

**Classification: Unprotected**

## Agenda Item no.3 (a)

# Minutes of the meeting of the Electoral Commission held on Wednesday 25 May 2011 at 9.30am

Present: Jenny Watson (JW) Chair  
Max Caller (MC)  
David Howarth (DH)  
Ian Kelsall (IK)  
Lord Kennedy of Southwark (RK) (until 10.50am)  
John McCormick (JMcC)  
Rt Hon George Reid (GR)  
Tony Hobman (TH)

In attendance: Peter Wardle (PW)  
Clare Ettinghausen (CE)  
Carolyn Hughes (CH)  
Lisa Klein (LK)  
Andrew Scallan (AS)  
Bob Posner (BP)  
Kairen Zonena (KZ)

Tom Hawthorn (TH<sup>1</sup>) – for item 5  
Kay Jenkins (KJ) – for item 5  
Seamus Magee (SM) – for item 5  
Andy O’Neil (AON) (by video-conference) – for item 5  
Ailsa Irvine (AI) – for item 5  
Katy Bere (KB) – for item 5  
Tony Stafford (TS) – for item 5  
Adrian Fryer (AF) – for item 5  
Louisa Parry (LP) – for item 6  
Elena Crini (EC) – for item 6

## 1 Apologies

Apologies were received from Henrietta Campbell.

In relation to Baroness Browning, it was noted that with her appointment to a ministerial post, she would no longer take an active role as an Electoral Commissioner. The Board recorded their congratulations on her appointment.

## 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 changes to the voting system. 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 changes to the voting system. 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 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.
- 2.5 RK had spoken in favour of running pilot schemes or holding local referendums before introducing Police and Crime Commissioners, at the second reading of the Police Reform and Social Responsibility Bill in the House of Lords on 27 April 2011.

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

3a Minutes of the Commission Board of 14 April 2011 (EC 43/11)

**Agreed:** That the minutes of the meeting on 14 April 2011 be approved as a correct record and the Chair be authorised to sign them.

3b Decision Action tracker (EC 44/11)

**Noted**

4 Update from Chief Executive for May (EC 45/11)

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

- **UK-wide steering group to ensure the successful delivery of the spring polls** (para 2.5) – this had met on 17 May. The majority of the members of the steering group thought the Commission had done a good job, providing leadership and consistency, and wanted the group to continue. A meeting had been scheduled for June, to which the Home Office would be invited, to address the group on the Police and Crime Commissioners Bill. (A separate meeting on this subject would also be organised with the Westminster PPP).  
Current thinking was that the group should continue as a focus for senior statutory Returning and Electoral Registration Officers, with fresh terms of reference; and that some supporting sub-groups (for example on communications) should also continue, as these had proved useful – again, the terms of reference, especially the relationship to the main group, should be reviewed.
- **Judicial review, Freedom of Information and other appeal cases** (para 1.10) – The positive outcome to the pre-poll judicial review was noted. Meanwhile, there were currently a number of FOI appeal cases ongoing, relating mostly to requests made in previous years for information on regulatory matters.
- **Statements of Account** (para 1.7) – Following feedback from political party working group discussions, we have prepared draft guidance and

circulated it along with a prototype of a new on-line statement of account tool. Some parties requested additional time to respond and that has been agreed. We plan to issue guidance by the end of June depending on the nature of the feedback we receive. .

- **Party & Election Finance cases** (para 1.9)
  - Negotiations on **partial forfeiture** of a number **of donations** (action on which had been postponed pending the Supreme Court UKIP judgement) were nearing conclusion.
  - The **new sanctions** were applicable for the first time in connection with the 2010 Quarter 4 statutory returns. Of the 14 parties which had failed to file returns on time, it was not possible to prove lateness beyond a reasonable doubt in six of those cases. Of the remaining eight, two of the parties de-registered, and the other six were small parties and we issued warnings to them for their late filing.
  - A complaint alleging RPA breaches by Chris Huhne MP had been assessed and was deemed not to require further consideration. Notification to those involved was being written to that day.
  - We had had useful discussions with the Procurator Fiscal about how to proceed should there be any excessive expenditure allegations involving the use of **Scottish Parliament communications allowance** in the May 2011 elections. We established respective points of contact, agreed the need for clarity and acknowledged that the Procurator Fiscal would take the lead given the Commission's limited investigative powers and lack of civil sanctions with regard to potential RPA offences .

