

Minutes of the meeting of the Electoral Commission held on Thursday 14 January 2010

Present: Jenny Watson (JW) Chair
Max Caller (MC)
Henrietta Campbell (HC)
John McCormick (JMcC)
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)
Kairen Zonena (KZ)

Tony Stafford (TS) – for item 4
Andy O’Neill (AO) – for item 4
Rhydian Thomas (RT) – for item 4
Nina Ziaullah (NZ) – for item 4
Clinton Proud (CP) – for item 5

Elizabeth Morrow (observing) – items 4 and 5

Apologies

IK for absence, and JMcC and HC for lateness due to adverse weather conditions.

Quorum

The meeting was inquorate until 1pm. Recommendations only were made on items 1 to 4 during this time, and these were then discussed and ratified by the Commission Board following the arrival of HC and JMcC.

Karamjit Singh CBE

JW on behalf of the Commission thanked Karamjit Singh for his considerable contribution to the work of the Electoral Commission since it was established in 2000, and wished him well for the future.

1 Declaration of Interests

None.

2a Confidential minutes of 10 November (EC01/10) and 2 December 2009 (EC02/10)

It was noted that the circulation of confidential papers for the 10 November meeting had been by hand, to those attending only, and that the papers were handed back in after the meeting for secure disposal. The meeting had agreed that any Commissioner wishing to review the papers subsequently could do so by arrangement with the Secretariat. A note would be added to the minutes to reflect this.

The meeting on 2 December had recorded thanks to Vera Markos for her work for the Commission and the minutes would be amended to reflect this.

Agreed: That, subject to the addition of an explanatory note to the minutes of 10 November, and the addition to the minutes of 2 December noted above, the minutes of the Commission Board meetings held on 10 November and 2 December 2009 be approved as accurate records and the Chair be authorised to sign them.

2a. Decision/Action tracker (EC03/10)

It was noted that a meeting of the Referendums reference group would be held that day after Commission Board to explore the process for appointing a Chief Counting Officer for a referendum held under PPERA. As IK, a member of that reference group, was unable to be present he would be updated separately.

A meeting of the key performance indicators reference group had also been held earlier, before the meeting.

Noted.

3 Update from Chief Executive (EC04/10)

- 3.1 In relation to the decision not to apply for draw-down of additional funds for 2009-10 in the winter supplementary estimate, it was noted that the only caveat to this was the unknown quantity of remaining legal challenges on Boundary Committee decisions on structural reviews, some of which were still subject to appeal. PW would make this clear in his letter to the Speaker's Committee on the Commission's decision not to draw down funds, while also drawing their attention to the Commission continuing to deliver – and improve on – its objectives while driving down costs.
- 3.2 Individual Electoral Registration – Ministry of Justice Project Board: JW asked PW to keep the Board updated on its activity and progress.
- 3.3 The first stage of research into GB electoral registers had revealed a number of interesting findings for the Commission to consider. JW asked that AS brief MC on the top level findings, and commented that the research suggested that consideration should be given to the timing of the annual canvass.
- 3.4 It was noted that the first of the weekly meetings between the suppliers of the PEF Online system and staff had taken place on 8 January, and steps were being taken to tackle the more difficult issues early on in the work programme. JW asked that the Board be kept updated.
- 3.5 On the transfer of Boundaries to the new Local Government Boundary Commission, PW reported that all was progressing reasonably well, although full transfer by 1 April might be tight.
- 3.6 In relation to PEF enforcement policy, LK reported that the front-bench spokespeople of the main Westminster parties and the Ministry of Justice were all supportive of getting the necessary Statutory Instrument through the parliamentary process before the election. LK updated the Commission Board on various PEF cases.
- 3.7 AS reported that agreement had now been reached with the Chief Electoral Officer for Northern Ireland that he would make an assessment of his office's performance against his existing performance standards, and that the data gathered for the exercise would then be assessed by the Commission against its own performance standards framework, appropriately modified for the Northern Ireland context.

