Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 13 September 2017 at 9.30 am

Present: Sir John Holmes (JEH) Chair
Sue Bruce (SB)
Anna Carragher (AC)
Elan Closs Stephens (ECS)
Tony Hobman (TH) (until 1.30pm)
John Horam (JRH)
David Howarth (DH)
Alasdair Morgan (AM) (by v/c until 10.40am)
Rob Vincent (RV)
Bridget Prentice (BP) (until 2.00pm)

In attendance: Claire Bassett (CB)
Carolyn Hughes (CH)
Ailsa Irvine (AI)
Robert Posner (RP)
Craig Westwood (CW)
Kairen Zonena (KZ)
Louise Footner (LF)
Tom Hawthorn (TH1) – item 4
Phil Thompson (PT) – item 4
Mathias Rosengren (MG) – item 4
Louise Edwards (LE) – items 4, 6 and 7
Kate Engles (KE) – items 4 and 7
Katy Thomas (KT) – items 4 and 10
Olufunmibi Orenaiya (OO) – items 4 and 10
Polly Wicks (PW) – items 4 and 10
Josh Dunne (JD) – item 6
Sheilja Shah (SS) – items 6 and 7
Jane Draper (JD) – item 7
Christopher Owen (CO) – item 7
Emma Hartley (EH) – item 8
Alex Chafey (AC) – item 8

Also present: Niamh Corbett, Board Intelligence – item 13 (from 12.45 p.m.)
1 Apologies

Alasdair Morgan from 10.30 a.m., Tony Hobman from 1.30 p.m and Bridget Prentice from 2.00 p.m.

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 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). A Trustee of the Wildfowl and Wetlands Trust, a recipient of EU funding, she had now returned to that role at the conclusion of the Referendum.

2.3 In relation to the March Northern Ireland Assembly election, AC reported that her sister was Head of BBC News in Northern Ireland.

2.4 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?’

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

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

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

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

2.9 JRH 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.

2.10 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.

2.11 (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.)

2.12 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).

3a Minutes of 21 June 2017 (EC 51/17)

Agreed: That the minutes of the Commission Board meeting held on 21 June 2017 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision-Action tracker (EC 52/17)

Noted

4 Update from Chief Executive for September (EC 53/17)

4.1 The new structure of the Update was noted, to better reflect the new project framework and reporting structure.

4.2 Under the business delivery section, AI reported on election reports: we had now reported on the Scottish local authority elections, were about to report on the public awareness campaigns, and Welsh locals. The Association of Electoral Administrators (AEA) had published their report on the UKPGE. It was positive about the Electoral Commission, and made clear recommendations to government which, like ours, sought urgent action to improve the electoral registration system, and called for the Law Commissions’ recommendations to be carried out.

4.3 RV asked about the project to take forward improvements to electoral registration and was advised that it was being scoped, and was scheduled to happen over the next 14-15 months. We would work with the AEA and the Scottish Assessors Association. RV registered his interest in being involved in this project at some point.
4.4 Social media campaigning and party political compliance with data protection rules, para 1.6, it was noted that the Information Commissioner’s investigation of this issue was a considerable task. Staff were liaising with the ICO and continue to update the Board.

4.5 On candidate returns for the 2017 UKPGE, para 1.7 - in answer to a question, RP confirmed that monitoring would identify a number of close losers, as well as winners, where candidate spending returns would be examined more closely.

4.6 The Board heard about the independent investigations of the two councils, Plymouth and Newcastle-under-Lyme, looking at problems with the administration of the UK general election in June. Plymouth was expected to report in late September, and Newcastle-under-Lyme in late November. We had hoped to include mention of the investigation conclusions and our recommendations in our report on Returning Officer performance standards, intended for publication in late October, but would now consider the handling and timing of the report further.

4.7 It was suggested that a separate, smaller forum to enable Councils to reflect on the reports, in addition to full Council meetings, which were inevitably highly political, would be helpful. AI would think how best to feed that in.

