

Commission Board Date: 1 February 2011

Agenda Item no.3

Wales referendum: voter information decision

1 Purpose

1.1 The purpose of this paper is to enable the Board to take a decision on how the Commission should facilitate voter access to the arguments for each answer to the referendum question.

2 Recommendations

The Commission Board is invited to:

- (a) Consider the views received from registered campaigners on the options we proposed
- (b) Agree that, given there have been no principled objections to the Commission providing access to the arguments of campaigners for each answer to the referendum question, and different preferences as to the mechanism used to do that, we should provide registered campaigners with the option of having on our website either or both:
 - Links to their websites
 - The opportunity to provide a statement of up to 200 words

3 Background

3.1 At its meeting on 25 January 2011, the Board considered whether or not the Commission should provide voter information on the arguments for each answer to the referendum question, based on the specific circumstances of the Wales referendum.

3.2 Board paper EC10/11, considered at the meeting on 25 January 2011, set out the statutory position and the principles which the Board had already agreed would underpin its decision-making.

3.3 At the meeting on 25 January 2011, the Board agreed, in the specific circumstances of the case and the agreed principles, that:

- The Commission should seek to facilitate voter access to the arguments for each answer to the referendum question
- It was not feasible, in the time available to prepare and deliver material before the despatch of postal votes on 17 February 2011, to do so direct to voters in a booklet
- It would be feasible to facilitate voter access to the arguments via our aboutmyvote.co.uk website, which is already to be promoted heavily through our public information booklet and advertising campaign, with the effect that information or links placed on it would be seen by a significant number of people
- We should not seek to describe the arguments for each answer to the referendum question ourselves, as we would be unlikely to be able to inform and engage voters in a sufficiently neutral way without compromising our independence
- We should seek the views of registered campaigners currently registered on the following options:
 - Establishing a page on aboutmyvote.co.uk that would provide voters with links to the website of all registered campaigners. That was the Board's preferred option.
 - In addition, offering all registered campaigners the opportunity each to place a short statement of their arguments on aboutmyvote.co.uk. We would need to consider further whether or not the option could work in practice, taking account of the views of registered campaigners.

3.4 On 26 January, we contacted all campaigners registered at that date and asked them to give us their views by noon on 28 January on:

- The options outlined
- Any general views they had on the merits of the Commission giving voters access to information from campaigners
- As to the option for providing information to voters through website links, if they would be happy to provide links to their website if they have one; what the link would be and if they had any views on when the link should be available from
- In relation to the second option, that is providing text on our website, their views on a limit of 200 words for the short statement, and any practical or other considerations they consider we should take into account

- If they would be able to provide text within three days of us notifying them of our decision on this second option and issuing guidance on what is required.

3.5 We also issued a press release on 26 January explaining that the Commission could not designate lead campaign organisations and gave the reasons for that. The press release explained that we were seeking the views of registered campaigners on the two options outlined.

4 Summary of issues

Feasibility

4.1 We have considered further how both options might work in practice. We consider it would be feasible to provide website links on aboutmyvote.co.uk and also to provide pages on our website containing 200 word statements from registered campaigners.

4.2 We have considered what disclaimer we would need to provide on our website as to the website links, taking account of similar precedents. We have also considered what guidelines we might provide to registered campaigners on their 200 word statements, taking account of relevant precedents. A draft of the guidelines that we could provide is attached as **Appendix A**. In summary, the guidelines provide that:

- The Commission will check the information provided follows the guidelines and let the registered campaigner know if does not; this check will be carried out by the Wales Office, Legal Counsel and Director of Communication.
- It will be the responsibility of the registered campaigner to change the text if we believe it does not meet the guidelines
- The Commission will not make any changes to the wording of the text and we will not reject text on any other basis than those set out in the guidelines
- The information will be presented on the websites with a clear disclaimer that the text is the responsibility of the registered campaigner. We will include a link to our guidance.

Responses from registered campaigners

4.3 The following responses have been received:

Registered campaigner	Campaigning for Yes/No	Prefers website link only or website link plus statement	Reasons given
Yes for Wales	Yes	Statement	None

Cymru Yfory	Yes	Statement	None
True Wales	No	Website link only	None
Plaid Cymru	Yes	Statement	None

4.4 No responses have been received from the following registered campaigners: David Alwyn ap Huw Humphreys (No campaigner, applicant for designation); Mark William Beech (No campaigner, Monster Raving Loony Party); Unison (Yes campaigner).

4.5 'Yes for Wales' told us that its response was a collective one on behalf of Unison, Welsh Labour, Welsh Liberal Democrats, Plaid Cymru, and Cymru Yfory as registered campaigners. At the time of seeking views and receiving this response, Welsh Labour and Welsh Liberal Democrats were not yet registered as campaigners and so their views had not been sought. Welsh Labour has now registered and contacted us to confirm that its wanted to provide a statement. Registered campaigners named in the table are those whose views we sought and who responded individually.

4.6 No respondents raised any objections to the general principle of us providing information to voters. True Wales asked for a website link to be available as soon as possible.

