

Minutes of the meeting of the Electoral Commission held on Wednesday 7 July 2010 at 9.30am

Present: Jenny Watson (JW) Chair
Henrietta Campbell (HC)
Tony Hobman (TH)
Ian Kelsall (IK)
John McCormick (JMcC)

Elizabeth Butler (EB) Independent Chair of Audit
Committee

In attendance: Peter Wardle (PW)
Carolyn Hughes (CH)
Stephen Rooney (SR)
Andrew Scallan (AS)
Lisa Klein (LK)
Bob Posner (BP)
Kairen Zonena (KZ)
Joel Blackwell (JB)

Tom Hawthorn (TH1) – for item 4a
Christie Dennehy (CD) – for item 4a
Bola Bajomo (BB) – for items 5 and 6
Louisa Parry (LP) – for item 7
Helen Reeves (HR) – for item 8
Tony Stafford (TS) – for item 9
Natalie Birtle (NB) – for item 9
Jerome Mallon (JM) – for Item 9
David Aikin (DA) – for item 9

1 Apologies

Max Caller for absence.

2 Declaration of Interests

None.

3a Minutes of the Commission Board meeting of 26 May 2010 (EC54/10)

- 3.1 In relation to minute 2, TH asked for an amendment to reflect the fact that in his new role as Chief Executive of the Consumer Financial Education Body, TH declared that in his new role as Chief Executive of the Consumer Financial Education Body, the Treasury was the department with primary interest, and in that capacity he had and would continue to have contact with the Financial Secretary to the Treasury, Mark Hoban.

Agreed: That, subject to the amendment above, the minutes of the Commission Board meeting held on 26 May 2010 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC55/10)

- 3.2 It was noted that the paper on the Commission's approach to the registration of party names, descriptions and emblems previously scheduled to appear on the agenda was to be considered at the September meeting (see also minute 9.4 below).

Noted.

4 Update from Chief Executive for July (EC56/10)

- 4.1 PW highlighted key aspects of the Chief Executive's report. These included:
- PEF online (para 1.4) – Following a discussion at the Audit Committee on 30 June, PW and LK would be considering ways to provide more regular information on PEF Online between now and when it goes live at the end of 2010. JW relayed a comment from MC which stated that while he was aware that the project appeared to be back on track, he wanted clearer information on the potential benefits of PEF Online and whether they would be delivered. It was agreed that this would be provided to the September meeting, together with a practical demonstration of the system over a slightly extended break. TH asked for the information to cover how the new system could be used to help identify trends and potential risk issues.
 - Wales Referendum (Para 2.3) – Commissioners noted that the assessment of the proposed referendum question was underway and that it was the Commission's intention to publish the results of the assessment on its completion. The Commission was due to submit its advice to the Secretary of State at the beginning of September, and a Commission Board decision would be required in August, further details of which would be advised. If the Commission were not

satisfied with the intelligibility of the question, there would be little time for any iterative process. However, AS was hopeful that the question formulation was straightforward enough not to need significant revision. It would only be legally necessary for the Commission to review it further if an amended question were very different. JW undertook to get Commissioners something in time to allow some time for reflection, notwithstanding the tight deadlines everyone would be working to.

- 4.2 PW commented on the Speaker's Committee meeting held on 6 July 2010 which considered Commission accommodation and resources. It was noted that the meeting was positive and that the Speaker's Committee agreed that an exception to the Treasury freeze on advertising and media spending should be made for the planned public awareness campaigns in the run-up to the Wales referendum in March 2011, and the referendum and scheduled elections in May 2011. The Committee also approved the Commission's plan to spend up to a specified limit on preparatory work (such as question assessment) for the proposed Alternative Vote referendum, expected to take place in May 2011, but to bring a detailed bid for a Supplementary Estimate for the full 2010-11 costs of preparing for the AV referendum to the Speaker's Committee in September or October 2010.

Agreed: That:

- (a) Information listing the anticipated benefits, and likely delivery, of PEF Online be included alongside the next Chief Executive's update to the September meeting, together with a practical demonstration on 7 September;
- (b) It be noted that a Board meeting would be convened during August to consider the Commission's response on the Wales referendum question, and that every effort would be made to get Commissioners as much information as possible in good time before the meeting, but that inevitably there would be a very quick turnaround, especially on the recommendation itself.

