

Minutes of the meeting of the Electoral Commission held on Wednesday 11 February 2009, London

Present: Jenny Watson (JW) Chair
Max Caller (MC)
Henrietta Campbell (HC)
John McCormick (JMcC)
Ian Kelsall (IK)
Karamjit Singh (KS)

In attendance Peter Wardle (PW)
Clare Ettinghausen (CE)
Carolyn Hughes (CH)
Lisa Klein (LK)
Stephen Rooney (SR)
Andrew Scallan (AS)
Bob Posner (BP)
Louisa Parry (LP) – for item 6
Mark Williams (MW) – for item 7
Archie Gall (AG) – for items 7 and 8
Tony Stafford (TS) – for items 9, 10 and 11
Ros Baston (RS) – for items 9, 10 and 11
Vera Markos (VM)
Carole Scrivener (CS) minutes

Keith Smith from Compass Partnership observed for items 7, 8 and 10 as part of the governance review of the Commission.

1 Declaration of Interests

- 1.1 KS declared an interest in relation to agenda item 16 (see 16.1 below).
- 1.2 IK declared an interest in relation to agenda item 9 (see 9.1 below).

2 Minutes of the meetings of 11 December 2008 and 30 January 2009 (EC04/09 and EC05/09)

- 2.1 The Commission Board agreed the minutes of the meeting held on 11 December 2008.
- 2.2 The Commission Board agreed the minutes of the meeting by telephone held on 30 January 2009.

3. Minutes of the Audit Committee meeting of 7 January 2009 (EC06/09)

3.1 The Commission Board noted the draft minutes of the Audit Committee held on 7 January 2009.

3.2 IK noted that the Audit Committee agreed that the notes of its meetings be circulated to Commission Board meetings.

3.3 The Commission Board noted the work being done on the Register of Interests and Gifts and Hospitality and asked that the Audit Committee ensure that the reporting of international visits is addressed in this work.

4. Chair's report (EC07/09)

4.1 JW noted that the purpose of the report was to note the Chair's main external activities. JW noted the level of interest in the Commission's proposals on electoral management structures as a key topic of conversation with external stakeholders.

4.2 The Commission Board welcomed the introduction of the Chair's report.

5. Report from Executive Team (EC08/09)

5.1 The Commission Board was updated on the following items pertaining to the report:

Political Parties and Elections (PPE) Bill - PW noted that there was a possibility of raising thresholds for recording and reporting donations which could raise questions about transparency and that there now appeared to be a solution on dual reporting. The Commission had a meeting scheduled with the Lord Chancellor and Secretary of State for Justice to further discuss issues connected with the Bill.

Boundary review programme - MC updated on progress of the structural reviews. He had met the Secretary of State and Minister for Local Government, at their request, on 5 February to discuss the review timetable. The Secretary of State had indicated that the date by which the Boundary Committee's advice was being sought would be put back until 15 July 2009. This was a consequence of court decisions on the judicial review litigation to enable further consultation on restructuring options.

MC also referred to the need for the Boundary Committee, in undertaking any further consideration to have regard to the purdah period in advance of the local government elections in Devon, Norfolk and Suffolk. Consultations could also be affected by the Breckland and East Devon Court of Appeal hearing, which was scheduled for 18 – 20 February.

MC agreed to continue to update the Commission Board.

Commission risk status - PW updated on the mitigation for the Commission's red risk concerning staff recruitment and retention in the Party and Election Finance directorate. PW noted that there were a number of posts currently being recruited to and that owing to the specialist nature and experience required the more senior posts were proving difficult to fill. He remained confident that the posts would be filled but warned that in the meantime the directorate was prioritising its work.

5.2 The Commission Board noted the report.

6. Quarter Three Performance & Finance Report (EC09/09)

6.1 The quarter three performance and finance report was presented to the Commission Board. PW highlighted that performance showed a slow start in quarter one and improvement in quarters two and three although there was some slippage in the third quarter.

6.2 A discussion took place in relation to the financial information, and in particular the profiling of budgets throughout the year. It was noted that discussions should take place at staff level on how the Commission might improve budget profiling for the next year.

6.3 A request was made to separate the PQ and FOI requests relating to Boundaries. The request was agreed to.

6.4 The Commission Board queried whether policy development claims were being paid promptly and noted that delays in processing them could have an adverse impact on parties.

6.5 CH noted that the Commission had responded to a number of questions from the House of Commons Scrutiny Unit as part of the Speaker's Committee annual review of the Commission's corporate plan and Estimate. CH noted that there would be further discussion on the budget as part of the final review and agreement to the corporate plan and Estimate at the Commission Board meeting in March.

