

Classification: Unprotected



Minutes of the meeting of the Electoral Commission held on Tuesday 25 January 2011 at 3.00pm

Present: Jenny Watson (JW) Chair) until 3.50 pm
Max Caller (MC)) until 3.50 pm
David Howarth (DH)
Tony Hobman (TH)
Ian Kelsall (IK)) by video-conference
John McCormick (JMcC)) by video-conference
Baroness Browning (AB)) by tele-conference at 3.30pm
Lord Kennedy of Southwark (RK)) “ “ “ “

In attendance: Peter Wardle (PW)
Clare Ettinghausen (CE)
Carolyn Hughes (CH)
Lisa Klein (LK)
Alex Robertson (AR)
Andrew Scallan (AS)
Bob Posner (BP)
Kairen Zonena (KZ)

Kay Jenkins (KJ)
Tony Stafford (TS)
Adrian Fryer (AF)
Clinton Proud (CP) - for item 4

Apologies

George Reid and Henrietta Campbell.

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 DH declared that he was a member of a political party associated with a party supporting the 'Yes' campaign.
- 2.4 AB declared that she sat in the House of Lords and took the Conservative Whip. The Secretary of State for Wales was also personally known to her.
- 2.5 RK declared that as a member of a political party he had been involved in the referendum for the introduction of Welsh devolution in 1997, and was a member of a political party associated with a party supporting the 'Yes' campaign.

3 2011 Wales referendum – applicant organisations for designation (EC 9/11)

- 3.1 KJ briefly summarised the issues set out in the paper and the basis on which any decisions must be made, ie by application of the statutory test for designating lead campaigners, and by consideration of a number of previously agreed criteria for assessing the extent to which an applicant represents those campaigning for the relevant outcome (set out at paragraph 3.8).
- 3.2 Questions and points of clarification were invited. There were none.
- 3.3 In relation to the application from 'Yes for Wales' it was agreed that there was sufficient information to enable it to reach a decision and for the reasons set out in Appendix B of the paper the organisation **did** adequately represent those campaigning for the outcome it supported.

- 3.4 In relation to the application from David Alwyn ap Huw Humphreys, it was agreed that there was sufficient information to enable it to reach a decision and that for the reasons set out in Appendix B of the paper he **did not** adequately represent those campaigning for the outcome he supported, and there was nothing further it was felt he could add which would enable him to demonstrate he satisfactorily represented those campaigning for that outcome.

Agreed:

- (a) That based on consideration of each application against the statutory test (paragraphs 3.5 and 3.6 of the paper) (i) the application of 'Yes for Wales' showed that it met the statutory test of adequately representing those campaigning for the 'Yes' outcome, and was therefore suitable to be designated, and (ii) the application of David Alwyn ap Huw Humphreys showed that he did not meet the statutory test of adequately representing those campaigning for the 'No' outcome and indicated that if he were invited to provide further information at interview, he still would not be able to meet the statutory test, and was therefore not eligible to be designated; and
- (b) That as there was no suitable applicant for the 'No' outcome and the Commission must designate for each outcome or not at all (section 108 of PPERA set out at Appendix A of the paper), it was not possible to designate lead campaigning organisations for the referendum on the law making powers of the National Assembly for Wales.

4 Wales referendum – voter information (EC 10/11)

- 4.1 It was noted that there were previously agreed criteria (set out at paragraph 3.3 of the Board paper) for deciding whether or not the Commission should exercise its power to provide voter information on each side of the argument.
- 4.2 JW and MC stated that if the Board did decide to exercise that power, in however limited a way, they would remove themselves from the meeting and subsequent decision-making, in order to maintain a clear separation between the Commission in its role as presenting the arguments of the campaigners, and the Commission in its role as delivering an impartial and fairly-run referendum result.