Agreed:

That PW update the Board in relation to the IER Project Board and PEF Online.

4. Referendums (EC05/10 and EC06/10)

- 4.1 The remit of the Reference Group's last meeting had been to consider in more detail expenditure limits for sub-UK referendums, develop key principles and establish the framework for more detailed policy work.
- 4.2 TS introduced the first part of the presentation, which recommended the same spending limits as applied for referendums under the Political Parties, Elections and Referendums Act (PPERA) 2000, based on the most recent relevant election. The presentation was supported by a brief paper summarising the spending limits (£500,000 for most permitted participants, and up to £5m for those designated lead campaigners by the Commission). Political parties wishing to participate as permitted participants must specify the outcome they wanted to campaign for. If they could not, they were limited to £10,000 of expenditure. There was a sliding scale of spending allowed depending on share of the vote, with parties with 30% or more of the vote allowed the same spending limit as designated organisations (ie £5m). These included a limit for permitted participants, a higher limit for designated organisations, and limits for political parties based on their share of the vote. It was recommended that share of vote be based on the most recent relevant election (so that for example Welsh or Scottish referendums would rely on the most recent Assembly vote). This approach was endorsed.
- 4.3 It was agreed that informal soundings be taken with political parties, based on the above model, fairly quickly (precise timescales to be agreed subsequently with JW), so that the Commission's view could be publicised as soon as possible.
- 4.4 AO and RT introduced sections of the presentation on the position in Scotland and Wales respectively.
- 4.5 PW pointed out that while the Commission would do what it could to meet requests for informal views on referendums, it would reserve its position and its freedom to comment openly and formally on any Bill once published. JW asked for the latest position in relation to the Scottish Bill to be included in the Chief Executive's update to the next Board meeting.
- 4.6 In Wales the Welsh Assembly Cabinet were meeting to discuss a referendum, and a debate had been scheduled in the Welsh Assembly Government for 9 February, with a vote to take forward the process, but with some uncertainty as to whether it would be a trigger vote for a referendum.
- 4.7 NZ introduced the section of the presentation outlining the Commission's approach to communications and handling. She added that initial contact with key stakeholders had been well-received. The

Ministry of Justice had come up with two issues, on assessments and grant payments. A written briefing had been produced for the House of Lords Constitution Committee which was looking into the use of referendums, and a paper setting out the Commission's approach would be produced after the Commission gave evidence to the Committee on 3 February.

- 4.8 On the subject of governance issues, PW said that the cross-Commission planning group on referendums had identified decisions for the Board to take in the event of a referendum being called. (A slide on governance issues had been added to the presentation).
- Question assessment – there would be eight weeks' notice of a Board meeting. It was proposed to treat such meetings in the same way as regulatory (PEF) decisions, and invite all Commissioners, but have a reduced quorum of three to allow for the fact that short notice might limit the numbers who could attend. (The issue of whether or not such meetings would constitute a conflict of interests for nominated commissioners would be included in the further discussions in February and April).
 - Level of grants and spending limits – detailed recommendations following consultation would be brought to the April Board meeting
 - Designation – there would be limited notice for this decision, and so it was proposed to treat decision meetings on these issues in the same way as regulatory (PEF) decisions, see first bullet point above. The Reference Groups would discuss the case and options for Commissioner involvement in the assessment process – one option was that the Chair and one other Commissioner would take part in meetings with candidate groups for designation
 - Public awareness in the event of non-designation - if there was a decision not to designate, a larger decision arose of whether or not the Commission should seek to take on the role of setting out for electors the arguments on both sides of the question, and this decision should properly be one for the whole Board. Again, there was likely to be short notice of meetings on this subject, but the aim would be to combine discussion with decision-making on designation itself (previous bullet point)
 - Chief Counting Officer – it was necessary to establish exactly how this would work in practice (co-ordination with and use of Regional Returning Officers etc); recommendations would be brought to the April Board meeting. There was a brief discussion about the extent to which variable approaches could be adopted in different parts of the country, and it was noted that if there were to be any variation or inconsistency it would need to be carefully discussed, and any reasons clearly communicated.
- 4.9 Decisions would also need to be taken at some point about how the results process and declarations would be managed and run, and this would be looked at again after the issues at paragraph 4.8 had been decided on.

