

Referendum on the United Kingdom's membership of the EU

Briefing

14 May 2015

The Electoral Commission has specific responsibilities and functions in relation to the delivery and regulation of referendums held under the Political Parties, Elections and Referendums Act (PPERA) which would apply to any referendum Bill brought before the UK Parliament unless specifically stated otherwise.

Our responsibilities under PERA include:

- Commenting on the intelligibility of the referendum question.
- Registering organisations or individuals who want to campaign in the referendum.
- Monitoring spending on referendum campaigning, in line with the referendum spending limits imposed by PERA.
- Considering applications for designation as lead campaign groups for each referendum outcome.
- Ensuring that designated organisations (if appointed) have access to certain assistance.
- Reporting on the administration of the referendum and referendum campaign spending.

The Chair of the Commission, or someone they appoint, must act as Chief Counting Officer for the referendum and is responsible for certifying the outcome of the referendum.

Principles

Our focus is on voters and on putting their interests first, which underpins everything we do. So, we have an established set of principles to inform the conduct of referendums¹.

We would expect any referendum Bill passed by the UK Parliament and the subsequent campaigns to adhere to these principles and any report we prepared in advance of, or indeed subsequent to, a poll would reflect them.

¹ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/183742/Referendums-Principles-Letter-Parties-Panels-26-03-2015.pdf

Referendums should be administered in a way that engenders confidence, is credible, transparent, and open to scrutiny. Our objectives for referendums are that:

- they should be well-run and produce results that are accepted
- there should be integrity and transparency of campaign funding and expenditure

Our views on some specific issues relating to an EU referendum are set out below.

Timing of the Referendum

Following our report on the Scottish Independence Referendum², we said that holding a poll on such an important constitutional issue on a separate day from any other elections helped both administrators and campaigners plan their activity more effectively and gave voters space to engage with the issues. **We said that for other high-profile issues likely to attract cross-party campaigning, such as the UK's membership of the European Union, a referendum should be held on a separate day to other polls.**

A significant number of important polls are already scheduled to take place on 5 May 2016, including: elections for the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, Police and Crime Commissioners in England and Wales, the London Assembly and Mayor of London, and local authorities in many parts of England. It is important that voters and campaigners are able to engage fully with the issues which are relevant at these elections. It is also important that any debate about the UK's membership of the European Union takes place at a time that allows the full participation of voters and campaigners, uncomplicated by competing messages and activity from elections which might be held on the same day.

We therefore believe that a referendum on an issue as important as the UK's membership of the European Union should not be held on the same day as the other polls taking place on 5 May 2016.

Question assessment

In line with our statutory duty, the Commission undertook an assessment of the question contained in the European Union (Referendum) Bill, which was introduced as a Private Members' Bill in the previous Parliament.³ However, given the time that has now passed since the Commission tested question wording options for a referendum on the UK's membership of the EU, **the Commission would expect to conduct further testing with the public once any Referendum Bill containing a proposed question has been published. We would also expect to seek views from campaigners on the proposed wording.**

² http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/179812/Scottish-independence-referendum-report.pdf

³ Initial question assessment report - http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/163282/EU-referendum-question-assessment-report.pdf

Background

An amendment which was tabled and passed during consideration of the European Union (Referendum) Bill (which was introduced as a Private Members' Bill in June 2013) by the House of Lords changed the wording of the question to: *"Should the United Kingdom remain a member of the European Union or leave the European Union?"*

We undertook a further assessment of the revised question wording at this point. On the basis of this research⁴ we were satisfied that the question wording contained in the Bill following its amendment in the House of Lords (using the response options *"Remain a member of the European Union"* and *"Leave the European Union"*) was clear and straightforward for voters, and was the most neutral wording from the range of options we considered and tested during our assessments. The only further suggestion from this additional research was that the addition of the acronym 'EU' after the first reference to the European Union in the question itself appears to have aided understanding for some members of the public.

However, the Commission also made clear that during its testing process, it had received limited representation from potential campaigners on the recommended question and in particular the change of approach from the "Yes" and "No" response options that has been used at other recent referendums in the UK. Given this limitation and, as mentioned above, the time that has now passed since the Commission tested question wording options for a referendum on the UK's membership of the EU, the Commission would expect to conduct further testing with the public once a proposed question has been published. We would also expect to seek views from campaigners on the proposed wording. This testing and further consultation would inform our statutory duty to publish an assessment of the intelligibility of the question included in a Bill, which we would expect to provide to Parliament before the Bill receives Royal Assent.

You can find more information on our guidelines for Question Assessment on our website⁵.

Regulatory framework

It is important that the lessons learned from previous referendums can be applied to the campaigning rules for a referendum on the United Kingdom's membership of the European Union. This will not only provide a robust and proportionate regulatory regime, but also improve trust and confidence in the poll.

It will therefore be important to ensure that the Commission's recommendations for legislative change, following recent referendums across the UK, in Wales and most recently in Scotland, can be considered and incorporated into the rules for the

⁴ REFERENDUM ON MEMBERSHIP OF THE EUROPEAN UNION: FURTHER QUESTION TESTING (GfK NoP)
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/166613/Referendum-on-the-membership-of-the-European-Union-Further-question-testing-April-2014.pdf

⁵ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/82626/Referendum-Question-guidelines-final.pdf

referendum. A number of our proposals will require primary legislation and will provide significant updates to the controls currently provided in PPERA.

The regulatory controls for referendums in PPERA have not been updated since the legislation was enacted in 2000. For the two referendums held in 2011, specific referendum legislation was passed which applied additional features and modifications to the PPERA rules for those polls. For the 2014 referendum on independence for Scotland, the PPERA framework was used as a basis for some of the controls and the Commission worked closely with the Scottish Government to develop the legislation.

Since the first PPERA based referendum in 2004, the Commission has published a number of reports recommending legislative changes intended to improve the regulation of referendum campaigners; the latest was a post-poll report following the 2014 referendum on independence for Scotland⁶. We will be publishing a second report in the coming weeks, making further recommendations based on the information campaigners were required to submit in their post-referendum spending and donation returns.

For further information, please contact Caroline Bolshaw, Deputy Head of Media and Public Affairs on 020 7271 0543 or email cbolshaw@electoralcommission.org.uk

⁶ Report on the referendum held on 18 September 2014 - http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/179812/Scottish-independence-referendum-report.pdf