

Classification: Unprotected

Agenda Item no.3 (a)

Minutes of the meeting of the Electoral Commission held on Monday 1 August 2011 at 11.20am

Present: Jenny Watson (JW) Chair
Henrietta Campbell (HC)
Tony Hobman (TH)
David Howarth (DH)
Ian Kelsall (IK)
Lord Kennedy of Southwark (RK)
John McCormick (JMcC)
Rt Hon George Reid (GR)

In attendance: Peter Wardle (PW)
Lisa Klein (LK)
Andrew Scallan (AS)
Alex Robertson (AR)
Bob Posner (BP)
Kairen Zonena (KZ)
Richard Cavanagh (RC)

Samantha Mills (SM) – for item 5
Matt Longley (ML) – for item 5
Howard Crosskey (HC) – for item 5
Rosemary Davenport (RD) – for item 5
Tony Stafford (TS) – for item 6
Michael Gallagher (MG) – for item 6
Natalie Birtle (NB) – for item 6
David Aikin (DA) – for item 6
Steve Goodrich (GR) – for item 6
Rupert Grist (RG) – for item 6
Joe Hewton (JH) – for item 6

1 Apologies

Apologies were received from Max Caller and Carolyn Hughes. Clare Ettinghausen was now on maternity leave.

2 Declaration of Interests

2.1 There were no declarations of interest.

3a Minutes of the Commission Board of 25 May 2011 (EC 52/11)

Agreed: That the minutes of the meeting on 25 May 2011 be approved as a correct record and the Chair be authorised to sign them.

3b Minutes of the Commission Board of 6 July 2011 (EC 53/11)

Agreed: That the minutes of the meeting on 6 July 2011 be approved as a correct record and the Chair be authorised to sign them.

3c Decision Action tracker (EC 54/11)

On the White Paper "*Individual electoral registration: the Government's plans and the Commission's role,*" it was noted that the proposed response would be considered at the meeting of the Reference Group on Complete and Accurate Registers on 23 August. The Commission had been invited to give evidence to the Political and Constitutional Reform Select Committee on 15 September 2011. The Commission's response would be discussed at the next Commission Board meeting on 21 September, prior to being formally submitted to the government in October.

Noted

4 Update from Chief Executive for May (EC 55/11)

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

- **Police and Crime Commissioner (PCC) Elections** (para 1.2) – PW informed the Board that JW and AS had met Ministers and officials in the Home Office and Cabinet Office the previous week to discuss progress in preparing for the proposed police and crime commissioner (PCC) elections in England and Wales. Although some progress had been made on establishing criteria for the conduct of the proposed elections, progress on arrangements for party and candidate regulation was slow. The time left to resolve these was fast diminishing, especially considering the potential timetables for any regulated periods, and the need to issue instructions to those running the elections and taking part in them. JW had written to both ministers outlining our concerns.
- **Statement of accounts from political parties** (para 1.3) – PW reported that publication of political parties' accounts for 2010 had generated good press interest.
- **Sanctions on regulated individuals who report donations late** (para 1.7 to 1.10) – a brief discussion took place on the issue of MPs being exempt from Commission sanctions for late, erroneous or non-reporting of donations (as they now reported donations only to the Registrar of Members' Financial Interests (RMFI), so were not subject to the Commission's sanctions for failures to report donations, unlike other regulated individuals). Candidates standing for election for Mayor of English cities or for the position of PCC could include both MPs and non-MPs, subject to different reporting and sanctioning regimes. The consequences of this would be discussed further with the House of Commons authorities, but in such a way as to clearly rule out any suggestion of a desire to re-visit the arrangements that had been made to end dual reporting.
- **2011 Polls: Disqualification in Wales** (para 2.7 to para 2.11) – PW noted that the Welsh Language Board were now investigating and were likely to take a clear view based on the Commission's failure to adhere to its own Welsh Language Scheme. Steps had been taken to tighten up processes to minimise the likelihood of a recurrence.
- **2011 Polls: Referendum Expense Claims** (para 2.9 – 2.12) – PW reported that claims were being submitted by counting officers (COs), and reminders had been sent. Steps were in hand to rectify an issue with the way some COs had treated their expenses payments. A further issue related to COs' superannuation payments, and while this was being resolved by DCLG, COs had been asked to log their expected superannuation costs in order not to delay submission of their overall expenses claims.
- LK updated the Board on the position in relation to a number of specific PEF cases.