- 4a Commission position on combined referendums and elections on 5 May 2011 (EC56a/10 – additional paper)
- 4.3 AS presented the report and invited the Board to consider a proposed statement by the Commission on the timing and combination of the UK-wide referendum on the voting system for the UK Parliament with other elections on that date.
- 4.4 The Commission Board was in agreement with the views expressed in the statement not to oppose holding a referendum on 5 May 2011, as long as the practical risks could be mitigated. Commissioners acknowledged the concerns raised over the timing of the referendum but accepted that the Commission's focus should be the experience of

the voter, and how to mitigate potential confusion and other risks that were identified.

- 4.5 JMcC pointed out that in Scotland there was a perceived risk that the referendum could compete for attention with the Scottish Parliament elections. The Commission would need to be clear about how to safeguard other elections, and the clarity of the process for the voter. It would also be important to explain clearly the reasons why the Commission was not taking the same view as it expressed in 2002 (when it came down against combining a proposed UK-wide referendums with elections scheduled for 2003), referring to the Commission's previous consideration of international evidence of the effects of combining different polls. (A summary of the evidence was included at Appendix B of the paper). The need to recognise and protect the importance of all polls taking place on that day should be to the fore in the Commission's message and responses.
- 4.6 It was agreed that the statement would be revised to emphasise the Commission's intention to deliver a well-run referendum which started from voters' experience and well-run elections already scheduled for May 2011. It would also acknowledge that the Commission's decision on combination had been revised in the light of consideration of international evidence. The Board noted that the decision on whether or not to combine the AV referendum with scheduled elections was for the UK Parliament to take, and would be influenced by a range of factors, not all of which fell within the Commission's remit. The statement should make clear that the Commission saw its primary role as to identify risks to well-run polls, and how to mitigate them.
- 4.7 SR informed the Board that once the text of the proposed statement had been agreed, it would be released to coincide with the introduction of the referendum bill to parliament, expected in the week commencing 19 July. A letter explaining the Commission's position would be sent to key stakeholders (including the Deputy Prime Minister, opposition spokespeople, devolved administrations and key electoral administration stakeholders).
- 4.8 There was a discussion on the difference between (a) formal combination of the referendum and elections and (b) holding the two electoral events concurrently. The referendum bill was not expected to include combining provisions. Instead, the legal framework for combination would be included as amendments at a later stage. The Commission's position was that combined polls were better than concurrent, as it was administratively much more straightforward, and less susceptible to confusion. In addition, a high degree of co-ordination would be needed from the government itself, to ensure a coherent and consistent message to the various entities involved in running the elections.

- 4.9 AS also raised the issue of deciding who would be Chief Counting Officer (CCO) so that the Commission could be clear to its stakeholders about roles and responsibilities. Following a short discussion it was agreed that the relevant considerations would be set out in a relevant written memorandum for the Board. JW added that AS had been asked to produce a timetable of referendum decisions which would need to come to Board.

Agreed: That:

- (a) The statement at Appendix A of the paper be revised to take into account the points made by Commissioners in discussion
- (b) Commissioners be consulted on tone and language of the revised statement prior to publication;
- (c) The decision on CCO for the AV referendum be followed up by written memorandum; and
- (d) A timetable of referendum decisions be produced for the Board.

5 Audit Committee annual report 2009–10 (EC 57/10)

- 5.1 EB introduced the report and summarised the work of the Audit Committee over the last year. She highlighted the progress made in the reporting of risk management and information governance. The Board noted that the number of recommendations made by the internal auditors was in line with expectations, and that appropriate action had been taken in response to these recommendations.

- 5.2 Other specific points she highlighted included:

- The number of audit recommendations looked high, but auditors were directed to areas of known weakness, and there was a degree of overlap between them. An audit recommendation action tracker was keeping track of their implementation
- The NAO had nearly concluded their audit of the 2009-10 resource accounts and had been helpful, although they were not set up to audit relatively small organisations such as this one. Their value for money (vfm) audits had been useful, particularly the round-up study they had done in 2009-10 of the previous audits. The topic for 2010-11 had not yet been agreed.
- The appointment of an independent chair of the Audit Committee added to the rigour of internal control.
- The Committee would embark on an annual review of effectiveness at its autumn meeting.

