every reason to proceed as planned. With an increasing focus on delivery, the Referendums Steering Group meeting on 14 January had shown a growing awareness and understanding of the Chief Counting Officer’s role.
- **UK PVS referendum public awareness campaign** (Para 2.10) – AR provided an update on the alternative options for booklet distribution in

the light of risks raised previously. The advantages and disadvantages of various options were discussed.

- **Reporting on the May polls** (Para 2.13) – It was noted that the report on the May polls would include reference to the Commission’s experience of administering fees and charges, and any suggested recommendations for change our experience had given rise to.
- **Police Reform and Social Responsibility Bill** (Para 2.16) – There was concern that the Home Office were planning to address the specific questions of how other polls were run and financed by Order following legislation. This would be late in the day for preparing for administratively complex arrangements, and could increase the possibility for confusion amongst electoral administrators.
- **Decentralisation and Localism Bill** (Para 2.17) – More thought was required by Government officials on how local referendum questions were framed and tested, as well as greater clarity on the proposals to regulate referendum campaign finance. The Commission was in a good position to advise on both these aspects. A dialogue was under way with government ministers, but sustained input was needed to ensure that consideration of these important questions could be built in at the earliest opportunity, and any additional encouragement that could be brought to bear would be helpful in raising awareness of the significance of these aspects of the Bill.
- **PEF cases** - LK provided an update on two current cases involving third parties. One case in particular highlighted the broad definition of what constituted election material in the UK.

Agreed: That:

- (a) Steps be taken with the Northern Ireland Office to seek primary legislation on donations and loans;
- (b) Further consideration be given to fall-back plans for the UK PVS referendum public awareness campaign including the feasibility of approaching local authorities to mail out public awareness material even if it was too late to be combined with the despatch of poll cards; and
- (c) Efforts to increase government engagement over certain aspects of the Decentralisation and Localism Bill and the Police Reform and Social Responsibility Bill continue through a number of avenues.

5 Chief Counting Officer decision-making: Wales referendum 3 March 2011 and proposed UK-wide referendum 5 May 2011 (EC 4/11)

- 5.1 It was noted that a set of directions for the UK PVS referendum would be issued to Counting Officers by 21 January.

- 5.2 A number of issues had been identified throughout planning and implementation of the Wales referendum which were being fed into the preparations for the proposed UK PVS referendum in May.

Noted

6 Spending report on Parliamentary General Election 2010 – structure and key messages (EC 5/11)

- 6.1 LK outlined the headline messages of the proposed report on campaign expenditure at the UKPGE 2010. Commissioners noted the marked increase in the compliance of parties and third parties in the submission of expenditure and donations in comparison with 2005.
- 6.2 During discussion a number of points were made as follows, on messages, including on the future of the regulatory regime:
- If compliance and transparency were generally improved, then was it time to change focus and re-direct our regulatory energies (for example fewer, targeted, spot audits)
 - How successful were we in preventing not just evasion but avoidance, was avoidance an issue?
 - Was there research into the public's perception and expectation of the financial regulatory regime?
 - The lack of civil sanctions for candidates breaching spending rules (cf those which existed for political parties) was a gap that might need to be addressed
 - The Committee on Standards in Public Life (CSPL) inquiry into party funding provided scope for input on what a future regulatory regime might include (such as the national vs local split of funding)
 - Was it useful in future to explore any correlation between spend and votes cast (including spend on negative campaigning to reduce turnout)?

And secondly, on tools and guidance:

- Candidates' agents were increasingly likely to be volunteers, part-time, or shared, and guidance for candidates should take account of this and be targeted to minimise inadvertent breach of the rules on spending (candidates should have guidance 'in their hands' before the start of the election)
- Guidance sessions delivered jointly with the larger parties at the 2009 autumn party conferences had been well received – staff sought the Board's suggestions on other useful avenues for working with the parties

- The Commission's report would need to spell out very clearly what tools were provided to candidates and parties.

Agreed: That:-

- (a) The proposed structure and key messages of the spending report on the UK Parliamentary general election 2010 be endorsed as set out in the paper, and the extent of tools and guidance provided to candidates and parties be set out, while making clear that further approaches to engaging candidates and parties continue to be sought and developed;
- (b) The Board's planning day in June consider aspects of the Commission's future regulatory role (including the points raised under messages and future role at paragraph 6.2 above);
- (c) A Commissioner Reference Group (membership to be agreed) be set up to identify what questions it would be useful for Commissioners to focus on at the planning day (see also resolution (c) of item 7 below).