6.6 SR presented a more detailed update of the work programme during quarter three against the Commission's corporate objective 'public understanding of the way our democracy works'. SR noted that more people were using and seeing the campaign materials. Direct

marketing to overseas voters took place last year, but as this had been found not to have had much success the focus this year has been via on-line materials. Students had been primarily targeted via an on-line campaign with a direct mail piece sent out with UCAS correspondence to prospective students. SR noted that there had been a good response to the home movers campaign and results from the campaign would be available in June. For the 2009 elections SR reported that the TV advertisements for GB would be launched on 27 April. The NI campaign would be launched on 9 March due to more complex EONI registration arrangements.

- 6.7 The Commission Board requested information on the level of activity local authorities were engaging in to encourage dual student registration.
- 6.8 The Commission Board requested information on the extent that the service voter campaign had reached reserve units.
- 6.9 The Commission Board noted the report and the presentation and agreed to continue the format of receiving a more detailed presentation on a Commission corporate objective at each quarterly progress report.
7. Discussion: Separation of Boundary Committee from the Electoral Commission (EC10/09)
 - 7.1 AG presented the key issues relating to the separation of the Boundary Committee for England (BCFE) from the Electoral Commission, which was provided for in the Local Democracy, Economic Development and Construction (LDEDC) Bill. The main points highlighted included the appointments process for members of the new Boundary Committee, transitional arrangements, transfer scheme, changes to the Order-making process and the power to specify the date of first election.
 - 7.2 CH provided an overview of the implications on staff and budgetary resources and reported that the Commission was recruiting an individual to manage the project on BCFE transfer out of the Commission.
 - 7.3 The Commission Board was keen to ensure the independence of the new Committee be assured. On the appointments process the Commission raised concerns that the appointments to the various posts did not follow a consistent process. The Commission Board outlined that more acceptable options could be either consultation via the Speaker's Committee or that the process be changed to allow only one nomination.
 - 7.4 On transitional arrangements the Commission Board noted its commitment to concluding reviews which it had started and expressed a wish to retain its powers during the transitional period to enable it to complete its current work programme. The Commission Board

expressed concern that the transfer date should be set at a point when the new boundary Committee had been set up and was able to start operating effectively.

7.5 The Commission Board agreed that the Chair of the Commission write to the Minister for Local Government and express the Commission concerns regarding the appointments process, the date of transfer of responsibilities to the new Boundary Committee and the need for the Committee to make the Orders implementing recommendations from reviews currently being implemented by the Boundary Committee.

7.6 The Commission Board noted that the revised programme of work for the BCFE would be brought to the Commission Board meeting in March.

8. Deputy Commissioner Recruitment (EC11/09)

8.1 MC requested the Commission Board to consider the further re-appointment of two Deputy Commissioners, Colin Mellors and Joan Jones to ensure support for the challenging BCFE work programme. MC noted that under normal circumstances he would have sought recruitment of new Deputy Commissioners; however owing to the uncertainty flowing from the LDEDC Bill in relation to longer-term staffing of the BCFE, reappointment of two Deputy Commissioners would allow the BCFE to continue its work with adequate Deputy Commissioner involvement.

8.2 MC requested that Joan Jones' appointment be extended to end on 31 December 2009.

8.3 MC requested that Colin Mellors' appointment be extended to end March 2011.

8.4 The Commission Board re-iterated the point that it had made when it was asked to re-appoint Joan Jones in October 2008 of only two terms of office under normal circumstances.

8.5 The Commission Board agreed to re-appoint both Colin Mellors and Joan Jones under the exceptional circumstances. The Commission Board also requested that the Minister for Communities and Local Government be informed of the Commission decision.

9. Decision on enforcement issues (EC12/09)

9.1 IK declared an interest on the basis of a possible acquaintance with one of the individuals named in the paper and did not take part in the discussion or decision.

- 9.2 LK presented the paper in relation to potentially impermissible donations.
- 9.2 The Commission Board agreed not to seek forfeiture of these potentially impermissible donations.
10. Discussion: Risk-based enforcement in a political environment (EC13/09)
- 10.1 TS provided an update to follow up an initial discussion on moving the Commission towards risk-based regulation in October 2008, by considering the particular challenges of regulating political finance in a risk-based way.
- 10.2 The Commission Board noted that the approach outlined in the paper would be developed into a draft public consultation paper, to be considered at the May Board meeting. The Commission Board considered that the consultation paper would need to be set in the context of the Commission's role in supporting compliance, and should give a clear and positive explanation of how we factor devolution into our risk assessment. The Commission Board discussion in May should also cover how the Commission would use resources to obtain and analyse 'soft' information about risk. The Commission Board agreed to consider the role played by risk assessment in regulatory decisions via discussion of case studies at its informal meeting in April.
11. Discussion: review of PEF guidance (EC14/09)
- 11.1 TS and RB presented the planned approach to a review of the guidance on party and election finance issues. This would include specifically considering the impact on smaller parties. The review would be brought back to the Commission Board meeting in September 2009.
- 11.2 The Commission Board agreed the following for consideration:
- more focus at local level and ensure contacts not just at national level
 - setting up of a reference group
 - testing draft guidance with users before publication
 - ensure we have talked to party representatives who have to deal with guidance
12. Approach to June 2009 elections (EC15/09)
- 12.1 AS provided an introduction to the issues that the Commission would prioritise for monitoring.
- 12.2 The Commission Board supported the areas highlighted as those of most concern and particularly noted the need to closely monitor the

issues of late registration in Northern Ireland and absent voter identifiers.