Noted

- 5 Public awareness strategy – 2012 elections (EC 56/11)
- 5.1 AR introduced the report, informing the Board that while the original focus of the 2012 public awareness campaign had been based on voter registration only, it was now proposed to broaden it to include information about how to vote. This was due to the likely extension of electoral events in May 2012 to include Police and Crime Commissioner elections which would be conducted using the Supplementary Vote system.
- 5.2 The combination of electoral events in May 2012 meant that voters would be required to use a range of different voting systems: AMS, SV, STV and FPTP. Research and data gathered from previous elections had shown that voters' understanding of the SV and STV systems was consistently low and therefore a voter information campaign would be required to educate voters on how to cast their vote.
- 5.3 The budget implications of the additional public awareness campaign on voter information amounted to up to £2m million above the current budget of £4.43 million, leading to a total budget requirement of up to £6.43 million, spread between the 2011-12 and 2012-13 financial years.
- 5.4 With the approach of individual electoral registration, it remained important that people know how to register to vote, and the 2012 public awareness campaign would be useful in terms of a longer-term strategy of public awareness around voter registration and the move to IER.
- 5.5 The Commission would provide top line information which could be used by local authorities, but local authorities would also need to consider their own public information work in relation to specific local issues such as Mayoral Referendums. The level at which partner campaign organisations (e.g. Police Authorities, Local Authorities, the Home Office for PCC elections) would get involved had yet to be established and would be discussed further.
- 5.6 The Commission had good evidence that public awareness campaigns led to greater **awareness** of electoral events, registration, and successful voting. It was more difficult to establish a direct link between the Commission's public awareness work and numbers of people registering to vote, as the campaigns took place in support of a wider range of activity, including the annual canvass; , but there was good evidence of people using the Commission's helpline and website to obtain registration forms, which reflected the key 'call to action' in our

registration campaigns. All the relevant evidence would be set out for the Speaker's Committee to support the Commission's bid.

- 5.7 The additional £2 million expenditure would be spent on printing (circa £1 million) and distributing (a further £1 million) an information booklet. The existing budget provided for a multimedia campaign (TV, radio, online etc.) and the communications planning agency which successfully tendered for the contract would be expected to advise on the best communications mix, including social media. While the proposed expenditure on planning would be necessary for 2012, whatever combination of elections take place next May, the Commission would need to be clear with the Speaker's Committee that – as in the run-up to the 2011 polls – it might be necessary to commit expenditure on the public information booklet before legislation for PCCs was in place.
- 5.8 The Speaker's Committee would receive an outline plan in September together with a request for in-principle agreement for additional resources of up to £2 million.

Agreed: That the expanded two-phase voter public awareness campaign now based on registration **and** voter information, arising from the additional electoral events currently planned to take place in 2012 and the number and variety of electoral systems to be used, be approved, together with a request for an associated budget increase of up to an additional £2M above the current budget of £4.43M making a total budget requirement of £6.43M, spread over the 2011-12 and 2012-13 financial years.

6 Developing the agenda for PEF regulation (EC 57/11) (A presentation was tabled)

- 6.1 LK spoke to the additional presentation, copies of which were tabled. Slides set out how the Commission's core principles outlined in the July awayday applied in the PEF context. Commissioners were asked to consider the following questions:
- 'how do the Commission's core principles apply in the PEF context?',
 - 'what do these principles tell us about our future role as a regulator?',
 - 'what is the Commission's appetite for risk in its regulatory work?', and
 - 'what would assist the Board in monitoring PEF's work?'

How do the Commission's core principles apply in the PEF context?

6.2 During discussion, points were made as follows on the principles the Commission had previously discussed:

- Five core principles were too many and should be reduced, perhaps to three. A review of principles applied specifically in the party funding context elsewhere in the world did not suggest that any fundamental principles were missing from the Commission's thinking. However, the Commission asked ET to ensure that certain key points were reflected in the development of the Commission's principles – in particular, the health/sustainability of political parties and the importance of free expression at elections
- The Board agreed to review the results of ET's thinking at the September Board meeting, together with ET's more specific proposals on how to assess how well the Commission's principles are currently being met in the UK, to inform discussion of the Commission's priorities for the future.

What do these principles tell us about our future role as a regulator?

6.3 The Board went on to consider the regulatory role of the Commission in the light of the discussion on principles, and our core function of monitoring and driving compliance with the PPERA framework. Slide 6 of the presentation detailed the current scope of the Commission's role and the options for the future. The Commission currently regulated, commented on the workability of proposals for change, and reported on how the system was working. Other options to consider included:

- explaining what the system doesn't do;
- finding ways to implement others' principles;
- analyse and advocate options for change based on Commission agreed principles;
- and develop our own regulatory framework on those agreed principles.

Commissioners considered where along this spectrum the Commission should position itself, and commented as follows:

- A feedback loop/circle would be a useful visual representation of the Commission's work and its impact.
- The Commission already reports on and regulates the system, and where it doesn't work well, we say so, and make recommendations to Parliament for change. To date, we have done this more successfully in matters of electoral administration; we need to become appropriately influential in matters of party finance.