7 Standardisation of Statement of Accounts – Project update (EC 6/11)

- 7.1 Following a brief introduction, Commissioners welcomed the report and the progress which had been made in striking a balance between standardisation and parties' size and needs. A number of points to be included in the next update to Board on the project were identified.
- 7.2 GR commented on the concerns of smaller parties about the density and aggregation of finance of the bigger political parties when contesting elections in Scotland, Wales and Northern Ireland. PW thought that the question of comparability between a Scotland-wide party, and a party which was a sub-set of a national party, was a larger issue than statements of account and was worth considering at the June meeting. It was agreed that the Reference Group referred to in Item 6 above would also look at this question.

Agreed: That:

- (a) progress to date with the standardisation of the Statements of Account be welcomed;
- (b) The next update to the Board include information on
 - Level of parties' take-up, and their understanding of and ease of using the new format
 - Any sticking points giving rise to non-compliance by parties (such as different party traditions and accounting cultures)
 - Concerns about transparency of accounting in Northern Ireland

- Whether there was anything the Commission would want to do with the information provided by the new format
 - Possible measures the Commission could use to judge the success of the standardised format; and
- (c) The Commissioner Reference Group (Item 6 above) on the future direction and approach to regulation of party and election finance also look at the differences between nationalist parties and UK-wide parties operating in devolved nations, and the comparability of and implications for funding, resources and accounting issues.

8 Resources for 2010-11 (Spring supplementary estimate), Corporate Plan 2011-12 to 2015-16 and Resources 2011-12 (EC 7/11)

Resources for 2010-11

- 8.1 CH gave a brief introduction. Commissioners agreed that a supplementary estimate was not required and asked that the reasons behind the decision be clearly and positively set out for the Speaker's Committee.
- Corporate Plan 2011-12 to 2015-16
- 8.2 LP introduced the draft Corporate Plan. As a result of the November Reference Group discussions, the focus of the plan had been reviewed to move it to a more strategic level.
- 8.3 JW asked that the foreword (p2) refer to the increasing number of elections and referendums, and in particular the PVS referendum, and what these might mean for the Commission and for electoral management in the future. The foreword should also flag the planned review of the Commission's role, strategic direction and long-term objectives in the light of these events. It was noted that the events table (p6) would be updated prior to the submission of the draft Plan to the Speaker's Committee.
- 8.4 The last bullet of page 5 ('In Northern Ireland...donations and loans scheme') would be strengthened to say 'actively work to promote the introduction'.
- 8.5 Commissioners commented on the formatting of the objectives tables (p9 and p12). There was concern that the objectives still did not convey the long term objectives of the Commission. A longer-term review of the Commission's aims, objectives, and strategic direction would be part of the Board's agenda at the June planning day.

- 8.6 It was agreed that a review of the strategic direction for future years, including the aims and values of the Commission, and a clearer idea of what the Commission hoped to have achieved at the end of five years, would take place at the June planning day. A move to outcome-based objectives would also be considered.
- 8.7 Commissioners questioned how useful a five-year plan was to Parliament. They suggested that although the requirement in PPERA for the Commission to have a rolling five-year corporate plan had been useful at the Commission's inception, the Speaker's Committee should be asked to review the requirement now that reporting and accountability mechanisms for the organisation were well established.

Resources 2011-12

- 8.8 CH tabled a brief presentation outlining resource requirements for 2011-12.

Agreed: That:

- (a) A Spring Supplementary Estimate for the current financial year (2010-11) was not required, and the reasons for this be set out clearly and positively for the Speaker's Committee;
- (b) The final draft Corporate Plan for 2011-12 to 2015-16 be approved, subject to the additional points at paragraphs 8.3-8.5 above;
- (c) An approach be made in due course to review the PPERA requirement for a rolling five-year plan; and
- (d) It be noted that a longer-term review of the Commission's aims, objectives, and strategic direction (paragraphs 8.6-8.9) would be part of the Board's agenda at the June planning day.

9 Chair's Report (EC 8/11)

Noted.

10 Meeting wash-up (Commissioners only)

The meeting ended at 12.40 pm.

Chair

Conflict of Interests

After lunch Mike Hudson (Compass Partnership) facilitated a workshop on interests. Liz Butler, Independent Chair of the Audit Committee was in attendance. It concluded at 4.00pm.