12.3 The Commission Board discussed what options would be available to the Commission to pursue action with local authorities that did not perform well against the priority areas highlighted.

12.4 The Commission Board agreed to receive a follow-up report after the elections on the issues monitored to include also how action could be pursued.

13. Final performance standards for Returning Officers (EC16/09)

13.1 AS noted that following consultation the performance standards for Returning Officers (ROs) were slightly amended. It was noted that there had been limited response from political parties to the consultation.

13.2 Following a question on what checks there would be to verify the information provided through the self-assessment it was noted that random visits to local authorities were currently taking place as part of the verification process for Electoral Registration Officers (EROs).

13.1 The Commission Board noted the stakeholder interest in how the performance standards would be used to improve performance.

13.4 The Commission Board agreed the performance standards and requested that the results be presented later in the year alongside further details of how the information would be used.

14. Progress on Commission's reports, Electoral Administration in the UK/Scotland – and way forward (EC17/09)

14.1 The Commission Board was updated on the discussions taking place in relation to the Commission's recommendations for electoral administration in the UK.

14.2 The Commission Board discussed the outcomes and criteria for change and raised the following as key principles:

- Recognition that there may be different solutions in the different nations and regions
- The structures should be flexible enough to allow innovative practices

14.3 The Commission Board also discussed:

- how it would measure whether the new structures once implemented were operating effectively

- identifying who would be accountable for the performance of the electoral management structures that are established in order to enable public confidence and assurance
- 14.4 The Commission Board agreed to the set of criteria as outlined subject to the addition of the principles noted in 14.2 above. The Commission Board requested that further detail be added on accountability mechanisms and the need for flexibility in future electoral management structures to enable innovation.
- 14.5 The Commission Board requested further consideration be given to the key milestones and the development of proxy measures to enable the Commission to measure progress against the criteria.
15. Boundary Committee recommendations Shropshire, West Sussex and Wiltshire (EC18/09, EC19/09, EC20/09)
- 15.1 BP and EM provided contextual background to the reports and asked that the Commission Board agree to the recommendations as set out in each report.
- 15.2 The Commission Board discussed the level of variances in each of the areas and the reasons for weighting differences such as geographical location and community patterns.
- 15.3 On Shropshire the Commission Board questioned the tight timescale allocated to conduct the review and asked whether this had had any adverse affect on the review. MC noted that the driver was the June 2009 elections and the BCFE had undertaken to meet this timeline. MC noted that the BCFE was confident that due process had been followed but that the BCFE would not wish to undertake any future review under the same level of pressure again.
- 15.4 On West Sussex review no further clarification was sought.
- 15.5 On Wiltshire EM noted a mistake at paragraph 5.1.1. requesting that an additional councillor be allocated to Calne Chilvester and Abberd parish ward. It was explained that there had been no request for an additional councillor and noted that the BCFE had not agreed to the modification. It was noted that this section be deleted.
- 15.6 The Commission Board asked whether the nine representations noted at paragraph 16.5 had resulted in any modifications. It was noted that no modifications had arisen from these representations.
- 15.7 The Commission Board also discussed the electoral projections and the reliance on county council expectations.
- 15.8 MC and AG withdrew from the decision making process.

- 15.9 The Commission Board agreed the recommendations for the Shropshire and West Sussex reviews. The Commission Board agreed the recommendations and modifications in relation to the Wiltshire review and agreed the further change as noted in 15.5 above.
16. Parish review 'related alterations' (EC21/09)
 - 16.1 KS declared an interest in relation to Stratford Upon Avon and withdrew from discussion and decision in relation to Stratford Upon Avon.
 - 16.2 EM introduced the proposal for altering the boundaries of ten county electoral divisions and district wards. EM asked the Commission Board to authorise the making of Orders to implement the decision.
 - 16.2 The Commission Board discussed the level of consultation at both the county and district levels.
 - 16.3 The Commission Board agreed the recommendations and authorised the making of Orders subject to confirmation from county and district level that the Orders take effect for the June 2009 elections.
17. Minutes of the Boundary Committee for England meetings (EC22/09)
 - 17.1 The Commission Board noted the minutes of the Boundary Committee for England meetings held on 11/12 December, 19/20 December 2008 and 18 January 2009.