- 5.3 EB was able to give an adequate assurance on behalf of the Committee that there were adequate reliable safeguards in place which had integrity, that the Audit Committee was acting effectively and covering the areas it should do, and that the auditors were able to operate without undue influence.

- 5.4 There were questions about the levels of assurance used in internal audit reports (“adequate” and “substantial”), the proportionality of some of the recommendations made, and the need on occasion for management to be more robust in rejecting recommendations which were not right or were disproportionate.
- 5.5 It was noted that EB and JW would meet approximately quarterly, or would be in more immediate contact if events warranted it.

Agreed: That the annual report be noted and endorsed in support of the Statement on Internal Control and resource accounts.

6 2009–10 accounts and annual report (EC 58/10 and EC59/10)

(a) 2009–10 Resource accounts

- 6.1 CH advised that the version circulated to Board members had been updated since the date of circulation. The most significant issue had been the non-current asset revaluation which had affected the bottom line by £40,000. There would be no other changes to the bottom line. The NAO had endorsed the revised version of the accounts and was expected to give an unqualified audit opinion. The forecast resource financial position resulted in an overall under-spend of £840,000. The NAO and BB were to meet again later that day, after which EB would review the accounts again, they would be signed by PW as Accounting Officer, and then by the Comptroller and Auditor General in the week beginning 12 July.
- 6.2 EB commented on the lateness of the accounts and said she had asked for an exercise to find out why and avoid a similar occurrence next year.
- 6.3 TH suggested that he be included in the remuneration table on page 15 as ‘£0’, and that paragraph 4.22 should refer to ‘weaknesses’ rather than ‘risks’.

(b) Annual Report 2009-10

- 6.4 It was noted that Table 16 (net operating costs by aims and objectives) would change, and agreed that EB’s fees would be included on page 40.
- 6.5 There was brief discussion on the extent to which the document should combine looking forward with a review of the previous year, and it was agreed that it was something which while desirable was difficult to achieve in practice without becoming confusing and overlapping with the Corporate Plan. However, a further attempt to review ways in which it might be possible to locate the Commission’s performance in a more comprehensive or longer term view could be undertaken at the

Corporate Planning stage in the autumn. The foreword should be signed by JW and/or PW.

Agreed: That

- (a) Subject to the amendments at paragraph 6.3 above, and satisfactory sign-off by EB, the revised resource accounts 2009-10 be signed by PW and submitted to the Comptroller and Auditor General in the following week;
- (b) The Annual Report incorporate any changes to table 16 arising from amendments to the resource accounts, the addition of EB's fees on page 40, and the signing of the foreword by PW/JW, and be approved to be published and laid before the UK Parliament.

7 Strategic risk register (EC 60/10)

- 7.1 LP briefly described the changes that had been asked for at the last Board meeting and which had now been incorporated, with further revisions in progress. Key risks would be drawn out in the cover report, and risks which appeared in slightly different ways under different strategic risks (IER 'not implemented' and 'poorly implemented') would be consolidated. EB reported that the Audit Committee had asked for any learning that could be derived from closed risks to be included. She added that often a combination of small things could come together to cause more problems than one obvious and significant risk.
- 7.2 The difficulty of ensuring that emerging risks were spotted and captured early was touched on, but regular review and a growing awareness of risk at all levels of the organisation was leading to faster identification, assessment, and inclusion on the register where necessary.
- 7.3 LP was thanked for her work in producing the framework in accordance with the Board's wishes.

Noted

8 Accommodation – business case and options appraisal London office (EC61/10 and presentation, tabled)

- 8.1 CH introduced the presentation with HR. Among questions asked were how often staff had meetings in Westminster and whether this would entail a hidden cost for the City location. CH said that a survey of 20 senior staff revealed that 16 had regular face-to-face meetings at Westminster, and typically these numbered about 70 per month in total. While the travelling time from either location would be a little longer, the greatest effect was expected to be on the way people managed their diaries.

- 8.2 The principal factors influencing the choice were savings, and the flexibility of the proposed floorplate.
- 8.3 JW reported that the Speaker's Committee the previous day had asked questions and expressed itself content with the proposed plan. JW relayed MC's comments to the Board.
- 8.4 In relation to next steps, HR said PW hoped to put out a message to staff before the end of the week, negotiations would be undertaken, and once confirmed the project management company would move to design stage, and the staff focus group would be involved in discussions about desk-sharing and other aspects of the move. The aim was for the lease to be signed off in September, with a target date of late December for the move.