4.8 2019 European Parliament elections, para 1.10 – these elections were in place until removed by legislation. Work was meanwhile underway on the precise implications of Brexit for the Commission, for electoral staff and more specifically in relation to the franchise. It was acknowledged that with complexities of timing and legislation the position on the election might not be resolved until nearer the date.

4.9 Duplicate electoral registration applications, para 1.15 – as part of an update on the Cabinet Office’s Modernising Electoral Registration Programme, AI reported that the Cabinet Office were now prepared to look at fundamental ways of tackling the problem of duplicate registrations, including the costs of a look-up facility. Work was also continuing on pilots for the electoral canvass, with an acceptance that they should include considerations not just of cost but also of completeness and accuracy. The new Director in Cabinet Office was to start the following week.

4.10 Investigations, para 1.27 – LE reported on the current position on several investigations, and LF updated the Board on the English Democrats appeal, due to be heard on 21 September, against the decision to refuse them leave to judicially review our decision to de-register one of their descriptions.
4.11 Northern Ireland donor transparency, paras 1.35-1.39 – KE said the Statutory Instrument for the Order to introduce publication of donations and loans was now likely to be laid when Parliament returns in mid-October. If so, we should be in a position to publish the first NI donations and loans information in late November or early December.

4.12 In section 2, Project Updates, TH1 reported a shift in Ministerial focus for the voter ID pilot schemes (page 10) following the General Election, from considering whether or not to implement voter ID, to how to implement it, which was positive. The five authorities who had expressed interest in pilot schemes for 2018 (Bromley, Gosport, Slough, Watford and Woking) were a reasonable political spread, although geographically clustered in the south of England. With a reduction in the number of pilots the focus was on quality of design, although it was possible that after our statutory evaluation further follow-up pilots would be necessary in 2019. Our post-pilot evaluation findings would come to the Board in June or July 2018.

4.13 There was brief consideration of whether evaluation could assess the impact of requiring voters to show proof of their identity among certain groups. We would be considering the value of public opinion polling in any evaluation including how a benchmark would be established. The use of control groups (using non-piloting local authorities) was also raised, although the value could be limited given the range of differences between an election in one local authority area compared to another.

4.14 Commissioners expressed interest in being involved in the projects, by way of Commissioner reference groups or similar, and wanted to identify those they were particularly keen on. CB said that she thought Commissioners had expressed preferences earlier in the year and that this information would be used when ET returned to review the proposal for steering groups at its next meeting. However this would be checked and Commissioners given a further opportunity to consider how best they would like to be involved at a future meeting.

4.15 In relation to comments on project oversight, CB confirmed that the projects were as agreed as part of the Corporate Plan. Reporting arrangements were being finalised with the aim of including a dashboard in the performance report which would enable the Board to maintain an overview, showing estimated time, deliverables, where the scope and timescale had moved and any other changes.

4.16 RV thought the Innovation and Development projects should have Commissioner involvement, and DH asked how projects which were related or overlapped (for example ID1, ID3 and ID5) would be managed. CB said that the intention was to set up steering groups, with Commissioner involvement, to help provide cross-project co-ordination. She added that an element of co-
ordination derived from the fact that key staff were usually common to overlapping projects too.

**Agreed:** That the list of projects and identified Commissioners be shared with the Board and that meanwhile it be noted that RV had expressed his interest in being involved in IP5 (support delivery of key electoral processes) and ID3 (identify how registering and voting can be modernised to meet voters’ needs and expectations in our digital society) and voter ID.

5 Chair’s and Chief Executive’s meetings (EC 54/17)

5.1 The Chair reported briefly on the Four Countries conference in July.

5.2 ECS mentioned two meetings which took place in Wales: her meeting with the Presiding Officer and senior staff on 12 July for a discussion about accountability in the light of the Wales Act; and a meeting with Mark Drakeford, Cabinet Secretary for Local Government, regarding his consultation on Local Government electoral reform.

**Noted.**

6 Party and Campaigner Registration (TABLED slide presentation, EC 55/17)

6.1 RP introduced the slide presentation, which had been produced in response to the Board’s request to know more about our registration function. LE went through each of the slides, which touched on: our role as registrar; registration as a regulatory function; and a look at the registers of political parties in Britain and Northern Ireland.