- Finding ways to implement others' principles was not supported, as this could lead the Commission into political controversy because of its perceived support for others' positions.
- There was general support for evaluating options for change based on our core principles; it would be important to communicate our conclusions on the basis of evidence and principles.
- The Commission was not a campaign group, and Commissioners were not attracted to describing our activity as 'advocating' change; they invited ET to consider alternative language.
- It would of course be for Parliament(s) and Assemblies, as appropriate, to consider and decide on any proposals we put forward.
- It was noted that in spite of a number of parliamentary reviews of party funding over the last 30 years, party funding was an area where it was particularly difficult to achieve legislative change.

6.4 Commissioners then considered a hypothetical scenario (slides 8 and 9) involving a proposed change to party funding, to test whether the Commission's principles helped establish a clear position; they found these worked well. Commissioners commented as follows:

- The first questions in considering our response to any proposal should always be, why was it being proposed? was it consistent with the core principles? and was there evidence to support that?
- The next questions should then be: was it workable? Could it be regulated?
- The Board expected staff to anticipate certain proposals and be ready to consider responses in advance, based on this approach

What is the Commission's appetite for risk in its regulatory work?

6.5 The Board then discussed the issue of risk, looking in particular at the issue of permissibility checking and whether it was appropriate just to check samples of returns, using a risk-based analysis, rather than all returns. During discussion, the following points were made:

- In general, it would be necessary to see how the Commission principles connected to our regulatory (and other) functions and our choices about how we regulate, to decide what our risk appetite should be.
- The Commission's role needed to be well and truly understood at large, to minimise the risk of people perceiving a failure on the part of the Commission for something that was not in fact within its remit, and to raise awareness of the Commission taking the interests of the voter as its starting point.

- The Commission also needed to have a good understanding of the public expectation of its role when assessing risk appetite, as perception and expectation itself gave rise to risks.
- While in principle there was support for permissibility checking by sampling, if others discovered impermissible donations not picked up by the Commission, the effects could be disproportionately damaging and difficult to manage.
- At present the public would almost certainly expect the Commission to check every return and it would be difficult for the Commission to explain the rationale of risk-based sampling in the face of a groundswell of public opinion. This would probably continue to be a risk, even with a strong message about the Commission's role.
- If the Commission required others to supply the information, it should not then simply ignore it. We could not legitimately plead an 'HMRC defence' (not checking every tax return because the scale was too great) as although it was resource-intensive, it was currently manageable.
- This led to a general consideration of whether the Commission needed to continue collecting information in the same detail, and the Board was advised that changes were already taking place which would reduce the burden of checking in some respects: for example, automation and the introduction of a reference number for regulated donees which could be used by both the parties and the Commission to ensure that there was no confusion over a donee's identity caused by duplicate records in either system (Party or Commission). Additionally the Commission could audit the party's process for confirming the permissibility of the donations, thereby shifting the burden of permissibility checking.

Agreed: That:-

- (a) Five core over-arching principles were too many and should be reduced to perhaps three;
- (b) further work be done by ET to develop the three principles, and key sub-sets, ensuring that certain key points arising from the discussion were reflected in the development of the Commission's principles – in particular, the health/sustainability of political parties and the importance of free expression at elections;
- (c) ET report back to the next Board meeting with more specific proposals on how to assess how well the Commission's principles are being met in the UK, and to inform discussion of the Commission's priorities for the future;
- (d) reference be made when assessing proposals to a three-pronged checklist of 'Why is the proposal made, how does it support the principles, and what is the evidence for that?' along with the practical

questions 'Is the proposal workable?' 'Is the proposal practicable i.e can we regulate it?'; and

- (e) ; the issue of levels of assurance to help the Board monitor the work of PEF be considered in detail by the reference group on future direction and approach to regulation of party funding and proposals be brought back to the Board, it being noted that HC would join the reference group for the remainder of her term.

7 Reappointment of the Independent Chair of the Audit Committee (EC 58/11)

The Board agreed Liz Butler's reappointment as Independent Chair of the Audit Committee. Following the expiry of this next term, the appointment would be subjected to an external recruitment process.

Agreed: That Liz Butler be reappointed as the Independent Chair of the Audit Committee on the current terms and conditions from 12 September 2011 to 11 September 2014.

8 Draft minutes of the Audit Committee meeting of 28 June 2011 (EC 59/11)

Noted

9 Chair's Report (EC 60/11)

JW reported that the Canberra meeting was very useful and led to a number of interesting debates and discussions. JW pointed out that Commissions in Canada and Australia (as with the EC in the United Kingdom) were having debates about their role and scope, and that the workshop had provided a useful forum for these discussions.

Noted

10 Meeting wash-up (Commissioners only)

At the end of the Board meeting the Commissioners held their customary meeting wash-up.

The meeting ended at 3.05 pm.

Chair