

Agenda Item no. 3(a)

## Minutes of the meeting of the Electoral Commission held on Wednesday 20 July 2016 at 9.30 am

- Present: Jenny Watson (JW)  
Anna Carragher (AC)  
Gareth Halliwell (GH)  
John Horam (JH)  
David Howarth (DH)  
John McCormick (JMcC)  
Alasdair Morgan (AM)  
Bridget Prentice (BP)  
Rob Vincent (RV)
- In attendance: Claire Bassett (CB)  
Carolyn Hughes (CH)  
Bob Posner (BP1)  
Andrew Scallan (AS)  
Kairen Zonena (KZ)  
Warren Seddon (WS)  
Kay Jenkins (KJ) – items 4 and 7  
Kate Engles (KE) – items 4 and 7  
Ben Hancock (BH) – items 7 and 8  
Tom Hawthorn (TH1) – item 7  
Katy Knock (KK) – item 7  
Adrian Fryer (AF) – item 7  
Richard Cavanagh (RC) – item 7  
Mazida Khatun (MK) – item 7  
Ashleigh Yardy (AY) – item 8  
Alex Chafey (AC) – item 8  
Jane Gordon (JG) – items 9 and 10

### 1 Apologies

Tony Hobman.

## 2 Declaration of Interests

2.1 All the nominated Commissioners had stood for election, and been nominated as Commissioners by political parties that had contested recent elections and also registered as campaigners in the EU Referendum.

2.2 JW declared that her partner was a Board member (and therefore also a Council member) of the European Council on Foreign Relations, a pan-European forum for discussion of EU foreign policy. ECFR took no organisational position on the UK's membership of the EU but members of either the Council, which included politicians from a range of parties from across the EU, or the organisation's staff, might have made arguments for or against Britain leaving the EU.

2.3 JW declared that Global Dialogue, a charity chaired by her partner, had registered with the Commission as a non-party campaigner.

2.4 JW reported that her sister, who had previously been an Assistant Borough Commander in the Metropolitan Police, was currently deployed in a non-operational role with the Met.

2.5 JW was acquainted with Brendan Barber through the Public Chairs' Forum of which they were both members, and he had joined the board of the Remain (pro-EU) campaign.

2.6 AC was a member of the Board of the Arts Council of Northern Ireland (which received money from the EU Peace 3 Programme, and the Corners programme for individual artists), and a Trustee of the Wildfowl and Wetlands Trust, which received EU funding, but she had stepped back from her WWT role during the Referendum.

2.7 JMcC, having previously declared his friendship with Nigel Smith once it was known that his advice had been sought by referendum campaigners, since understood that he had supported the Vote Leave campaign.

2.8 DH in 2008 drafted and put forward in parliament an amendment to the then European Union (Amendment) Bill, proposing an EU referendum in the terms 'Should the United Kingdom remain in the European Union?'

2.9 DH had stood for election on a manifesto supporting an in-out referendum on the European Union.

2.10 DH was a council member of Justice, an organisation which had in the past received EU funding.

2.11 DH reported that the European Parliament subsidised a regular annual visit by his Public Policy students to Brussels.

2.12 DH declared that he had recently been awarded a research grant of over €40,000 from the European Parliament.

2.13 JH was a member of the pro-Europe Conservative Europe Group, the parliamentary group Conservative European Mainstream, and of the all-party

parliamentary group on Reform, Decentralisation and Devolution Group, chaired by Lord Foulkes.

2.14 TH, as a function of his role as CEO of the Occupational Pensions Regulatory Authority (OPRA) and its successor body the Pensions Regulator (TPR), had been a UK representative on the Committee of European Insurance and Occupational Pensions Supervisors (CEIOPS) from 2003-2010. He chaired its Occupational Pensions committee from 2007 – 2009 and was a member of its managing board from 2009-2010.

2.15 (CEIOPS was a “level 3” committee within the Lamfalussy process of the EU. It provided advice to the European Commission, in respect of insurance and occupational pensions, on the drafting of implementation measures for framework directives and regulations and facilitated supervisory standards, guidelines and convergence in the application of regulations as well as promoting cooperation between supervisors.)

2.16 TH, as a Director of PAN Trustees Ltd, declared that clients of PAN Trustees Ltd for Independent Trustee services included the Defined Benefit Pension and Life Assurance Plan for London-based staff of the European Commission (but TH was not involved in the provision of any such services to that scheme).

It was noted that if any Commissioners had a link or connection with any donors appearing on the reported register of donors, these should be declared.

