Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 16 November 2016 at 9.30 am

Present:  
Jenny Watson (JW)  
Anna Carragher (AC)  
Gareth Halliwell (GH)  
Tony Hobman (TH)  
John Horam (JH)  
David Howarth (DH)  
Alasdair Morgan (AM)  
Bridget Prentice (BP)  
Rob Vincent (RV)

In attendance:  
Claire Bassett (CB)  
Carolyn Hughes (CH)  
Robert Posner (RP)  
Craig Westwood (CW)  
Ailsa Irvine (AI)  
Kairen Zonena (KZ)  
Rupert Grist (RG)  
Kate Engles (KE) – item 4  
Louise Edwards (LE) – items 4 and 6  
Kay Jenkins (KJ) – items 4 and 8  
Andrew Zuill (AZ) – item 8  
Katy Thomas (KT) – item 8

Observing:  
Sir John Holmes  
Dame Susan Bruce

JW welcomed Sir John and Dame Susan in their capacity as observers.

1  Apologies

    John McCormick.
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 a longstanding friendship with someone who gave evidence in the London Borough of Tower Hamlets election petition had recently been revived (subsequent to the case).

2.3 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.

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

2.5 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.

2.6 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.

2.7 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.

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

2.9 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?’

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

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

2.12 DH reported that the European Parliament subsidised a regular annual visit by his Public Policy students to Brussels.
2.13 DH declared that he had been awarded a research grant of over €40,000 from the European Parliament.

2.14 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.

2.15 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.

2.16 (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.)

2.17 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).

2.18 RV, in relation to a discussion during item 4 which touched on Batley and Spen, declared that he knew the Returning Officer and other electoral staff for the constituency.

3a Minutes of 19 October 2016 (EC 89/16)

3.1 In response to a query JW suggested amending the wording of resolution (e) at item 6 (Fraud) to incorporate in the third from last bullet point at 6.3.

**Agreed:** That, subject to the proposed amendment, the minutes of the Commission Board meeting held on 19 October 2016 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC 90/16)

**Noted**
4 Update from Chief Executive for November (EC 91/16)

4.1 Para 2.1 – Modern Electoral Registration Programme (MERP) – CB reported on some positive developments with the Programme Board which would better enable it to focus on its task, and be effective. The Memorandum of Understanding was expected to be signed by the end of November. A copy would then be circulated to the Commission Board for its information, together with an outline of the electoral registration pilots. A further briefing could also be provided for Commissioners if helpful.

4.2 Paras 3.4 - 3.6 – Referendum Counting Officers’ fees and charges – it was noted that claims were processed by the Cabinet Office’s Elections Claims Unit and while we regularly monitored progress, we scrutinised individual claims only where there were particular issues. The amounts spent by each local Counting Officer would be included in our report on the costs of the Referendum, expected to be published in autumn 2017. AI added that forthcoming work included a study of comparative data on counts and expenditure with a view to developing models of practice to be shared amongst the electoral community.

4.3 Para 4.6 – PEF Online Development Project – RP noted that work on improvements to PEF Online was making progress, and a stakeholder panel drawn from political parties would be formed to provide a user sounding board and encourage buy-in. As a complicated IT project, the Board would be kept aware of progress. A thorough internal process had also been carried out to prevent drift, and to review and improve the terms, conditions and value for money of the contract - both BP and CH were satisfied with the result.

4.4 Para 4.8 – Changes to party funding rules project - the project was looking at political funding (ie parties and non-party campaigners) and, in communication with the Committee on Standards in Public Life, aimed to propose a set of principles that could provide a framework within which to consider any amendments to the existing system. Subject to other work, staff hoped to be in a position to bring something forward for the Board’s consideration in the first half of 2017.

4.5 Paras 4.9 – 4.10 – Party Registration Development project – in answer to a question, RP confirmed that plans to share with political party stakeholders proposed changes to our guidance on registering a new political party or changing registered details were well under way, with an item on each of the next Political Parties’ Panel meeting agendas. A meeting had already been held with the Scottish National Party, where the particular arrangements relating to Scotland had been well-received.

4.6 Allied to this item, Commissioners discussed recent party registration decisions and our approach to them. It was noted that decisions on applications to register names and descriptions for those parties standing in
the Batley and Spen by-election were considered in the very particular circumstances of the murder of the MP, Jo Cox, in June. Meanwhile, we continued to recommend a change in the law to reduce the number of names and descriptions permitted. At the same time, the processes now in place were designed to ensure consistency and transparency.

4.7 The strategic review - Programme 5 - would now move forward with a Commissioner reference group to act as a sounding board, and names had been sought.

4.8 Para 6.1 – review of electoral law/Law Commissions’ recommendations to government – CB emphasised the importance of sustaining our efforts to move the review forward, and continuing to use any opportunity to highlight its importance in a way which would consolidate Ministerial commitment. The Minister for the Constitution’s speech, and associated policy statement would be circulated to Commissioners. JW and CB were due to meet him the following week.

4.9 Para 6.11 – Scottish Government’s draft referendum bill – the consultation on the draft Bill would run until 11 January but we proposed to submit our response by 24 November. This would enable the Scottish Government to be aware of our position prior to the Political and Constitutional Affairs Committee hearing on 29 November.