4.3 KJ advised the Board that that local media coverage regarding designation had presumed that in the event of non-designation, the Commission would provide voter information. CP noted that one of the criteria for deciding on whether or not to provide public information was salience of the referendum issue, and this would be improved by the public information booklet, which was due to be distributed on Monday 31 January.

4.4 In considering whether or not to assume responsibility for informing voters of each side of the argument, the point was made that the Board would need to consider whether this could be done in a form that would genuinely inform and engage voters in a sufficiently neutral way without compromising the Commission's independent position.

[3.30: RK and AB joined the meeting by teleconference at this point and declared their interests, recorded above.]

4.5 Accepting this point, the Board was also keen to do as much as possible to facilitate voters in informing themselves, and therefore wanted to explore low-risk options for doing that.

4.6 In view of this position JW and MC left the meeting, and at JW's suggestion and with the consent of Commissioners, TH took the chair for the remainder of the meeting.

[3.50pm: JW and MC left the meeting]

TH in the chair

4.7 The Board then considered options A, B and C at paragraph 4.14 of the paper. BP briefly reminded the Board of the Commission's power under the Government of Wales Act to promote awareness of the pros and cons of each side of the argument, and that if it chose to exercise its discretion it must do so in a way which brought the information to the widest attention of those likely to vote.

4.8 In relation to the Options, and the possible sample wording to explain the 'Yes' and 'No' campaigns in Appendix A, there was discussion about how this could be done while minimising the possibility of bias or disagreement with campaigners for either side. Suggestions included: describing the sample text as 'consequences of voting yes/no' (rather than 'why you should vote yes/no'); using wording from the information booklet; and consulting registered campaigners on the wording to ensure a measure of agreement.

4.9 In relation to the options raised by the Commissioner Reference Group (para 3.4) it was noted that the third bullet (send an information leaflet

to every household directing people to permitted participants for more information) could have been included in the information booklet, but that had already been finalised and printed. A second could be produced, but the main difficulty with that would be the shortness of notice for booking the Royal Mail's distribution services. It would also be very costly.

- 4.10 It might be possible to adopt such an approach in a future referendum, depending on the timing of Royal Assent in relation to the remainder of the timetable (but it was already too late for the Parliamentary Voting System referendum).
- 4.11 This highlighted how the timing of the legislation affected the delivery of aspects of the referendum. PW said this would be picked up in the post-referendum report.
- 4.12 A discussion took place on the risks associated with placing party political material on the Commission's website. In view of the difficulty of safely devising appropriate wording for the aboutmyvote website (Option A) it was agreed that this option not be pursued, but that although concerns were raised, it was agreed that Option B, a page on the Commission's website with links to each of the permitted participants, should proceed. It was agreed that staff should give further thought to Option C, whereby participants could provide a brief statement summarising their position to accompany the link to their website.
- 4.13 Discussion took place on the way in which permitted participants might be advised of, and invited to comment on, the Commission's decision in relation to exercising its power of informing voters more about the arguments for each side. Other points raised included the cut-off point for allowing permitted participants to provide a web-link, and the disparity between the number of campaigners for each side and whether this gave rise to bias.

Agreed: that:-

- (a) The views of all those registered to campaign be sought on the two following options, with a deadline for comments by Friday:
- (i) The Commission's preferred option: Establishing a page on the Commission's website for voters (aboutmyvote.co.uk) – which voters would already be directed to in the Commission's information booklet and advertising campaign - that would provide voters with links to the websites of all registered campaigners; and
 - (ii) Offering all registered campaigners in addition the opportunity each to place a short statement of their arguments on the

Commission's aboutmyvote website, noting that in this case more time would be needed to consider further whether or not this option would work in practice, taking account of the response of the registered campaigners;

- (b) A paper be sent to Commissioners summarising the responses, recommending a way forward, and seeking Commissioners' responses by email on 31 January, following which it could be further considered at the Board meeting scheduled for 1 February if so required.

The meeting ended at 4.35 pm.

Tony Hobman, Chair pro tem