

## Minutes of the meeting of the Electoral Commission held on Wednesday 15 December 2010 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)

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

Clinton Proud (CP) – for Item 4  
Tom Hawthorn (TH) – for Item 6  
Mark Williams (MW) – for Item 6  
Gemma Rosenblatt (GR1) – for Item 6  
Kate Brightwell (KB) – for Item 6  
Louisa Parry (LP) – for Item 8

### 1 Apologies

Tony Hobman and Lord Kennedy of Southwark 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 It was agreed that none of these declarations made withdrawal from discussion or decision necessary.

3a Minutes of the Commission Board meeting of 10 November 2010 (EC104/10)

**Agreed:** That the minutes of the Commission Board meeting held on 10 November 2010 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC105/10)

**Noted.**

4 Update from Chief Executive for December (EC106/10)

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

- **PEF Online** (para 1.7) – LK reported that two tests were currently ongoing and the interim report of the Gateway 4 review had identified three items as 'critical'. Work was being carried out to resolve the issues and a revised launch date of January 2011 had been forecast. There was general agreement in support of a phased introduction of the system.
- **PEF case update** – LK gave a verbal update on the findings of a recently concluded investigation into the financial accounts of a political party. LK confirmed that she would be meeting with senior party officials shortly to ensure that their procedures for compliance

were adequate. Commissioners asked to receive a report back on the meeting in a Chief Executive's update. Commissioners sought, and received, assurances that investigation procedures were properly risk-assessed. Commissioners received a summary on one soon-to-be finalised case review regarding a candidate's election expenditure returns and two cases of potential overspending by candidates.

- **UKIP judgement** (para 1.10) – LK met the Conservative Party on 13 December in response to our request to discuss the issue of recoverable donations in the light of the Supreme Court judgment in the UKIP case.
- **Information Tribunal on Wendy Alexander case** (para 1.9) – BP confirmed that the complainant had sought to appeal the Tribunal decision and that the request for appeal had been refused. He was now seeking to challenge that decision. It was agreed that JMcC and GR continue to be kept informed of further developments.
- **Public awareness campaigns for Spring 2011 polls** (Appendix A) – A discussion took place on the risks associated with the public information booklet distribution for the Spring 2011 polls. Commissioners considered the options for risk management, and it was agreed that AR would advise the January Board of how the risk management plans were developing.
- **Reporting on the May polls** (para 2.8) – It was noted that the public opinion research would explore the voter experience and among other things ascertain whether voters either *felt* confused or were *actually* confused (ie had felt confident but subsequently realised they had cast their vote other than they had intended). There would be a careful judgement to be made about what any confusion could be ascribed to. The point was made that the Wales referendum question research had been well structured in teasing out perception from reality.
- **Royal Wedding on 29 April 2011** (para 2.11) – It was noted that the current public information booklet distribution and second phase advertising plans would not be significantly disrupted by the timing of the Royal Wedding during the pre-referendum period. Commissioners discussed the impact the Royal Wedding would have on media coverage of the polls. Conversations between the Commission and relevant broadcasters about their approach to covering multiple electoral events had already taken place and would continue. The Board noted the possible increase in postal voting applications as a result of the extra bank holiday and the likely concentration of postal vote returns in the last few days before the poll as a result of the number of bank holidays during the postal voting period, when deliveries would be interrupted. Commissioners agreed on the need to model and spell out the impact of this for Returning/Counting Officers and their staff.
- **Office move to 3 Bunhill Row** (para 3.2) – Commissioners would receive a note on practical arrangements in the new building before the first Board meeting in 2011.
- **Corporate Plan** – PW thanked the members of the Strategic and Financial Information reference group for their contribution to discussion on the Corporate Plan and informed Commissioners that as

well as commenting on the proposed corporate plan for 2011-12, the group had identified a need for the Board to consider themes and issues regarding the longer-term direction of the Commission at future meetings, with a view to informing the next corporate plan in 2012-13.

**Agreed:** That:

- (a) LK include in the Chief Executive's Update for a future Board a report back on the meeting with the party in relation to the case mentioned in bullet point two above;
- (b) LK continue to keep JMcC and GR advised of any further developments in the Freedom of Information requests on the Wendy Alexander case;
- (c) AR advise the January Board through the Chief Executive's Update of any further planning to mitigate the risk of disruption to the Spring 2011 public awareness campaign; and
- (d) The further update on the timing of the Royal wedding be noted, and particularly the likely concentration of postal vote returns in the last few days before the poll, and the need to model and spell out the impact of this for Returning/Counting Officers and their staff.