Agreed: That:-

- (a) spending limits for sub-UK referendums use the same structure as PPERA as set out at paragraph 4.2 above, with the share of political parties' vote being based on the most recent relevant election;
- (b) this decision form the basis of quick and informal soundings of political parties' views;
- (c) the latest information regarding the Scotland referendum Bill be included in the next Chief Executive's update to the Board;
- (d) further consideration to matters relating to a Wales referendum may have to be considered at the March or April Board meetings if it becomes a 'live' referendum;
- (e) the various governance issues in the five bullet points at paragraph 4.8 above be approved (and fed into the February and April Commission Board agendas as appropriate), and the Corporate Governance Framework be amended to reflect the quorum for referendum decision meetings; and
- (f) A further meeting of the Referendums Reference Group be held to consider the detail of these issues before they are brought back to the Board, together with, in due course, arrangements around results and declarations.

[Henrietta Campbell and John McCormick, having been delayed by poor weather conditions, joined the meeting during the preceding item, and decisions relating to earlier items were then discussed and ratified.]

5. Preparation for a UK Parliamentary General Election, related public awareness activity, and a summary of party and election finance issues (EC07/10 and EC08/10)

5.1 CP introduced a presentation (tabled) on the planned public awareness campaign for the General Election. An analysis of the campaign for the 2009 European Parliamentary elections by the Central Office of Information had shown that the campaign was the second most cost-effective of the 40 public sector campaigns in their database at the time. He went on to outline arrangements for the forthcoming general election campaign, which would include multi-platform media campaigns to access under-registered groups.

5.2 In response to questions CP said that media spend on this campaign would be approximately £2.6m, compared with £3.6m in 2005. JW asked for the comparative figures on cost per vote/registration.

5.3 AS said that guidance for the election would work for combined or standalone elections. He said that Electoral Registration Officers would be pressed to ensure that registration was as comprehensive as possible, and a range of public awareness materials would be made available. LK added that PEF guidance was in place, but that a second

election in relatively quick succession could prove problematic in terms of spending limits for candidates.

- 5.4 MC commented on the number of new Returning Officers there were who had never run an election, and AS said that there was a good deal of information for them, including a welcome pack which was being sent to all newly-appointed chief executives of local authorities.
- 5.5 LK noted that there were no complete figures on how many new candidates would be standing at the election. However, the figures in terms of new parties were noteworthy – 32 new parties registered in 2008, and 59 in 2009. In terms of party expenditure, the quarterly returns of donations and loans for quarter 1 were due on 30 April, a Friday, just before a possible election. Staff were drawing up plans to publish these returns earlier than the usual 28-day publication period. Late returns would be publicised as usual. This arrangement would be communicated to parties, via the Parliamentary Parties Panel. The Board would be updated on the results of that communication.
- 5.6 Further discussion took place briefly on the campaign which would be run in Northern Ireland to take account of circumstances there, work going on to make the best possible arrangements for postal votes of service personnel, and the issue of overnight counting. So far 60 local authorities (11%) had opted for next day counting, and 160 were undecided. This compared with 5% day-time counts at the last election. The Commission's website was updated as and when local authorities made their decision known. MC asked if the choices could be plotted in such a way as to show clusters. In Scotland the Interim Election Management Board had expressed a preference for day-time counting, while conversely in Northern Ireland counting was to be done overnight for the first time.

Agreed: That:

- (a) Commissioners be supplied with the comparative cost per registration in 2005 and this year;
- (b) Commissioners be updated on communication with the PPP about the timing of publication of quarterly reporting of expenditure before the general election; and
- (c) Commissioners be alerted to website updates relating to day-time counting.

