

**Classification: Unprotected**

Commission Board: 14 April 2011

Agenda Item no.3 (b)

## Minutes of the meeting of the Electoral Commission held on Wednesday 23 March 2011 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)  
Tony Hobman (TH)  
Lord Kennedy of Southwark (RK)

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

David Aikin (DA) – for items 4  
Tom Hawthorn (TH<sup>1</sup>) – for items 6 and 7  
Katy Bere (KB) – for items 6 and 7  
Tony Stafford (TS) – for item 6  
Kay Jenkins (KJ) – for item 6  
Louisa Parry (LP) – for item 8

### 1 Apologies

None.

## 2 Declaration of Interests

- 2.1 JW 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 electoral 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 electoral 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 GR declared that he had divided the Commons in 1976 on an amendment to adopt the Alternative Vote [AV] for UK elections; had been a director of the 'Yes' campaigns for the Scottish Parliament referendums in 1979 and 1997, including a commitment to the Additional Member system [AMS] of voting; and had fought six elections on a platform which included support for proportional voting in all UK elections.
- 2.3 DH had spoken and voted in favour of AV in the House of Commons in April 2010 and had frequently spoken and voted against First Past The Post (FPTP). He had fought four general elections on platforms that opposed FPTP.
- 2.4 RK declared that he was a member of the political party which had called the referendum on Welsh devolution in 1997. He also declared that he sat in the House of Lords and took the Labour Whip.
- 2.5 IK declared that he had been Director for CBI Wales during the 1979 Wales Referendum and that CBI Wales had supported the 'no' campaign. CBI Wales had also supported Proportional Representation (PR) and, in his capacity as Director, IK had made public statements in favour of PR.
- 2.6 AB declared that she sat in the House of Lords and took the Conservative Whip. During public debates in the 1980s she had supported FPTP, and had fought five general elections on a platform which included support for FPTP, and from 1992 to 2010 as a Conservative Member of Parliament voted with the Conservative Party in supporting FPTP. In 2000, as Shadow Leader of the House of Commons, she was responsible for leading the Commons in the final stages of the debate on the Political Parties, Elections and Referendums Act 2000. On 28 February AB met with Mark Harper MP,

Minister for Political and Constitutional Reform, to discuss proposals for the Law Commission to review legislation relating to Election Law.

2.7 It was agreed that none of these declarations made withdrawal from discussion or decision necessary.

3a Minute of the Commission Board decision by email of 11 February 2011 (EC 23/11)

**Agreed:** That the minute of the decision by email of 11 February 2011 be approved as a correct record and the Chair be authorised to sign it.

3b Minutes of the Commission Board meeting of 23 February 2011 (EC 24/11)

In relation to Item 10, it was agreed that Commissioners would be added to the distribution list for Parliamentary and Assembly Parties Panel papers.

**Agreed:** That:

(a) the Parliamentary and Assembly Parties Panel papers be circulated to Commissioners in advance of Panel meetings; and,  
(b) the minutes of the meeting of 23 February 2011 be approved as a correct record and the Chair be authorised to sign them.

3c Decision Action tracker (EC 25/11)

**Agreed:** That the tracker be amended to include RK in the membership of the Complete and Accurate Registers Reference Group.

4 Update from Chief Executive for March (EC 26/11)

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

- **Wales referendum** (Para 2.1) – The Board wished to express their thanks and gratitude to the staff of the Cardiff office and colleagues

across the Commission for their hard work and contribution in delivering a successful referendum on 3 March.

- **The Local Electoral Administration (Scotland) Bill** (Para 2.13) – The bill passed its third stage in the Scottish Parliament on 16 March and Royal Assent would soon follow. Commissioners noted the improvements made to the administration and management of elections in Scotland and, in different ways, in Wales in recent years and the impact they had in highlighting the lack of coordination and leadership in English elections. It was suggested that the post-May poll reports should refer to this issue. The Board noted its thanks to staff in Edinburgh and Commissioners in their work to establish the Scottish Elections Management Board, which would now have a statutory basis.
- **Fixed Term Parliaments Bill** – The Government was considering a one-year delay to elections to the devolved Parliament and assemblies scheduled for May 2015 to avoid a clash with the UK Parliamentary general election (UKPGE). It was noted that work still had to be done to inform voters of the potential delay. More thought was required by Government officials on the electoral cycle and issues of combination and coincidence in general. The Commission would consider ways to encourage action on this issue and would track its progress.
- **PEF cases** – LK highlighted the handling of cases arising from the review of campaign expenditure returns submitted by parties that spent more than £250,000 on the 2010 UKPGE. The rules are very specific in terms of the timelines for the submission of invoices, the payment of claims and the retention of records. The Enforcement team commenced case reviews only in instances where the amounts at issue exceeded a £200,000 threshold. The goal was to contact the parties for clarification and to assess the source of the problems. Based on the information obtained, it appears that most of the problems were due to inaccurate reporting rather than actual lateness in receipt or payment of invoices. Commissioners asked that more thought be given to whether the deadlines given in statute for were realistic. PEF will monitor the situation in order to advise the Board at a future point.
- **PEF Online** (Para 1.9) – PEF Online went live on 10 March. The Commission had received positive feedback from external users of the system and work continued on incorporating minor changes to enhance the system's operation.

**Agreed:** That:-

- (a) post-May poll reporting refer to the lack of coordination in electoral management as increasingly becoming an issue across England;
- (b) further thought be given to ways in which the Commission could press the Government to consider electoral cycle issues; and,
- (c) PEF consider whether the statutory deadlines for invoicing and payment of claims relating to party campaign expenditure returns was realistic.

## 5 Chief Counting Officer decision-making: UK-wide referendum 5 May 2011 (EC 27/11)

- 5.1 JW updated the Board on the decisions made since the last meeting. Although some Counting Officers were unhappy with the framework of Chief Counting Officer directions, others had voiced their appreciation, stating that the instructions had clarified their functions and responsibilities.
- 5.2 In the light of the Commission's experience in discharging its responsibilities at the referendum, it was noted that a review of the Commission's role in the conduct of elections would form part of the post-poll reporting and be included on the Board's agenda at the June planning day.
- 5.3 The Board noted that a monitoring process was underway to ensure that CO activity was in line with the CCO directions. Commission staff were working closely with Regional Counting Officers in implementing the monitoring strategy.

### **Noted.**

## 6 Wales referendum – post-poll report and discussion of key issues (presentation tabled)

- 6.1 KJ presented a review of the Wales referendum. The Board reflected on the key issues to emerge from 3 March and discussed the proposed approach for the post-referendum report. IK reported on the recent post-Wales referendum seminar in Cardiff.
- 6.2 It was noted that an audit of Royal Mail's distribution had confirmed that more than 90% of households had received the Commission's public information booklet. Despite this, there was evidence of the booklet being enclosed in other leaflets during distribution which could lead to the information being overlooked and discarded. Commissioners suggested that the post-referendum report should make reference to the issue of 'bundling' by Royal Mail and the potential effect it could have on reducing public awareness by the booklet being in amongst a large quantity of free leaflets.
- 6.3 It was acknowledged that the post-referendum report for Wales would not specifically consider the impact on public awareness of placing

campaign arguments on the Commission's website. One suggestion was that further thought should be given to evaluating the effect of campaigners' information on the website and its potential value in informing the public.

- 6.4 Commissioners agreed with the approach that the report be based on a factual account of the referendum. In contrast to previous post-election reports, the richness of data for the Wales referendum report provided an opportunity to conduct useful analysis that could inform future decisions and focus on areas that required improvement. Other points made included the need for the report to be clear about what did **not** work and the importance of encouraging independent scrutiny of the effectiveness of the Commission's role in the referendum. Commissioners were invited to share their thoughts (including any based on past experience) on how best to encourage this scrutiny.

**Agreed:** That:

- (a) the post-referendum report make reference to the issue of 'bundling' of postal deliveries and the risk of reducing effective distribution;
- (b) further thought be given to evaluating the effect of campaigners' information on the website and its potential value in informing the public;
- (c) the report be based on a factual account of the referendum;
- (d) the report be clear about what did not work; and,
- (e) Commissioners consider and suggest ways of encouraging independent scrutiny of the report.