## 5 Chief Counting Officer decision-making: Wales referendum 3 March 2011 and proposed UK-wide referendum 5 May 2011 (EC 107/10)

- 5.1 JW provided an update on the Chief Counting Officer decision-making process and the decisions that had been made to date.
- 5.2 The Board noted that work was still to be done to highlight to local authorities the key procedural differences between elections and referendums.
- 5.3 A decision on the proposed timing of the verification and count for the UK Parliamentary Voting System referendum had yet to be made as soundings were still being taken from those with an interest in the count. It was agreed that Commissioners would be advised of the decision when it had been made.

**Agreed:** That in relation to the preferred timing and verification of the count for the UK Parliamentary Voting System referendum (verification completed by 1pm and the count started at 4pm on Friday 6 May), soundings were still being taken, and Commissioners would be advised of the decision when it had been made.

6 The convergence of electoral cycles: issues and questions (EC 108/10)

- 6.1 AS introduced the report and stated that the Commission might be called upon to give a view early in the New Year on the proposal in the Fixed Term Parliaments Bill for the parliament and assemblies in Scotland, Wales and Northern Ireland to be able to move their scheduled elections either side of the proposed fixed date for the UK Parliamentary General Election.
- 6.2 With specific reference to the convergence of electoral cycles in 2015, the Commissioners' view was that there should be equal flexibility to move the proposed date of the UKPGE and the scheduled dates for the elections to the parliament and assemblies in Scotland, Wales and Northern Ireland, and hoped that the UK Government would continue to discuss the issue with the Scottish Government, Welsh Assembly Government and Northern Ireland Government. The Board recognised the potential for convergence of polls to lead to greater voter confusion.
- 6.3 Commissioners expressed concern over the absence of evidence about the effect of combination on voters. There was general agreement that research was – as the Commission had previously argued – still urgently needed to provide a fuller understanding of the effects of holding elections on the same day, to enable conclusions to be drawn on how to provide the clearest and least confusing experience for voters, and to decide how much separation, if any, there should be between polls. The Board noted the Commission's previous call on the Government, in the light of the Gould report findings, to undertake research on this matter and stressed that the number of elections and referendums in prospect made the need for sound information more pressing than at any point since publication of the Gould Report. It was agreed that a request be made for formal Ministerial consideration of the Commission's case for the government urgently to undertake a comprehensive research study into the effect of combination on the electorate, and the suggestion was made that as an alternative to this being carried out solely by the UK Government, it might be undertaken as a collaborative exercise by the various parliaments and assemblies across the UK.
- 6.4 Commissioners acknowledged that whilst combination had implications for electoral administrators and for political parties, any research should explore the effect of simultaneous or overlapping campaigns on voters' ability to cast their votes effectively, and on their ability easily to differentiate the issues and correctly identify them with the right poll.
- 6.5 The Board commended staff for their work on the paper.

**Agreed:**

- (a) That it be noted (i) that the Commission might be called upon to give a view early in the new year on the proposal the UK Government was currently consulting on to introduce an amendment to the Fixed Term Parliaments Bill that would allow the date of elections to the Northern Ireland Assembly, National Assembly for Wales and Scottish Parliament to be moved to avoid convergence with the UK Parliamentary elections currently planned for 2015; and (ii) that the Fixed Term Parliaments Bill included provisions to allow the date of a UK general election to be altered by up to two months earlier or later than the scheduled date;
- (b) That the Board welcomed moves to enable greater flexibility over the dates of either set of polls, and stressed that it should not be assumed that elections to the devolved bodies should move;
- (c) That it would be difficult to reach a conclusion on the full impact of the combination of elections on voters without further research;
- (d) That therefore the Commission should remind Ministers of its 2007 recommendation that this research should be undertaken by the UK Government and calling for this research to be undertaken as soon as possible, and make a further, new recommendation that there was a need to combine this with a wider review of electoral cycles;
- (e) That the Commission should make clear that the UK Government and/or UK Parliament and devolved bodies would be best placed to carry out this work;
- (f) That research on the full impact on voters of combining elections should include analysis of the extent to which combination:
  - Allows parties to campaign and field candidates effectively
  - Enables those involved in running elections to provide a smooth and well-run election for voters in which they can cast their votes safely and securely
  - Potentially impacts on levels of voter confusion when casting their ballot
  - Enables voters to differentiate the issues on which candidates are campaigning and correctly associate these with the right poll;
- (g) That the Commission should remind Ministers of the importance of continued investment in the professionalisation of electoral administration;
- (h) That the Commission should also make clear that any decision about which, if any, polls to move should take into account what is in the best interests of voters and give equal consideration to moving elections to the UK Parliament as well as elections to the Northern Ireland Assembly, National Assembly for Wales and Scottish Parliament; and
- (i) That given the potential challenges associated with combining elections, the Commission should welcome any proposed flexibility to the date of elections proposed for 2015 while this review takes place. The Commission should also make clear that it was not commenting on the length of any of these parliaments and assemblies or the constitutional merits of a fixed-term for the UK Parliament.

## 7 Commission Board 2011 Forward Plan (EC109/10)

- 7.1 Commissioners noted an amendment to the paper which incorrectly gave the time of the 25 January designation meeting as 9.30-12 noon. The meeting would take place from 3.00-5.00pm.
- 7.2 PW informed the Board that two designation meetings for the UK PVS referendum were also likely to be scheduled at short notice for March, and that Commissioners' availability would be canvassed early in the New Year, as soon as the timetable was known. As with the Wales designation meetings, availability would presume participation of some Commissioners remotely.
- 7.3 The designation meeting of 1 February might not be needed (but Commissioners were asked to keep the date until otherwise notified). The 14 April Board meeting would be reviewed and Commissioners notified if it was decided that it could be postponed or cancelled.

**Agreed:** That the forward plan of Board business for 2011 be agreed, noting that two further dates would soon be canvassed at relatively short notice for meetings in March (for UK PVS referendum designation), that the time of the 25 January meeting was 3.00-5.00pm as previously notified (not, as given in the paper, 9.30-12 noon), and that the 14 April Board date would be reviewed.

## 8 Quarter 2 performance and finance monitoring report (EC110/10)

- 8.1 The Board noted that the report covered the period 1 July to 30 September 2010.
- 8.2 Commissioners noted that the benchmarking of regulatory work against other regulators was still in its early stages - a result of there being relatively few comparable regulators with similar enforcement powers. It was agreed that the information it had been possible to gather would be included in the paper on models of regulatory decision-making to be considered at the February Board meeting.
- 8.3 With reference to the quarterly highlight report, JW asked that the strategic risk rating from the previous quarter be included to allow for a better understanding of rating movement between reports.

- 8.4 The Board commended the work and progress made on performance and monitoring over the past 12 months. PW confirmed that, at its last meeting, the Audit Committee proposed to adopt a systematic examination of strategic risk at each meeting, and any further changes introduced into the report as a result of that scrutiny would also be reflected in reports to Board.

**Agreed:** That:

- (a) In relation to benchmarking of regulatory work against other regulators (page 19 of the appendix), it was noted that any information it had been possible to gather (other comparable regulators being relatively few, and the type of enforcement powers new) would be included in the paper on models of regulatory decision-making to be considered at the 23 February Board;
- (b) The Audit Committee proposed to adopt a systematic examination of a strategic risk at each meeting, and any further changes introduced into the report as a result of that scrutiny would also be reflected in reports to Board; and
- (c) In future the highlight report would show the any movement in the risk ratings by including the previous quarter's rating.

9 Draft minutes of Audit Committee on 9 November 2010 (EC111/10)

- 9.1 The Board noted the potential risk surrounding the Commission's responsibility for running the fees and charges process for the May 2011 polls. Commissioners agreed that the Audit Committee be asked to consider this risk.

**Agreed:** That:

- (a) The Audit Committee be asked to consider the risk around the Commission's handling of fees and charges for the May polls; and
- (b) The draft minutes of the Audit Committee held on 9 November 2010 be noted.

10 Chair's Report (EC 103/10)

- 10.1 It was suggested that the media briefings on the Commission's role in referendums also include the broadcast journalists who will be anchoring the poll results coverage on television.
- 10.2 JW reported on the recent meeting of the Parliamentary Advisory Group and commented on its renewed parliamentary focus which had added value to the discussion.

**Agreed:** That the report be noted, together with the fact that media briefings on the Commission's role in the referendums continued, and would include Wales, Scotland and Northern Ireland (with the relevant Commissioners), and that further thought would be given to adding some of the broadcast journalists suggested at the meeting.

## 11 Meeting wash-up (Commissioners only)

The meeting ended at 12.15 pm.

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Chair

## Wales Referendum 'walk-through'

After lunch KJ gave an informal presentation on progress and anticipated steps in the Wales Referendum. During the presentation it was agreed that Commissioners would find it helpful to be reminded of the key principles and approach to the designation of campaign groups. It concluded at 2.15pm.