Agreed: That:

(a) a commercial lease be sought in respect of space in 3, Bunhill Row, London and that the estimated costs and associated funding proposals be agreed as set out in paragraphs 4.18 and 4.19 of the paper; and
(b) should, for any reason, negotiations on the space in 3, Bunhill Row not be brought to a satisfactory conclusion, negotiations be pursued for an appropriate lease for accommodation in 157-195 Buckingham Palace Road, a building on the Civil Estate and owned and occupied by the National Audit Office.

9 Party and Election Finance: a look back, a look forward (presentation, tabled)

- 9.1 The presentation was in two parts (lessons learned and issues on which the views of the Board were sought) over four areas of work - Casework review; Two-tier case system; Party registration issues; and Risk re-profiling.

Casework review

- 9.2 NB introduced the slides which reviewed the management of three major cases, including the problems encountered and lessons learnt. During discussion the following points were made:
- Attention needed to be paid to how to keep the Board advised of crucial developments, either formally or informally
 - The extent to which new enforcement powers would enhance the ability to gain information from those under investigation
 - But care should be taken not to lose the benefits of a constructive relationship with the party to enable voluntary co-operation where possible
 - Doing what we can on a case as early as possible and working concurrently on aspects of the case rather than consecutively so ensuring the case is moved on wherever possible

- Consider how to brief Devolved Office heads on enforcement decisions (noting those where they might need or wish to keep a distance)
- Undertaking case de-briefs at the end of cases to see what lessons could be learnt and how we could achieve continual improvement.

Two-tier case system

9.3 NB briefly introduced the slides on the current arrangements. Points were made as follows:

- The distinction between 'case review' and the more serious 'investigation' was likely to disappear with the increased use of section 146 notices
- Still beneficial for those subject to malicious allegation to retain a swift way of dealing with cases
- Useful to adopt 'the Electoral Commission is looking into the matter' when responding to questions about cases?

Party registration issues

9.4 TS introduced the slides on registration, briefly outlining key issues that had arisen during the year. Some of these could be resolved quite easily by tweaking legislation or requiring those preparing legislation to take account of Commission guidance. A case of a party registering an emblem that could be associated with another party had raised more substantive issues about the breadth of the Commission's discretion on matters of registration, and a paper on that issue would be submitted to Board in September.

Risk profiling

9.5 TS and JM outlined the changes to the proposed scoring and presentation of risk profiling since the Board last considered the issue in December 2009. The launch of risk profiling would be preceded by publication of a policy document setting out the context and the purpose of risk profiling – a more consistent and transparent basis for auditing, and a means of targeting advice and guidance.

9.6 It was felt that the document should also set out clearly what risk profiling would mean for the parties and how they would be expected to use it. The profiling results and their consequences would be communicated to each of the parties on a regular basis.

9.7 It was agreed that a revised version of the profiles should be drawn up, together with a policy statement, to be reviewed by the Reference Group before informal consultation with the larger parties in the autumn, prior to the introduction of new powers in December.

Agreed: That:

- (a) LK prepare information on other models of regulatory decision-making for Board consideration and decision later this year or early in 2011, on a timetable to be agreed with PW and JW;

- (b) In relation to two-tier case management, a paper be submitted to Commission Board in September proposing changes to the two-tier system taking into account the points made at paragraph 9.3;
- (c) A paper on the issues arising from registration of a party emblem associated with another party would be submitted to Commission Board during the autumn; and
- (d) Revised “hard” and “soft” risk assessment profiles would be finalised on the basis of the models used at pages 18 and 20 of the slides, together with a policy statement which incorporates the points at 9.5 and 9.6 above; and
- (e) Both these be considered by the Commissioner Reference group, prior to informal consultation with the larger parties in the autumn, aiming for publication to coincide with the introduction of new powers in December 2010.

10 Chair’s report

- 10.1 The Deputy Prime Minister had asked to meet JW again before the introduction of the AV Bill. Further meetings had taken place with MPs over close of poll issues.

Noted

11 Meeting wash-up (Commissioners only)

The meeting ended at 2.50pm.

Chair