## 7 5 May polls – update (EC 28/11)

- 7.1 PW updated the Board on the overall preparations for the 5 May polls. PW noted the red risks on the Commission's 'dashboard' and updated the actions against them. PW also gave feedback on the lead campaign groups' views on the Commission's booklet. It was further noted that different issues were arising in different parts of the UK, depending on the specific combination of elections taking place on May 5<sup>th</sup>.
- 7.2 AR provided an update on the public awareness campaign for the UK PVS referendum.
- 7.3 The Board discussed the referendum recount process and the importance of ensuring that the recount rules were clearly understood by campaigners and COs. Commissioners stressed the importance of ensuring that the recount process was set up to handle recount

requests in a consistent way. AR confirmed that the media briefings for the 5 May referendum would provide detailed information on the process and rules that governed the count.

- 7.4 It was expected that there would be greater scrutiny of the cost of the referendum as a result of the total cost of the national poll being in the Commission's possession. Commissioners acknowledged the opportunity it provided to conduct analysis and inform decisions on the costing of future electoral events. It was noted that the Organisation for Security and Cooperation in Europe (OSCE) had been invited by the Foreign Office to send an observation mission to the referendum.
- 7.4 The Board wished to discuss the issue of whether to offer the designated campaigners for the UK PVS referendum the opportunity to provide a brief statement of their views for inclusion on the aboutmyvote website. The designated lead campaigners had already been offered the option of placing on the Commission's website links to their website.
- 7.5 JW and MC, as Chief Counting Officer and Deputy Chief Counting Officer, withdrew from the meeting. This was done to provide an assurance of complete separation between their statutory role in the Referendum, and the Commission's role of raising voter awareness of the arguments.

**JMcC took the chair (11.55am)**

- 7.6 AR reminded the Board about the decision it had taken for the Wales referendum to allow registered campaigners the opportunity to place 200 words summarising their arguments and a link to their website on aboutmyvote. AR summarised what the effect of this had been and set out some of the issues the Board should take into account when considering whether or not to make a similar offer to the designated organisations for the UK PVS referendum.

The Board reiterated that the decision for the Wales referendum was based on a specific set of circumstances, did not set a precedent and in particular related to the decision not to designate lead campaigning organisations.

- 7.7 The Board noted that the designated campaigners had welcomed the opportunity to provide a link to their websites on aboutmyvote. There had been no requests for the Commission to provide campaigners with the opportunity to précis their arguments on aboutmyvote.
- 7.8 Commissioners took into consideration the decision made on 18 March to designate the official lead Yes and No campaigners for the referendum and noted that it was the responsibility of the lead

campaigners to facilitate voters' access to their arguments. The Board also stressed the importance of maintaining the Commission's impartiality and independence.

**Agreed:** That the two designated lead campaigning organisations for the referendum on the UK parliamentary voting system not be offered the opportunity to provide a statement of up to 200 words on the Commission's website.

JW and MC returned to the meeting.

### **JW resumed the Chair**

## **8 Financial Plan, Budgets and Main Estimate 2011-12 (EC 29/11)**

- 8.1 CH gave a brief introduction. It was noted that the Commission's Financial Plan and draft Estimate were considered by the Speaker's Committee on 16 March.
- 8.2 The Board reiterated the importance of clearly differentiating between referendum related and non-referendum related expenditure in future financial reporting.

**Agreed:** That the Commission's Financial Plan and Budgets for 2011-12 be approved.

## **9 Code of Conduct for Electoral Commissioners (EC 30/11)**

- 9.1 Commissioners considered the revised version of the Code of Conduct.
- 9.2 In relation to paragraph 2.6 of the Code, concern was expressed that the paragraph was still too broadly drawn and Commissioners asked that the section be redrafted.
- 9.3 In relation to paragraph 3.8, Commissioners agreed that the issue of declaring meetings was wrongly positioned in the gifts and hospitality section.

**Agreed:** That:

- (a) the Code of Conduct be redrafted to incorporate the suggestions made above; and,
- (b) the revised draft be circulated to Commissioners by email for approval.

## 10 Board dates for 2012

- 10.1 It was noted that the first two Commission Board dates for 2012 given in the paper were incorrect. The first two meetings would fall on 18 January and 15 February respectively.
- 10.2 The Board noted the programme of Commission Board and Audit Committee meeting dates for 2012. Commissioners requested that their Outlook calendars be updated to include the programme of 2012 dates.

**Agreed:** That Commissioners' Outlook calendars be updated to include the programme of 2012 dates.

## 11 Chair's Report

**Noted.**

## 12 Meeting wash-up (Commissioners only)

The meeting ended at 12.30 pm.

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Chair