### 3a Minutes of 18 May 2016 (EC 58/16)

**Agreed:** That the minutes of the Commission Board meeting held on 18 May 2016 be approved as an accurate record and the Chair be authorised to sign them.

### 3b Minutes of 30 June 2016 (EC 59/16)

**Agreed:** That the minutes of the Commission Board meeting held on 30 June 2016 be approved as an accurate record and the Chair be authorised to sign them.

### 3c Decision/Action tracker (EC 60/16)

3.1 BP offered to review one or more of the election reports.

3.2 AC and BP offered to give feedback on performance measures, joining AM and GH. Four was judged to be sufficient for the first quarter's report, which was in the process of being drawn up. Once that had been reviewed and feedback gained from Commissioners at large, the Board could consider adding or changing reviewers.

**Noted.**

## 4 Update from Chief Executive for July (EC 61/16)

4.1 Para 1.14 – **Reporting on the May polls, and the London Mayoral count** – in response to a question the Board was assured that we were being active in making sure our concerns about the count were taken account of as part of the follow-up work, and lessons learnt. RV said risks and lessons learnt would be of particular value in relation to the management of future e-counts.

4.2 Paras 1.15 – 1.16 – **Combined Authority Mayor elections** – AS pointed out that these would be a new feature of elections from next year. At some point in the future it would be necessary to look at their impact on combined polls, of the sort that were likely to occur in 2020.

4.3 Paras 2.1 – 2.4 – **UK Modern Electoral Registration Programme** – AS commented that following the Cabinet re-shuffle (Chris Skidmore had been appointed as the new Parliamentary Under Secretary of State at the Cabinet Office in place of John Penrose), it remained to be seen whether the Government's priorities would change. We would review and consider our own programme priorities as necessary, and he promised to keep the Board apprised of changes. JW added that a phone call with the new Minister had been arranged for the following day.

4.4 In response to a question about paragraph 2.4, the intention was to clarify boundaries between those areas which were within the Commission's statutory remit, and those in the Cabinet Office's. It was the intention to develop a Memorandum of Understanding.

4.5 Paras 2.7 – 2.8 – **voter materials** - Electoral Registration Officers were required to use the registration forms we designed and which were approved by the appropriate minister. They had discretion in relation to the contents of certain letters. The voter materials had been the most consulted on ever. AS

would send BP details of the drafting of, and consultation on, the voter materials.

4.6 Para 2.9 – **Accuracy and Completeness of the December 2015 electoral registers** – there had been little media or other pick-up of the report following its publication on 14 July.

4.7 Programme 4 – **PEF – modern regulation** – BP1 reported that the projects were now fully under way, post-Referendum. The transformational work-streams included the possibility of the Commission as prosecutor, a greater move to online digital guidance, and the making of regulations. A further work-stream was to be added on the development of PEF Online, to improve functionality and ease of use. It was noted that spending rules were a separate matter, which would come back to the Board.

4.8 Meanwhile, the work in each of the PEF Programme projects would have a potentially significant impact on our stakeholders, and therefore a careful stakeholder engagement strategy was being drawn up in co-ordination with stakeholder engagement for the strategic review, to maximise the value of each contact, and avoid duplication.

4.9 Paras 5.1 - 5.2 – **Strategic Review** – CB reported that this had now reached the stage of becoming a full programme, with Kay Jenkins as programme director. It would be reported with the other programmes in the Chief Executive's Update. A Board session was scheduled for October.

4.10 Paras 6-4 - 6.5 – **Northern Ireland** – AC reported that the threat of industrial action by electoral staff was still present.

4.11 Para 6.6 – **Law Commissions' review** – it was noted that while the Government had recently agreed to move to a joint programme board for a Law Commissions' Bill, we would need to ensure this remained a priority for the new Government.

4.12 In relation to **the Overseas Voters Bill**, paras 6.7 - 6.8, it was noted that, since most local authorities were unlikely to keep registers going back further than 15 years, there was an acknowledged problem in getting adequate proof of residence without imposing too onerous a burden on local authority staff.

4.13 Progress on the Pickles' review into electoral fraud was unknown, though it was understood that there was a draft report, sight of which was awaited.

**Agreed:** That AS send BP details of the design and consultation process in drawing up the voter materials.

## 5 Chief Counting Officer/Deputy Chief Counting Officer update and summary (EC 62/16)

5.1 In response to a question about international observers, an evaluation report was being prepared by Dod's, who managed the programme for us. It would be circulated when finalised. AS added on a related point that accreditation had been withdrawn from two observers (neither of them international), following instances of inappropriate conduct.