### **Noted**

- 5 May 2011 elections/referendum: post-poll report and discussion of key issues (tabled presentation and tabled facts and figures sheet)
  - 5.1 AS, KJ, SM, AON, TS and LK all spoke to the presentation, copies of which were tabled. Slides set out what the Commission was reporting on, headline facts and figures from the May polls, top line findings from public opinion research, and issues in each of Wales, Northern Ireland, Scotland, and England. Several slides reviewed the legislative timetable, the impact of it on the Commission's functions of question assessment, designation and campaigns, and the issues this raised. The remaining slides touched on the public awareness campaign, and the experience of issuing directions, in addition to the more usual guidance and monitoring.

- 5.2 In relation to each of Scotland and Wales, AON and KJ reported on issues which had arisen in their respective areas. In Scotland, the different voting systems which might have led to confusion, potential problems with colours of ballot papers not being sufficiently distinctive, and party descriptors. In Wales, 'referendum fatigue', the perception that the Commission could direct timing of the National Assembly count when it could not, the regional ballot paper and the police investigation into potential criminal offences committed by two Assembly members who were office holders. On this latter point it was recognised that the Commission would need to consider what lessons were to be learnt; and how to handle the issue externally. In relation to Northern Ireland, SM indicated that the most significant issue arising from the polls was verification and the count. He confirmed that the Chief Electoral Officer Northern Ireland was committed to working with the Commission.
- 5.3 Commissioners were then invited to consider the questions on the third slide, namely 'What seemed to work well for the spring 2011 polls – and how can we incorporate lessons learned for future polls?'; 'how do we make the invisible side of the Commission's work more visible to key stakeholders?'; 'who do we need to hear those messages, and how should they hear it?'; and 'what might we have missed?'
- 5.4 It was agreed that overall the polls had gone smoothly, and the Commission's positive role in this had been generally appreciated by those involved in delivering the elections. The report should set out how this was achieved, and pay tribute to the efforts of all those involved.
- 5.5 During discussion, points were made as follows:
- Evidence should be given on the ways in which the Commission's actions led to improved confidence and satisfaction levels
  - Top line public opinion research findings were generally positive, but with some inconsistencies which would be explored further.

**Agreed:** That: –

- (a) The framework for the May polls report agreed by the Board in October 2010 be endorsed;
- (b) The report on the May 2011 polls set out how these complex polls had been successfully run and managed, with evidence on the impact of action taken by the Commission;
- (c) The underlying data which shows where what we did made a difference be shared with Commissioners (so that where directions led to different outcomes, this be quantified and shared);
- (d) The changed approach to performance standards be endorsed;

- (e) Any concrete recommendations for change be circulated to the Board before the report is finalised;
- (f) Careful thought be given to sharing our emerging thinking informally with key stakeholders, to move us to the stage where we have more consensus and therefore more acceptance of a case for change
- (g) The fuller research findings be presented in a briefing session, to which Commissioners would also be invited; and
- (h) One or two Commissioners be invited to volunteer to read the final report, with JW, prior to submission (names to be passed to the Chair).

6a Performance, risk and finance report: Quarter 4, 2010-2011 end-of-year report (EC 46/11)

- 6.1 The figures in the report were still subject to audit, but the overall picture was broadly good in terms of achievement of objectives, and spending within existing resources. Detailed explanations of spending were set out at paragraphs 4.1-4.13.
- 6.2 PW added that the Commission was continuing to perform more efficiently, and savings which had been made were sustainable.
- 6.3 LP reminded the meeting that the end-of-year report will be used as the basis for the Annual Report this year and that the published Annual Report will be combined with the Accounts.
- 6.4 LP was commended for her work on the report.

**Agreed:** That the report be approved as the basis for the Annual Report 2010-11.

6b Performance, risk and finance report: 2011-12 strategic risk register (EC 47/11)

- 6.4 LP said the report had been brought at an early stage to sound out the Board on the suggested risks, causes and impacts, and seek any additions and amendments. Armed with those views, she would then complete the report with mitigations, scorings, and action.
- 6.5 A clearer idea of strategic risks could be formed after the Board's strategy planning day on 6 July.

- 6.6 It was suggested that Commissioners be invited to volunteer a number of issues they saw as strategic risks, and that these would provide a starting point for discussion, and feed into the strategic risk register.

**Agreed:** That:

- (a) Commissioners be invited to submit a small number of issues they regard as key strategic risks, for subsequent discussion; and
- (b) The Strategic Risk Register be further updated following the Board's strategy planning day.

## 7 Chair's Report

JW reported that the meeting with the Deputy Prime Minister on 19 May had been positive in that it enabled the Commission to put forward a clear case for change following our experiences at the spring polls.

**Noted**

## 8 Meeting wash-up (Commissioners only)

Not held due to pressure of circumstances.

The meeting ended at 12.50 pm.

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Chair