

Referendum on the United Kingdom's membership of the European Union

Progress and preparations for the referendum

This briefing sets out the Electoral Commission's current assessment of preparation and readiness for delivering the referendum on the United Kingdom's membership of the European Union, following Royal Assent to the European Union Referendum Act 2015. Although the date of the referendum is not yet known, the Government has said that it will take place before the end of 2017, and the Act will enable this.

We will issue a further briefing when the secondary legislation specifying the date of the referendum poll is laid in Parliament, including an updated assessment of readiness.

Summary

Our overall assessment is that arrangements for the delivery of a well-run referendum on the UK's membership of the European Union are well-advanced and can be completed when the date of the referendum is known.

In reaching our view on the current state of progress we have considered evidence against our established principles for well-run referendums;¹ progress towards implementing recommendations from our reports on previous referendums in 2004, 2011 and 2014; and our September 2015 report on the proposed referendum question wording.

We have considered the legal framework for the referendum set out in the European Union Referendum Act 2015, as well as the secondary legislation that remains to be made before the referendum can be held, including regulations to specify the date of the poll and the start of the regulated referendum period for campaigners. We have also reviewed and commented on draft regulations for the conduct of the referendum poll which have been published by the Cabinet Office.

We have also considered the preparatory work which has been carried out by the Chair of the Electoral Commission as the Chief Counting Officer designate for the referendum, including establishing a management framework with Regional Counting Officers designate and consulting on proposed directions on the delivery of the referendum and the timing of the count.

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

We have taken steps to mitigate any risks caused by uncertainty about the date of the referendum, and all preparatory activities which are unaffected by the date of the poll are progressing well. We have plans in place to ensure that remaining activities can begin as soon as the date of the referendum has been established.

Background

During the May 2015 Queen's Speech it was announced that the Government would introduce a Bill to hold a referendum on whether the United Kingdom should remain a member of the European Union. The European Union Referendum Bill received its first reading in the House of Commons on 28 May 2015, and it received Royal Assent on 17 December 2015. The referendum provided for in the Act must take place no later than 31 December 2017.

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 2000 (PPERA). Our responsibilities under PERA include:

- Commenting on the intelligibility of the referendum question
- Registering organisations or individuals who want to campaign in the referendum
- Considering and approving applications for designation as the lead campaign group for each referendum outcome
- Making grant payments to the approved designated organisations
- Monitoring spending on referendum campaigning, in line with the referendum spending limits
- Providing advice and guidance on the rules to campaigners
- Monitoring and securing compliance with campaign donation, loan and spending controls
- Reporting on the administration of the referendum and referendum campaign regulation

The Chair of the Commission, or a person the Chair appoints, is the Chief Counting Officer (CCO) for the referendum and will be responsible for certifying the outcome of the referendum.

Legislation for the referendum

A well-run referendum which produces a result that voters and campaigners can have confidence in is underpinned by a clear and certain legal framework. Good legislation provides clarity about the roles and responsibilities of those administering the referendum and sets out fair rules governing campaign spending and fundraising.

The European Referendum Act 2015

In reaching our assessment of the legislative framework for the referendum we have considered the progress of the European Referendum Bill as it has been considered and debated in Parliament. We are pleased that the UK Government incorporated in the Bill many of our previous recommendations for changes to the legislative

framework for referendums, based on our reports on referendums held in 2011 and 2014.

We set out our views on a small number of concerns arising from the Bill as it was introduced ahead of its Second Reading in the House of Commons in June 2015 and we are pleased that the Bill was amended during its passage through Parliament to address those concerns, in particular:

- To ensure the referendum cannot be held on the same day as other scheduled polls in May 2016 and May 2017.
- To revise the wording of the referendum question in line with our September 2015 recommendations.
- To apply the existing PPERA restrictions on the publication of promotional material by governments and other public bodies for the referendum, which the Government had initially proposed to dis-apply in the Bill as it was introduced.
- To provide for a minimum 10-week referendum period.
- To improve the operation of regulatory controls, reduce burdens on campaigners and improve the information available to voters.

The Act provides a good basis for the delivery of a well-run referendum and the effective regulation of referendum campaigners. You can read all of our briefings on the Act's progress through Parliament [here](#).