5.2 Regarding the time taken by a London borough to count its EU Referendum votes, AS said that the results collation software now provided unprecedented levels of information which would enable the electoral community to map staffing levels to the time at which stages of the count had been completed. This formed a large project planned to be undertaken with the Association of Electoral Administrators, SOLACE and the Commission, to promote understanding of what changes were needed and where, and to drive improvements. The loss of long-standing and experienced local authority staff was recognised as a factor to be taken into account.

5.3 AS said that part of the process would involve explaining any changes to political party participants to ensure that they understood and were comfortable with them.

**Noted.**

## 6 Chair's and Chief Executive's meetings (EC 63/16)

6.1 On 16 June, the incoming Director of Communications, Craig Westwood, was with CB and AS at the Tooting by-election count and again at the London Referendum count.

6.2 The planned meeting on 15 July, after the Board papers had been circulated, with CB and Sir Jeremy Heywood at a round table, did not take place due to political events.

6.3 JW noted that the Constitution Unit at University College London had outlined its intention to establish an enquiry into the role of referendums in civic life, and the role of campaigners.

**Noted.**

## 6a Investigations into political parties – verbal update (extra item)

6.4 BP1 and the Chair impressed upon those present their strict duty of confidentiality, which meant that nothing heard should be repeated or communicated in any way to anyone. Investigations and any legal proceedings would be jeopardised by a breach. BP1 felt it important to share sufficient detail with the Board to enable Commissioners to have a good grasp of the issues, and our action.

6.5 He then updated the Board about ongoing investigations into allegations against a number of political parties over their UK Parliamentary General Election (2015) spending returns. These were potential PPERA offences. Allegations against individual candidates (RPA offences) were being separately investigated by the Police.

6.6 There were questions, and answers.

**Noted.**

## 7 Reflections post-EU Referendum (EC 64/16 – presentation TABLED)

7.1 KJ introduced the set of 22 slides, in four sections, which started with: review of issues and key messages (slide 2), a recap of our objectives for referendums and our reporting (slide 3), a recap of how the EU Referendum was managed and supported internally (4), and headline data on turnout, participation and satisfaction (5). The second section covered areas for review and issues and lessons learnt, broken down into: legislation for the referendum (7), designation of lead campaigners (8), campaigner support and regulation (9), transparency of campaign funding (10), measures for the public awareness campaign (11) and issues arising (12), management of the polls (13) and administration of the polls (14). The third section looked at whether the EU Referendum met our objectives for referendums, that they should be well-run and produce results that are accepted (16 and 17), and that there should be integrity and transparency of campaign funding and expenditure (18 and 19). Finally, there were slides on reports on the Referendum which would be published in 2016 (21) and in 2017 (22).

7.2 JW suggested that staff take the Board through the slides, pause for questions on fact, and then focus on some of the more significant issues that had emerged.

7.3 TH, referring to the headline data (slide 5), said that the figure of 77% of people feeling confident that the referendum was well-run compared favourably to the last two referendums and fell between the 79% for the May polls and 73% for the Scotland Independence Referendum. The reasons for a lack of confidence would be explored, although it was often the case that these related to wider factors than issues within our control.

7.4 Legislation for the Referendum (slide 7) had largely included our recommendations and reflected good working relations with officials. However, the legislation was specific to this Referendum, rather than PPERA.

7.5 On the designation of lead campaigners (slide 8) there were a number of 'firsts' – the ability to designate for one side only at a UK-wide referendum, competent and competing applications for both sides, and application of the statutory test of 'representing to the greatest extent'. While the risks of designating only on one side did not materialise, we would reflect on its likely impact in our report. We would seek feedback on the process from the lead campaigners.

7.6 Campaigner support and regulation (slide 9) had been proactively managed by way of a combination of published guidance, outreach, and reactive advice. We also continually scanned and monitored all sources of campaign material and contacted those we thought needed to be aware of the rules to bring them into compliance by registering and understanding the position on spending. This included a number of high-profile contacts such as the OECD, the WEF, the IMF, the Bank of England, the LSE, Grassroots Out (GO), Ryanair, cultural events, and a number of offshore organisations. Where an organisation was beyond our jurisdiction, we contacted them to make them aware of the rules, and of our expectation that they would comply. Although this approach was resource-intensive, it was intended to reduce the amount of casework and enforcement action needed afterwards as well as producing a better level of compliance during the Referendum.

7.7 Turning to the key performance measures for the public awareness campaign (slide 11), BH noted that the figure of 2.5M online applications to register had greatly exceed the target, but the number of actual additions to the register this had led to would not be known until August. Other targets had not been met, but they had been stretching targets, and the results achieved had significantly exceeded recent previous campaigns (for example, the 184,000 overseas online applications fell short of the 250,000 target but was well up on the UKPGE 2015 figure of 84,000). It was possible that some of the other targets showed how difficult it was to 'cut through the noise' of campaign coverage. (Royal Mail alone delivered 86 million items of campaign material). Our public opinion research had been done the day after the Referendum, and we had commissioned a further piece of research later.

7.8 Our graphic of the neon sign (slide 12) had had much greater reach than anticipated, being promoted through a vast array of government channels. The voting guide received complaints about non-delivery and



'nesting' inside other delivered items (which we pursued with Royal Mail where we knew the postcode). We also received complaints about the inaccuracy, design and inclusion of campaigners' content in our guide. For future events where we delivered a voting guide we would consider if and how to include third party content.

7.9 In terms of the management of the poll (slide 13), AS commented that the regional structure had been based on European Parliamentary constituencies which would disappear, and we would be looking at what should succeed that to preserve the organisational benefits we had built up from the current arrangements.

7.10 Moving to the third section, on whether we had met our objectives for referendums, KJ commented that the feedback from the public opinion research was broadly positive, and interest had been about the Referendum result, not the conduct of the poll. Slide 18 concerned information at the Referendum, and calls for regulation of the content of campaign material. We had previously concluded that this was not a role for the Commission, and it was suggested that this be reiterated.

7.11 In slide 18, transparency of campaign funding and expenditure, the public opinion figures were mixed but broadly consistent with those for recent polls, and we would look at that more closely. Generally there were concerns about spending by publicly-funded bodies and breaches.

7.12 The discussion then focussed on the more significant issues. In addition to endorsing the key points and messages contained in the slides, a number of additional points were made as follows:

- Someone found to have broken the rules in an election would lose their seat whereas in a referendum, even if rules were broken, the result would stand
- The Electoral Commission designated and passed public money to campaigners who were then perceived by some as making inaccurate claims as part of their campaigns. This led to a perception that the Commission should have some sort of responsibility for holding campaigners to account and penalising them if they fell short. Approaches adopted by other countries to the problem of questionable campaign claims should be explored. While the responsibility might not rest with the Electoral Commission, it was our responsibility to reflect any public concern around this, together with the extent to which it might undermine public confidence in the integrity of referendums.
- Allied to the above point, it was noted that the Public Administration and Constitutional Affairs Committee had launched an enquiry on referendums to which the Commission would give evidence in mid-September
- The Board had previously agreed that the Chair should be the CCO in line with legislation. The combined role of the Chair of the Commission with Chief Counting Officer in a national referendum had an impact on the

organisation's governance during the referendum process. While other solutions could be provided by collaborative arrangements outside the Commission for *non*-UK-wide referendums (such as the Electoral Management Board during the Scottish Independence Referendum), for UK-wide referendums, we needed the level of support and co-ordination within the organisation. It was agreed that in the future, particularly given the move to a more non-executive Chair from January 2017, the Board would consider the most appropriate person to be CCO, including the presumption that the Chair would appoint someone from within the organisation if appropriate.

7.13 TH said that publication of the campaign spending reports (slide 22) indicated for April or May 2017 might be pushed back slightly, to clear the May 2017 polls.

7.14 Reviewers were sought for the draft report.

**Agreed:** That:-

(a) Subject to the addition of the points at minute 7.12, the structure and key messages outlined in the presentation for our statutory report on the EU Referendum be endorsed; and

(b) RV and BP be added to the list of reviewers of the draft report, for which they would need to be available in the second half of August.

## 8 Possible UK Parliamentary General Election – public awareness campaign (EC 65/16)

8.1 It was noted that although the prospect of an early election had receded in the weeks following the Referendum, we nevertheless had to make provision in case of an October UKPGE, due to the need for forward buying of advertising space and agency time before the next Board meeting.