4.7 All the responses received from registered campaigners for a Yes vote favour the option of including a statement on our website. The only response received from a registered No campaigner favours the option of having links to the website only. No reasons have been provided for their preference by any registered campaigners.

4.8 In light of the responses received, the Board is invited to consider its decision.

4.9 There have been no principled objections to the Commission providing access to the arguments of campaigners for each answer to the referendum question. There have been different preferences as to the mechanism used to do that.

Should we provide registered campaigners the option of having, on our aboutmyvote.co.uk website, either or both of:

- **Links to their websites**
- **The opportunity to provide a statement of up to 200 words on our website?**

5 Wider implications

5.1 The decisions taken by the Board on this issue relate to the specific circumstances of the referendum on the law-making powers of the National Assembly for Wales. The decisions are in accordance with the principles that the Board had previously agreed should underpin its decision-making. Those principles were published in March 2010 and available on our website.

5.2 Lessons learnt from providing voter information will be included within the Commission's reporting on this referendum and the referendum on UK Parliamentary voting systems expected to be held in May 2011.

6 Risk

6.1 Not all registered campaigners have given the same answer. We believe that most are likely to provide a website link but are not certain that all will offer text. There is a risk that the Commission is seen to be favouring either side of the debate by its decision.

6.2 This can be mitigated by explaining that the rationale for the Commission's decision is based on the statutory position in the Government of Wales Act 2006¹ (GOWA), that is:

“The Electoral Commission may take such steps as they think appropriate to provide such information for persons entitled to vote in the referendum as the Commission think is likely to promote awareness among those persons about the arguments for each answer to the referendum question.

Information ...must be provided by whatever means the Electoral Commission thinks is most likely to secure (in the most cost-effective way) that the information comes to the notice of everyone entitled to vote in the referendum.”

6.3 There is likely to remain an uneven number of registered campaigners between the two sides of the debate. Some campaigners may choose not to provide a weblink or any text (if the latter option is offered). There is a risk of the Commission's impartiality being questioned as a result of this unevenness. The risk would be mitigated by being clear on our website that all campaigners were given the same opportunities.

6.4 If the option of placing text on our website is taken, there is a risk of disputes about the content of it and requests that the Commission intervenes to make corrections. We can mitigate this risk by being clear on our website and in our public statements that responsibility for content rests entirely with registered campaigners, providing the text meets our guidelines.

6.5 Our sign-off procedure, including checking by Legal Counsel, will mitigate the risk that we are exposed to legal challenge.

¹ Schedule 6, section 8

7 Milestones, next steps and key audiences

7.1 Registered campaigners will be informed of the Board's decision and a press release will be issued as soon as practicable after the Board's decision. We will publish the relevant documentation on our website, including the press release, a minute of the Board's decision, and this paper.

7.2 The agreed option will be implemented as soon as feasible, according to a timetable to be advised to registered campaigners. We envisage giving registered campaigners a deadline to provide their website link to us and their statement (three days, if the statement option is taken), followed by a maximum two-day period to place their material on our website. That is, we anticipate that a decision taken by the Board on 31 January or 1 February being fully operational five working days later. Any campaigners who register with us subsequently will be offered the same facility and a two-day turnaround to place their material on our website when received.

8 Attachments

8.1 The following is attached as an appendix:

Appendix A: Electoral Commission guidance on provision of information by registered campaigners

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Appendix A

Electoral Commission guidance on provision of information by registered campaigners

(DRAFT: *dates to be finalised depending on when Board decision is made*)

The Electoral Commission will provide each registered campaigner with a page on our public information website, www.aboutmyvote.co.uk, and the Welsh language site www.fymhleidlaisi.co.uk. Campaigners can use the pages to present a brief summary of their arguments in favour of voting either yes or no in the referendum. Campaigners will also be able to provide a link to their own websites.

Our public awareness booklet and advertising will direct people to www.aboutmyvote.co.uk and www.fymhleidlaisi.co.uk for more information on the referendum. We plan to publish campaigners' pages from Monday 7 February. They will stay live on our site until the referendum.

To ensure that your text and website link are published on Monday 7 February, please email them to (inset name and email address) by 5 pm Thursday 3 February. Please also ensure that text adheres to the following guidelines:

- No more than 200 words in length. Please note that campaigners can choose whether they want this word limit to apply to either the English or Welsh version of their text. We will be flexible with this word limit for the translation into the other language, providing the translation is accurate.
- The text does not include links to websites
- The text must not be obscene, offensive, defamatory, discriminatory, or otherwise unlawful

Campaigners will need to provide text for the Welsh and English versions if they wish the information to appear on both our sites.

Please note that once text is submitted we will not allow campaigners to make alterations, unless we've asked for them to be made.

The content of the text and their website is the responsibility of registered campaigners. The Commission will retain control over the presentation of the text on our website to ensure it is the same for all campaigners. We will not include emblems or any other images with it.

The same opportunity will also be offered to any campaigners that register with us. The Commission will publish text within two working days of receipt providing it meets the guidelines set out above.