Commencement and secondary legislation for the referendum

The substantive provisions of the Act have not yet been commenced, and several pieces of secondary legislation must be laid, debated and approved by Parliament before the referendum can take place. Regulations are required to specify the date of the referendum poll, and set the length of the referendum period during which spending by campaigners will be regulated. Regulations will also be required to allow campaigners to register with the Commission, apply to the Commission to be designated as the lead campaigner for each side of the referendum debate and set the requirements for campaigners to report on the sources of funding before the poll.

In addition, regulations will also be required to specify the detailed rules for the administration of the poll, and to provide funding for Counting Officers to deliver the referendum poll. The Cabinet Office published draft regulations for the conduct of the referendum poll during summer 2015, which were largely modelled on the rules used for the May 2011 referendum on the voting system for UK Parliamentary elections. The draft regulations have been updated to reflect relevant changes made to electoral rules since then, and also to take account of recommendations made by the Commission in our reports on referendums held since then. We are particularly pleased that Welsh language forms will be included in the regulations at the same time as the English language versions.

Date of the referendum and timing of the referendum legislation

Our report on the 2014 Scottish Independence Referendum highlighted the benefits for voters, campaigners and electoral administrators of early confirmation of the legislative framework for the referendum, which was clear almost 10 months before the referendum date. We continue to recommend that best practice for referendums is that all legislation should be clear (whether by Royal Assent to a Bill or the

introduction of regulations to Parliament for approval) at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officer or Electoral Registration Officers.

We will monitor the development of the remaining secondary legislation required for the referendum, including regulations specifying the date of the referendum. When the regulations are laid for approval by Parliament we will provide an updated assessment of progress and readiness, and will identify any specific issues associated with the proposed date for the referendum.

Delivering the referendum poll

The approach to managing the administration of the referendum will build on the experience and lessons learned from the successful delivery of referendums held in Wales and across the UK in 2011, and the Scottish Independence Referendum in 2014. Although the date of the referendum is not yet known, the Electoral Commission has already begun working with electoral administrators to develop plans for a range of scenarios based on dates during 2016 and 2017.

Management structure for the administration of the referendum

The Chief Counting Officer, Counting Officers and Regional Counting Officers

In accordance with the framework set out in PPERA, as applied by the EU Referendum Act, the Chair of the Electoral Commission will be the Chief Counting Officer for the referendum, with overall responsibility for managing the referendum poll and certifying the result of the referendum. Jenny Watson, the Chair of the Commission, intends to appoint Andrew Scallan, the Commission's Director of Electoral Administration, to act as Deputy Chief Counting Officer for the referendum.

The EU Referendum Act provides that the Returning Officer for each local authority in Great Britain will act as Counting Officers for the referendum. In Northern Ireland, the Chief Electoral Officer will be the Counting Officer.

The Act also provides that the Chief Counting Officer may appoint a Regional Counting Officer for each electoral region in Great Britain. The Chief Counting Officer has already designated Regional Counting Officers in advance of the commencement of this power, to enable advance planning to begin.² The Chief Counting Officer and Regional Counting Officers will have powers to direct Counting Officers on matters relating to the discharge of their functions and preparations for the referendum.

The EU Referendum Management Board and Delivery Group

The Chief Counting Officer has taken steps to mitigate the uncertainty caused by not knowing the referendum date. The EU Referendum Management Board has been

² The members of the European Referendum Management Board which includes the CCO, her Deputy (designate) and the Regional Counting Officers (designates) can be found [here](#).

established to advise and support the Chief Counting Officer in the management of the referendum poll. The Chief Counting Officer chairs the Board and its current membership includes the Deputy Chief Counting Officer designate, the Regional Counting Officers designate for each of the electoral regions in Great Britain and the Chief Electoral Officer for Northern Ireland.

The EU Referendum Delivery Group has been established to advise and support the Chief Counting Officer and Deputy Chief Counting Officer in overseeing the practical administration of the referendum poll. Members have been nominated by, and represent, the 11 Regional Counting Officers and the Chief Electoral Officer for Northern Ireland. The Group works alongside the EU Referendum Management Board and focusses on practical planning for delivering the referendum.