6. Electoral Commission of the future (presentation and handout)

- 6.1 The Commission Board received a presentation by PW on the Electoral Commission of the future, encompassing the longer term aims and priorities of the Commission in the face of a change of government administration and a stringent economic climate. The presentation was the result of further discussion by the Executive Team following

the Board's awayday the previous October, where these themes had been explored and the Board had given an indication of its thinking and preferred direction of travel.

Background and Commission priorities

- 6.4 Points were noted as follows: Commissioners supported work to develop a 'core theme' on the PEF side of the Commission's work which would be on a par with the EA 'core theme' of moving electoral administration into the 21st century; the Statutory Instrument (SI) on enforcement policy would become particularly important if not seen through before the election; and, early experience of operating the new PPE Act enforcement powers might reveal glitches that needed to be addressed by further legislation.
- 6.5 Developing an agenda for change carried with it implications for our role and action - ie did we want to be actively lobbying or quietly administrative, and what would such a choice mean for our behaviour and skills? What were our priorities and what sort of organisation would we need to be to carry them out?
- 6.6 In terms of the Board's way of working, 2010 would see twice yearly themed Board meetings on party finance, elections and registration, to allow for in depth discussions on these areas. These meetings would receive a wide range of information (research, trends across the UK, and international comparators). This would give the opportunity for a longer strategic vision and a chance to re-consider and question current priorities.
- 6.7 JW thought this could open the way to a more coherent approach to the many projects going on across the organisation, allowing them to be used more effectively. If the Commission had a desire to move away from a Victorian voting system it needed to develop a clearer vision of what should replace it, and be able to focus detailed work towards that goal. On party finance, we ought to know where public confidence was lacking and think how to reinforce it. There was currently a lack of information, but with the right information we could become a regulator driving change.
- 6.8 Commissioner contributions:

A change in government at Westminster could change the dynamics of the relationships between Westminster and the devolved legislatures and governments. Our vision would need to apply to work across all parts of the UK.

There was support for an overarching theme of getting rid of the Victorian voting system, and for working on how that might translate into practical policies and recommendations.

The Commission agenda should include: legislative consolidation and understandability; consistency of the PEF and performance standards frameworks across the UK and NI; voter participation above party imperatives; the franchise. Also, in relation to party funding, should we have a view on the right level of funding necessary to preserve the democratic contestability of elections? (MC)

The difference between being a regulator and having the vision and assuming the power to change: could use the reports we produce more powerfully, and work with other interested parties to create a community of interest to be more effective in bringing about change (changing the shape of the future). (HC)

The devolved offices should look after one another nation-wide in the forthcoming process in a collegiate way rather than each guarding their own. (HC)

Party funding: don't lose sight of smaller parties, especially in Northern Ireland, need to retain and encourage diversity. (HC) Importance of plurality of voices (JW).

The Commission was a creature of statute, initially operating without a great deal of government encouragement, and then gradually filling the vacuum with key pieces of legislation. Unsure how much can be done via an influence-led approach – legislation still of the first importance. More could be done to share information. How could we present all the data from 2001 onwards in a way which could be useful, and how to calibrate the message. (KS)

6.9 JW summarised as follows:

- The Commission has data and reports it could use better and more assertively, though there were gaps
- Understanding where the gaps were and filling them would help form a complete and coherent vision for the future
- There was Board appetite for a positive vision with principles and values that embodied the Commission's work
- Appetite also for translating principles into concrete processes
- Vision and policies would help identify allies
- But as a body Commission would be lobbying not campaigning
- The top level agenda should influence/lead the development of the rest.