8.2 Asked whether we could justify spending £0.5M so soon after the register had peaked, AS responded that there was an approximately 1-1.5% rotation of people (on and off registers). It would be hard to defend doing nothing, especially as we knew that there were currently people not on the register. The costs were less than they would have been as the gap between polls would be relatively small in the event of an October election, but some expenditure would still be needed to boost awareness and registration, because of attainers, house-movers, students, and overseas voters. Should there be a more distant election (ie May 2017) then more money would probably be sought, but this would come back to the Board for approval as there would be time to do that.

8.3 Given the demographic it was possible to achieve a very precise level of targeting via social media and online advertising. We would be able to re-

use some of our Welsh language assets. No money would be spent if an election were not called.

**Agreed:** That the proposed approach to, and budget for, public awareness in the event of an October UKPGE be approved.

## 9 Update on Commission Structure (EC 66/16)

(All staff with the exception of the HR Manager were asked to leave the room during consideration of this item.)

9.1 CB provided an overview of the changes proposed for the structure of the Commission and timescales.

9.2 BP noted that formal consultation was not planned and that decisions about where Governance should sit had yet to be taken.

9.3 CB said that as no redundancies or significant changes to roles were planned formal consultation was not required but that staff would still have the opportunity to feed in to the proposals. The options for where best to place the Governance function still required thinking through with one option being to create a single team within FCS. Decisions around this were likely to be part of phase 2 of the changes.

9.4 JH queried why policy and research were separated as often these two functions were together in other organisations.

9.5 CB said that the type of research carried out at the Commission had strong links to Communication activity. In addition it would provide opportunities for research to widen its remit.

9.6 AC commented that the Remuneration and HR Committee had endorsed the approach but had raised a concern regarding turnover of HR staff and how important it would be for the HR team to be able to support the changes.

9.7 It was asked whether there were any financial implications to the changes and was there a sense that the changes would stand the test of time. CB confirmed that it would be cost neutral and that it was considered that the changes had longevity. Although if the Commission was required to make a sizeable cut to its budget resulting in a directorate being significantly changed or removed this would be different.

9.8 CB added that managers would continue to challenge vacancies as they arise and the work on the strategic review and review of programme and project management would support the Commission's approach should the funding of the organisation be challenged.

9.9 The size of the FCS function was queried, noting that it seemed to incorporate 25% of the Commission's staffing.

9.10 CH responded that this was a snapshot of the directorate and that historically the organisation had centralised a number of functions. In addition the directorate included all the Commission's administrative support. The directorate was regularly benchmarked against other organisations which confirmed that it was generally in line with other similar organisations.

9.11 RV queried whether the option of shared services had been explored.

9.12 CH confirmed that it had and had not been found to provide benefits for an organisation of the Commission's size. Cabinet Office had for a number of years been discussing providing a shared services option but this had yet to materialise. The direction now was on a more system-focused approach.

9.13 JW noted that the research function was valued in the organisation but was not included in any of the directorate titles.

9.14 The Board endorsed the proposed changes to the Commission structure.

9.15 CB added that the next step would be to announce the proposals at an all staff briefing on Tuesday 26 July.

**Agreed:** That the proposed structure arrangements be noted.

## 10 Approval of staff reward 2015-16 (EC 67/16)

10.1 The Board discussed the paper, the reasons for the proposal and the level of bonus put forward. As members of the Remuneration and Human Resources Committee, GH and AC highlighted the fact that the previous bonus scheme had been abolished and a replacement not yet set up. The proposed payment was a one-off, albeit modest, but a way of showing the organisation as whole that everyone's work was appreciated.

10.2 The Board was glad to acknowledge the contribution of all staff across the Commission in what had been an exceptionally busy and successful year, and asked for the bonus to go with their sincere thanks.

**Agreed:** That a non-recurrent bonus of £250 be made to all staff (pro-rata for part-time staff and period of employment) in recognition of an exceptionally successful year.

## 11 Appointments to Committees (EC 68/16)

**Agreed:** That:-

**(a)** Tony Hobman be re-appointed to the Audit Committee from the current expiry of his term on the Committee (17 September 2016) until the end of his term as a Commissioner (31 December 2017);

**(b)** Alasdair Morgan's appointment to the Audit Committee be renewed from the renewal of his Commissioner term (1 October 2016) until 30 September 2020; and

**(c)** It be noted that Tony Hobman's term as Chair of the Remuneration and HR Committee would come to an end on 31 December 2016, and that a successor would be identified in the Autumn.

## 12 Draft minutes of 28 June Audit Committee (EC 69/16)

**Noted.**

## 13 Meeting wash-up (Commissioners only)

The meeting ended at 12.35 pm.

\_\_\_\_\_ Chair