4.10 JW reported on behalf of John McCormick that invitations for membership of the Scottish advisory group (agreed in principle by the Board in December 2015) would be sent to prospective members.

4.11 GH added that in Wales a parallel process was being pursued, and a meeting with the Wales Assembly Presiding Officer was due to take place within the next two weeks.

4.12 Northern Ireland – AC reported that interviews for a successor to Graham Shields had been held and names put forward to the Secretary of State from which to appoint. It was hoped this would be completed by January. Together with the Head of Electoral Commission Northern Ireland, she had also met Kris Hopkins MP, the Parliamentary Under Secretary of State, Northern Ireland Office, and discussed the need for progress on commencing the Donations and Loans legislation, passed two years ago.

Agreed: That:-

(a) The Memorandum of Understanding being drawn up with the Cabinet Office for the Modern Electoral Registration Programme be circulated to Commissioners, once agreed, together with a brief note about the electoral pilots (plus an informal briefing if required);
(b) A Commissioner reference group be established with Tony Hobman, Bridget Prentice and Rob Vincent, to work with the strategic review project team on proposals for Board decision in January 2017;

(c) The Minister for the Constitution’s speech of 24 October on ‘a vision for democracy’ and associated policy statement be circulated to Commissioners for information; and

(d) Moves to set up the devolved advisory groups in Scotland and Wales be noted, and further progress reported back in due course;

(e) There would be a further discussion in the New Year on how the new Party registration processes were embedding.

5 Chair’s and Chief Executive’s meetings (EC 92/16)

5.1 CB would report back on her US election observation to a future meeting.

Noted

6 Regulatory matter for decision (EC 93/16)

6.1 All present were reminded of the need for complete confidentiality, the law on appearance of bias, conflict of interest and the Commissioner Code of Conduct. A regulatory matter was considered, discussed and agreed.

6.2 During discussion a number of points were touched on, including:

- The ongoing issue of the split between party and candidate expenditure (previously considered by the Board in September 2016 and now forming part of our Strategic Review priorities)
- The need for some political parties to strengthen their processes and improve their compliance.
- The need for the Commission to have a wider range of civil sanctions which would diminish the need for referral for criminal prosecution

Agreed: That:-

(a) The Board having satisfied itself that the circumstances outlined in the paper met the threshold for referral, the matter be referred to the police for investigation;

(b) It be noted that the referral would figure in our press release on the wider investigation, simply as one of the actions arising, and Commissioners would be notified separately of the press release and statement;
7 Annual Review of Complaints (EC 94/16)

7.1 An introduction, noting that periodic scrutiny of complaints by the Board was recommended good practice, was followed by a brief discussion.

7.2 The number of complaints was too small to derive any really useful trend information, but it was noted that other arms of the organisation (including the public enquiry and information line, and the Political Finance Regulation help line) both fielded a very large number of queries and concerns, especially at peak times. The themes from some of these fed into our post-poll reports where relevant. The Board asked to see information from those.

Agreed: That:-

(a) The annual review of complaints be noted; and

(b) Information from our public enquiry line and the Political Finance Regulation help-line be assembled and reported to the Board in due course.

8 Quarter 2 Performance and Finance Monitoring (EC 95/16)

8.1 A number of questions were asked and points were raised. It was noted that the new suite of Key Performance Measures for 2017-18 would be still clearer, and meet many of the concerns expressed.

Noted.

9 Risk appetite (EC 96/16)

9.1 JW introduced the paper, which she had brought to the Board as it was timely to refresh the topic of risk appetite, last done in 2012 with the Board, and its role in decision-making.

9.2 In response to queries, CH explained that the illustration on page 5 of the paper was a snapshot of the Board’s view of itself in 2012, projecting forward to 2014-15, when it thought its approach to risk would become more cautious in the run up to electoral events (when it was more appropriate to be risk-averse), and more open at other times. JW observed that the Board was much more comfortable with risk than it had been when she became Chair. A shared understanding of the Board’s attitude towards risk, and where it was more or less flexible, would be helpful for the Board and for the management team.
The Board agreed that it was open to risk with degrees of caution, and agreed with the illustration of current risk appetite on page 6 – we were more confident and more open than previously. There was a greater willingness to weigh the positives of certain action. If the Commission and the Board were more confident than they had been, say, 6 or 8 years ago, there was still awareness that a good reputation and the confidence of others were hard-won and easily lost. It was also true that a good reputation could be lost by failing to take a risk (to do something we should have done) just as much as by conducting oneself recklessly.

Discussion then turned to the link between risk appetite and decision-making, and it was agreed that anticipating such risks as early as possible with time for discussion and debate, would give the greatest likelihood of consensus – which was the normal operational mode of the Board.

It was agreed that it would be useful to revisit the discussion on interests and decision making in the light of changes to Board composition. A further discussion would be held in the New Year.

**Agreed:** That a session on interests and decision-making would be arranged in the New Year, with various scenarios, and various routes for handling.

The meeting ended at 1.35 pm.

____________________________________Chair