6.2 At slides 11 and 13 (all registered parties since the inception of the scheme, and just the larger parties), it was noted that at the beginning of the scheme in 2000, there were about 100 parties, of which about 14 were larger parties. In the intervening years, the number of parties had continued to grow, with two election peaks on or around the 500 mark. The implications of this were discussed. The smaller parties, spending under £250,000 were sometimes made up of few people, who sometimes struggled to grasp or comply with the regulatory responsibilities that came with registration. It was explained that, in addition to the plentiful guidance on our website, staff often gave a lot of time to advising and supporting smaller parties. The burden on staff time and resources was considerable.
6.3 In answer to a question, LE said that a political party had to have at least two people in order to register. Individuals wishing to stand as independent candidates were not required to register. A party could de-register by both of the named officers asking us to do so, or by failure to submit its details or required financial reports.

6.4 The Board felt that the reality of the scheme and public inclination was that it enabled access to the system, and the burden on advice, guidance and enforcement was a consequence of a system that was as widely accessible as possible for those wanting to register a party. Suggestions by Commissioners included allowing people to register for a finite time, or to have a different scheme for smaller parties, or to raise the registration fee from £150.

6.5 The Board asked for a breakdown of minor and major parties, and particularly of those that came off the register after an election.

6.6 Our programmed work would define and prescribe what should be included in the financial scheme, and we were adopting a more rigorous approach to checking financial schemes to ensure they were fit for purpose and had been properly adopted.

Agreed: That:-
(a) The presentation be received with interest; and
(b) Information on the breakdown between large and smaller parties, and especially on those which had de-registered post-election, be included in a future Chief Executive’s Update.

7 The Commission as Prosecutor (EC 56/17)

7.1 This paper came to the Board following its initial consideration of the issue in September 2016, and responded to points raised by the Board at that meeting.

7.2 RP and LE reiterated the broad background to this initiative, and set out the further detail which had been sought. Commissioners asked further questions about the type and frequency of cases envisaged, external support, planned consultation and engagement strategy, and other risks, to which RP and LE responded.

7.3 Once the Board had adopted a Prosecutions Policy (part of the Enforcement Policy), we would identify two or three cases which met our criteria for prosecution over the next one to two years. There would then be a review brought back to the Board, and next steps considered. The Board expressed itself happy with the principle, and the proposed way forward.
Agreed: That:-

(a) An Improvement Project be established to build an initial capability to be tested in at least one prosecution in appropriate, relatively straightforward, low profile cases; and
(b) A gateway review be carried out before the Board is asked to decide whether to build prosecutions into business delivery.

8 May 2018 Public Awareness Plans (EC 57/17)

8.1 CW opened by highlighting the body of knowledge we could now bring to public awareness campaigns about what worked (and what did not). With the recent appointment of a new agency, we were set to take a longer, multi-year approach, conducting a long low-level campaign in the background, with spikes of campaign activity around specific elections. We would continue to do a lot with our partners, who had impressive access to many specific communities which would otherwise be hard to reach. We would stay vigilant in keeping our branding away from controversial content, and observe the continuing government ban on using YouTube.

8.2 Commissioners commented on the relatively low turn-out for local government elections, and wondered whether our efforts in this direction were bound to fall on stony ground.

8.3 However, we had a duty to promote awareness of both how to register and how to cast one’s vote, and would be testing a refreshed message, with focus groups. We would also work closely with local authority communications’ teams to support and spread best practice. We were closely focused on value for money, and the evaluation of our results. The team would subject our plans to additional scrutiny and challenge by presenting our proposals to the Government Communication Service Evaluation Council and inviting them to test and challenge them, especially our targets and any questions of attribution.

8.4 Commissioners commented on the value of reaching attainers in school well before their voting age, and of the use of partners and digital approaches to capturing the harder to reach youth.