Management and administration of the referendum poll

Chief Counting Officer's directions and guidance

The Chief Counting Officer's proposed approach to managing the referendum has been agreed by the EU Referendum Management Board, including the approach to issuing directions to Counting Officers, providing guidance and the timing of the count. Counting Officers, Regional Counting Officers, relevant agencies, professional bodies and representative organisations have been consulted on the scope of the Chief Counting Officer's proposed directions for Counting Officers, which have now been published on the Commission's website.³

The Chief Counting Officer's approach will focus on a small number of key areas where consistency is most needed in order to achieve the overall objective of ensuring confidence in the result, based on an accessible, consistent and efficient electoral process operated to the highest standards of integrity. The guidance and advice support for Counting Officers will mirror that which has been produced for previous electoral events in both approach and content, except where the specific circumstances of the referendum or the legislation or direction require it to be different.

The Chief Counting Officer intends to make core guidance for Counting Officers available by the end of January 2016. The Commission and the Chief Counting Officer will continue to work closely with the EU Referendum Management Board and the EU Referendum Delivery Group on the development of the guidance and supporting resources. Again, publishing guidance to Counting Officers early in 2016 will help to mitigate the uncertainty caused by not knowing the date of poll.

Timing of the referendum count and announcement of the result

The Chief Counting Officer has also consulted on the proposed timing of the counting of votes and announcement of the result of the referendum, and will direct that the count processes must be carried out overnight, starting at the close of poll

³ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/194108/Approach-to-management-of-EU-referendum-consultation-response-paper.pdf

(10pm) for the referendum.⁴ Undertaking an overnight count will ensure that voters and campaigners will know the outcome of the referendum as quickly as possible.

The declaration of the final referendum result will be made in Manchester, at the same venue which will be used as the count collation centre for the North West electoral region.⁵ Combining this event with one of the regional count collation centres, rather than hosting a separate event, will ensure better value for money for taxpayers.

Campaigning at the referendum

Updated regulatory controls included in the legislation

Following previous referendums, including most recently the Scottish Independence Referendum, the Electoral Commission made a number of recommendations for the regulation of campaigners at referendums in future. After the European Union Referendum Bill was announced in the 2015 Queen's Speech, we also made a number of specific recommendations to the UK Government to improve the regulatory framework for the prospective referendum. We are therefore pleased that the majority of our key recommendations were accepted by the Government and Parliament, and have been included in the European Union Referendum Act.

Campaigner guidance

Our guidance for campaigners will be published in several phases from the beginning of January after the Bill receives Royal Assent. Some of the regulations are timeframe specific and therefore cannot be published until the date of the referendum is known. Consequently, some of our guidance and forms also cannot be published until the date of the referendum has been set and the regulations have been made. We will publish guidance which will provide an introduction to referendums, how to register and campaign at the referendum and the designation process.

The Commission Board has confirmed the process for designating campaigners in accordance with the statutory designation tests, as well as agreeing the approach to giving grants to lead campaigners.

The date of the referendum might overlap with other regulatory timeframes, for example should the referendum date fall in close proximity to the dates of other polls, which would mean that some campaigners would have to comply with more than one set of regulatory rules. To this end, the Commission has prepared draft guidance on splitting spending due to the possibility of cross-over of regulatory periods (with campaigners having to meet separate regulatory criteria and targets). We will make an assessment of the implications of any date for the referendum once it has been announced and publish our guidance accordingly.

⁴ <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-corporate/overnight-count-at-eu-referendum-will-take-place>

⁵ <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-referendums/final-eu-referendum-result-will-be-declared-in-manchester-as-electoral-commission-partners-with-manchester-city-council-for-historic-event>

In addition, campaigners who are already campaigning for an outcome at the EU referendum may fall within the non-party campaigning rules set out in the PPERA which apply for the Scottish Parliament, National Assembly for Wales and PCC elections in Wales, and Northern Ireland Assembly elections being held on 5 May 2016. The regulated period starts on 5 January 2016 and ends on polling day 5 May 2016 and applies in Scotland, Wales and Northern Ireland. We will be advising referendum campaigners that they may need to register with us and follow the rules on campaign spending, donations and reporting if their spending on referendum campaign activity falls within the non-party campaigner rules.

We will publish the majority of our guidance when the relevant rules come into effect. In the interim we have published a series of campaigner update papers⁶ to inform prospective campaigners of the progress of the Bill and the potential impact on the regulation of campaigning. To complement this we have already set up an advice service for campaigners.

Dates to be set out in Regulations

A number of pieces of guidance cannot be published until we know the date of the referendum and the relevant regulations have been drafted and passed into law, for example regulations which include the date from when campaigners can register with us and the start dates and timeframes for regulatory activity.