6.10 PW said that ET would respond to this discussion when bringing issues to the Board for strategic discussion.

Spending and savings

6.11 PW then focussed on what a future Commission might look like given a significant cut in resources.

6.12 The slides covered:

- The spending priorities of each potential administration
 - A reminder that Westminster was not the only stakeholder – the devolved picture would be borne in mind and the potential impact of any cuts on each of the areas always be considered
 - Main headings and cost structure of Commission budget, and implications of a cut which could be as high as 30%
 - Approach to cost reduction and options for possible cost reductions across the main headings (accommodation, public awareness, research, overheads, pay)
- 6.13 Actioning savings sufficient to deal with the scale of the potential funding reduction would require radical action – e.g. stopping a current area of activity, passing functions to others, significant savings on accommodation and reduced staffing.
- 6.14 Reviews of devolved offices were about to start, and would be informed by today's discussions. Reviews would involve the relevant Commissioners.
- 6.15 It was agreed that work should continue on the savings options outlined in the slides, but there was general agreement that 'salami-slicing' was unsatisfactory, and beyond a point could simply render the Commission unable to achieve its objectives.
- 6.16 It was generally agreed that further work on accommodation and ways of working should be carried out and:
- should be phased in
 - assume a continuing London presence in the short term
 - seek smaller and cheaper future accommodation with flexible lease, within London rather than outside
 - develop concurrently options for moving people outside London in the longer term, while retaining some sort of London presence; BUT consider whether running a small organisation in a split way is practicable
- 6.17 **Public awareness:** SR outlined alternative approaches which were more targeted and more economical using Experian's database of 42 million people. EROs could also do more public awareness as a way of meeting their registration performance standards. The detail was being worked up and would be brought back to the June Board Awayday.
- 6.18 **Research:** general agreement that research was valuable, but that we needed a better balance between gathering new data (on the EA side) and doing more analysis of the data we already held (on the PEF side). Other bodies could be encouraged to undertake research that was significant in general but not necessarily at the top of our agenda.
- 6.19 **Wider questions:** need to ensure that root and branch review of PEF and EA also carried out, and that we are going the right way about

fulfilling the principles and objectives we have set, and, for example, whether legislative changes could support savings (eg would exercising a statutory power to direct ROs and EROs be cheaper than seeking to persuade them at an early stage – although we would not seek such a power simply on cost-saving grounds -?)

- 6.20 The emphasis should be on determining the right organisation, and decisions about cost reductions, and on explaining what we do and why it is worthwhile.
- 6.21 PW said £3-4M might be possible across the life of a parliament, but £5-6M began to get difficult. He would come back in June with further options, along with arguments supporting the Commission (cost 50p per elector, have held a flat budget in the last 4-5 years, and still actively looking for ways to drive down costs. Functions to be carried out by someone, even if not the Commission, and spell out costs of them. This emphasis should form a strong underlay in the induction of nominated commissioners.)
- 6.22 Caution against acting precipitately – shifting sands may mean there is a benefit in not proceeding in haste. (JMc)
- 6.23 JW summarised as follows:
- Develop a broad overarching vision to support Board objectives is the first priority from which the level and shape of cost reductions would follow
 - Be assertive in reducing office costs
 - Any changes to the London base – gradual not overnight
 - No area of the Commission's spending was 'off-limits'

Agreed: That the Executive Team further develop the themes outlined in the discussion, for consideration in June and onwards, as follows:
(a) in response to the top level agenda (as per paragraph 6.9);
(b) in response to possible cost reductions in accommodation and ways of working (as per paragraphs 6.16 and 6.23); and
(c) in relation to public awareness, research, and general approach (as per paragraphs 6.17-6.22).

(No item 7 on the agenda)

8 Chair's report (EC09/10)

JW reported that at her meeting with the Boundary Committee the previous day, there had been discussion around the benefits of sharing mutually useful information and that a joint meeting could be held once a year to share and review common ground.

Agreed: That ways of sharing and reviewing information, and possibly meeting periodically (say once a year) to consider areas of common

interest, be explored in due course once the Local Government Boundary Commission was established.

- 9 Minutes of the Boundary Committee for England meetings of 25 November, 3 December and 7 December 2009 (EC10/10, EC11/10, and EC12/10)

It was noted that the December minutes were in draft and had been agreed in a slightly amended form at a Boundary Committee meeting the previous day.

Noted

- 10 Meeting wash-up (Commissioners only)

The meeting ended at 4.40pm.

Chair