Agreed: That:-

(a) The plans and budget for our public awareness activities ahead of the May 2018 elections be approved as set out in the paper; and
(b) Plans for dealing with a further possible snap election be noted.
9 Annual Review of Complaints (EC 58/17)

9.1 The number of complaints dealt with during the year remained stable. The issue of difficult and vexatious complainants was becoming more pronounced, something which was being experienced by other agencies too. Although complaints were made about a variety of things, there was an increasing tendency for those registering a party (or being de-registered) to try to use the complaints process to remedy things they were dissatisfied with, even when they did not fall within the process.

Agreed: That the review be noted and the information published to the website.

10 Quarter 1 Performance and Finance Report 2017/18 (EC 59/17)

10.1 It was noted that this had been circulated to Commissioners in late August, inviting comments and questions. There were none.

Noted.

11 Draft minutes of the Audit Committee meeting on 20 June 2017 (EC 60/17)

Noted

12 Draft minutes of the Remuneration and Human Resources Committee meeting on 21 June 2017 (EC 61/17)

Noted
13 Board Effectiveness (oral - Niamh Corbett, Board Intelligence)

13.1 Niamh Corbett gave a brief presentation with questions to prompt discussion on ‘what is wrong with the status quo?’ ‘what makes an effective Board?’ and ‘what does good look like?’ She started by looking at Board agendas and papers, and the risks from blizzards of unstructured papers.

13.2 Members of the Board suggested that on the whole their agenda and papers were reasonably good: they did not feel that there was too much information and too little structure. Some members compared these Board papers favourably with those of many other bodies.

13.3 CB referred to a meeting of the Senior Leadership Group (SLG) the previous week at which Niamh Corbett had given a similar presentation, where she said staff expressed a desire for greater clarity on the part of Board when defining what it wanted from the papers it requested: some discussions resulting from papers requested by the Board had proved very circular, possibly because the papers covered too much, and one or two topics seemed especially prone to this problem. Following the SLG session staff were very keen to make Board papers more effective.

13.4 The Board noted that one contributing factor was that a third of the Board membership had changed at the beginning of the year and there was inevitably some adjustment. Effective decision-making did happen, but that shouldn’t preclude space for discussion, and concerns.

13.5 However, a more rigorous statement of what the Board required from a Board paper - the question or questions a paper was to answer – would, it was agreed, focus discussion and make it more productive. For that, the Board should have regular sight of the Forward Plan of Board business in order to formulate their questions. CB added that the Board paper would include the route the paper had taken before it reached Board so input received could be seen (eg a project Board, devolved office staff, ET).

13.6 Other suggestions for revising our approach included:

- having an hour at the start of the meeting to address the biggest issue on the agenda for the day
- putting the Chief Executive’s Update at the back of the agenda (with a view to more clearly separating the ‘steering’ and ‘supervising’ elements of the Board meeting)
- having a quarterly briefing by an external speaker at the evening dinner before Board, say once per quarter
- getting those involved in projects to present to the Board
• an induction refresh, and more visits and opportunities for Commissioners to be involved with regional and devolved office staff, and at the London office.

• having an occasional structured look at how the Board saw its roles and responsibilities, and the delegations of authority.

• occasionally arranging for issues of particular interest to Board members to be discussed in smaller groups outside the formal Board structure.

13.7 Overall, the Board felt that it should be – and was – appropriately strategic, and avoided over-involvement in operational detail. There was nevertheless always room for improvement to make sure that the Board was providing the right kind of drive and direction for the Executive.

13.8 A good knowledge and understanding of the organisation’s operational work was necessary to be effectively strategic. The balance had to be got right, and some of the suggestions above should help address that, as would the informal Commissioner days.

13.9 The Board considered that the level of performance monitoring was about right, and a healthy level of trust existed between the Board and its Executive, and between the Board and its two committees.

13.10 Other discussion touched on culture (eg the Commission’s values statement), and how the Board could gauge the organisation’s culture, as it wasn’t something susceptible to the usual methods of measurement, other than by seeing the organisation in operation. Again, opportunities for contact and interaction with staff, apart from the Board meeting, were thought to be useful and good practice, and the suggestions at the bullet points above should assist.

14 Commissioner wash-up (Commissioners only)

The meeting ended at 2.40 pm.

____________________________________Chair