Designation timetable and process to be set out in Regulations

For the Scottish Independence Referendum, as there was a long period of time between the Act coming into force and the actual referendum date, we were able to appoint the designated lead campaigners before the referendum period came into force. However, as the duration of the regulated referendum period and the process and timetable for appointing lead campaigners at the EU referendum will be determined in regulations, we currently do not know when we will be able to run the process to appoint lead campaigners.

We are seeking clarification from the Government on the timeframe for designation. We have previously recommended that the referendum rules should be amended to allow for early designation shortly before the referendum period begins or for the referendum period to be extended from 10 to 16 weeks to include the designation process and allow lead campaigners a longer period of time from which to benefit from their lead campaigner status. The Act provides for both of these possibilities.

Pre-poll reporting periods and relevant submission dates

Following the Scottish Independence Referendum, the Commission recommended that in addition to post-poll reporting requirements, where campaigners are required to put in spending returns 3 and 6 months after the poll, there should also be a requirement for pre-poll reporting. As part of our commitment to transparency in

⁶ <http://www.electoralcommission.org.uk/i-am-a/party-or-campaigner/campaigners-in-referendums/sign-up-for-updates>

electoral events, this change would enable the public to see who has made significant donations to the lead campaigners before the poll that are used for referendum purposes. We are therefore pleased that this recommendation has been included in the European Union Referendum Act.

However, as the Act provides for the elements of the pre-poll reporting rules and the length of the referendum period, as well as the date of the referendum, to be set out in Regulations, we currently do not know the full scope of the pre-poll reporting requirements or the reporting deadline dates. The Act provides for the pre-poll reporting regulations to be drafted and issued at some point after Royal Assent, but the timeframes are dependent on the date of the referendum being set.

Public awareness

As set out in the European Union Referendum Act, the Electoral Commission must take whatever steps we think appropriate to promote public awareness about the referendum and how to vote in it. Building on our experience of managing publicity campaigns for the previous referendums in 2011 and 2014, the Commission will run a public awareness campaign ahead of the referendum to provide voters with clear, neutral and accessible information to enable them to cast their vote confidently. This will include ensuring all eligible voters understand that they need to be registered in order to vote, understand how to register and the deadline for doing so. We expect to produce public information for voters that explains the options for casting their vote and what to expect on the ballot paper. The campaign will include activity targeted at all voters, with additional activity specifically targeted at those groups we know are under registered, including young people, students and overseas voters.

The research undertaken to inform our question assessment showed there is an appetite from members of the public for detailed and clear information about the implications of any decision to either remain a member or leave the European Union. The Commission will send an information booklet to every household in the United Kingdom, which will provide information on how to register to vote and, providing there are two designated lead campaigners, will also include a page from each campaigner setting out their position. The campaigners will also have the option to provide a web address where voters can find more information about their opinion of the consequences of a remain/leave decision. The booklet will be distributed in both English and English/Welsh languages, and will also be available online in a number of alternative and accessible formats, including a range of languages

The public awareness campaign will start approximately six weeks prior to the referendum date and is likely to include TV, billboard, radio, press and online advertising, and will focus on the forthcoming distribution of the information booklet.

In addition to the additional campaign activity we conduct to target under registered groups, we also work with the Ministry of Defence (MOD) every year to encourage service personnel to register to vote, keep their registration details up to date and improve their awareness of the need to register and the options which are available to them to do so. The Commission will work with the MOD to put plans in place to ensure all eligible service personnel have access to the information they need in order to register to vote in the referendum.

The Chief Counting Officer (CCO) and Regional Counting Officers (RCOs) – who will be responsible for running the referendum – will also have an important role to play in their local areas in promoting public awareness of the referendum and how to participate in it. The Commission will provide RCOs with guidance and resources to support their local public awareness activities and to ensure consistency of information for voters across the United Kingdom.

Public awareness challenges

Managing an unknown date

The proximity of the referendum date to other scheduled polls could result in some level of overlap for the public awareness campaigns for each separate poll date, which could lead to voter confusion and fatigue. If the date for the referendum is early to mid-June 2016 the distribution of the booklet would need to be delayed until immediately after the May 2016 polls to avoid public confusion, delaying the start of the main campaign until after the May 2016 elections had finished.

The potential for the referendum date to be announced at short notice also means that timelines for development and testing of voter materials, such as the information booklet, may need to be condensed, and in turn may mean that some elements of the process, such as user testing or development of advertising materials, will be reduced or removed altogether.