

## Memorandum of Understanding between the Chief Counting Officer for the Scottish Independence Referendum and the Electoral Commission

### 1. Purpose

- 1.1 The purpose of this Memorandum of Understanding (MoU) is to establish clarity of roles and responsibilities between the Chief Counting Officer (CCO) for the Scottish Independence Referendum and the Electoral Commission (EC) before, during and after the Scottish Independence Referendum to be held on 18 September 2014.
- 1.2 The MoU outlines how we will deal with areas where our responsibilities meet to ensure that the conduct and regulation of the referendum are carried out efficiently and effectively and in the best interests of the voters and campaigners.
- 1.3 Since the establishment of the Electoral Management Board (EMB) for Scotland there has been close cooperation, open communication and mutual support between the Electoral Commission and the CCO in her role as Convener of the EMB. Representatives of the Commission attend meetings of the EMB, providing advice and support to the Board and the two bodies have often shared platforms and promoted joint briefing events for the electoral community, parties and campaigners in Scotland. There is every expectation that this relationship will continue. Mindful, however, of the distinct division of responsibilities introduced in the Referendum Bill/Act this MoU aims to provide clarity of role to both and to a wider audience. The intention is not to over-formalise the relationship, but to prevent misunderstandings or the misdirection of queries so that the voter and campaigners are always fully and professionally supported by the most appropriate body.

### 2. Chief Counting Officer

- 2.1 Under Section 4 (2) of the Scottish Independence Referendum Bill currently before the Scottish Parliament the Convener of the Electoral Management Board for Scotland will be the Chief Counting Officer for the referendum.
- 2.2 The CCO is responsible for:
  - ensuring the proper and effective conduct of the referendum;

- the conduct of the poll;
- the verification and counting of the votes;
- appointing a Counting Officer (CO) for each local government area;
- providing guidance and direction to COs and Electoral Registration Officers (EROs) on the exercise of their functions in relation to the referendum<sup>1</sup>;
- undertaking public awareness activity; and
- setting performance measures for COs and monitoring performance on an on-going basis.

### 3. Electoral Commission

3.1 The Electoral Commission at the referendum will be responsible for:

- registration of campaigners;
- designating lead campaign organisations;
- regulating campaign spending and donations;
- guidance for campaigners on registration, designation, campaign spending and donations;
- reporting on the referendum;
- promoting public awareness;
- advising the CCO; and
- accrediting observers.

### 4. Areas of overlap of activity

4.1 There are a number of instances where the roles of the CCO and the Commission overlap and we intend to deal with those instances in the following manner to ensure the proper and effective conduct of the referendum in the interests of the voters and campaigners.

### 5. Conduct of the referendum

5.1 The CCO is responsible for the conduct of the poll and the verification and counting of votes. The CCO and the Commission will ensure that their activities do not duplicate but complement each other's work and that there are no gaps in the provision of services to the voters and campaigners.

- a. Enquiries received by the Commission from voters, campaigners and the media on the conduct of the poll and count will normally<sup>2</sup>

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<sup>1</sup> Currently the Scottish Independence Referendum Bill does not include such a provision but both the CCO and the Commission are working on the assumption that as indicated by Scottish Government an amendment will be tabled to the bill at stage 2 providing for such a responsibility.

<sup>2</sup> The CCO and EC will seek to define and agree in a jointly approved handling of enquiries document (including a list of FAQs) the specific questions where public enquiries can be dealt with by the body not responsible for the matter. Details of how both parties will inform each other of minor enquiries, not within their role but answered by the other will be included.

be directed to the CCO, her central team or the relevant CO or ERO.

- b. To assist the Commission's helpline the CCO will provide her FAQs so that basic questions can be answered.

## 5.2 The Commission is responsible for the registration and regulation of campaigners.

- a. The Commission will assist CCO, COs and EROs to facilitate contact between campaigners and those who conduct the poll, where able, in such matters as provision of the electoral register or polling list.
- b. The Commission will provide base documents and advice to the CCO to help develop her guidance to COs or EROs and to campaigners.
- c. The CCO and Commission will provide joint guidance documents for campaigners where considered necessary.
- d. The Commission will make its campaigners' guidance available to the CCO and COs, so it can be included in any information pack issued locally by COs for campaigners.
- e. The Commission will provide details of its briefings, FAQs and webinars for campaigners to the CCO and COs and involve them in such matters as appropriate.
- f. The CCO will provide details of briefings, FAQs and webinars she undertakes to the Commission and involve them in such matters as appropriate.
- g. Enquiries received by the CCO, COs and EROs from voters, campaigners and the media on the registration and regulation of campaigners will be directed to the Commission.
- h. The CCO, not the Commission, will be responsible for providing guidance and direction on matters arising from the Scottish Independence Referendum Act to COs and EROs<sup>3</sup>.
- i. The Commission will provide the CCO with relevant base documentation to assist in the development of the guidance package and materials to COs and EROs in relation to the Scottish Independence Referendum.

## 5.3 The Commission is responsible for processing applications to observe the Scottish Independence Referendum and maintaining the register of accredited observers which will be published on the Commission's website.

- a. Any enquiries regarding observing at the referendum received by the CCO/CO will be passed to the Commission or the contact details of the Commission supplied to the inquirer.
- b. The Commission will provide details of Observer briefings, webinars or other information regarding observing to the CCO and COs so they can be highlighted to potential observers.
- c. CCO and COs will seek to assist observers by providing information on referendum events as requested.

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<sup>3</sup> The Commission provided guidance, endorsed by the CCO (designate) to the EROs on the Scottish Independence Referendum (Franchise) Act 2013.

5.4 In the event of any issues arising requiring legal advice the CCO and the Commission will consider the benefit and appropriateness of liaising on the matter under discussion.

## 6. Regulation of the referendum

6.1 Any enquiries the CCO, her central team, COs or EROs receive regarding the registration of permitted participants; designation of lead campaigners; regulation of campaign spending and donations and guidance to permitted campaigners will be passed to the Commission for actioning or contact details of the Commission given.

6.2 Enquiries by campaigners and observers concerning access to postal vote openings; counts and other events conducted by the CCO and COs will be dealt with by CCO/CO. The Commission will pass the inquiry to the relevant person or give contact details as agreed with the inquirer.

## 7. Public awareness, engagement and media

7.1 The Commission will inform and keep up-to-date the CCO, CO and EROs with regard to its public awareness and engagement activities relating to the referendum.

7.2 The Commission will work with the EMB's Communications Network to ensure that awareness activities undertaken at the national and local level are complementary and avoid duplication.

7.3 The Commission will provide details of its public awareness campaign and materials to the CCO, COs and EROs as it has done previously at Scottish polls to support the delivery of their awareness activities.

7.4 The Commission will provide the CCO its helpline FAQs to assist in the development of local FAQs for similar helplines by COs.

7.5 The Commission, CCO, CO or EROs will not express an opinion on behalf of another body to the media. Any media enquiries received not relevant to them will be passed to the relevant body or contact details provided to the enquirer.

7.6 The CCO will inform and keep up-to-date the Commission with regard to any public awareness activities she may undertake relating to the referendum.

## 8. Reporting on the conduct of the referendum

8.1 To assist the Commission in reporting on the referendum the CCO will provide the Commission with information it requests.

8.2 The Commission and the CCO will seek to co-ordinate the publication of their reports on the referendum.

Signed by:



Mary Pitcaithly  
Convener of the Electoral  
Management Board for Scotland

Date:



John McCormick  
Commissioner  
The Electoral Commission

Date: