Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 18 May 2016 at 11.00 am

Present: Jenny Watson (JW)
Anna Carragher (AC)
Gareth Halliwell (GH)
Tony Hobman (TH)
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)
Alex Robertson (AR)
Andrew Scallan (AS)
Kairen Zonena (KZ)
Chris Meade (CM)
Phil Thompson (PT) – item 4
Emma Hartley (EH) – item 4
Kate Engles (KE) – item 4
Chris Meade (CM) – items 4 and 7
Kay Jenkins (KJ) – items 4 and 8
Ailsa Irvine (AI) – items 7 and 8
Katy Thomas (KT) – items 4 and 9
Tom Hawthorn (TH1) – item 7
Katy Knock (KK) – item 7
Andy O’Neill (AON) – item 7
Rhydian Thomas (RT) – item 7
Cahir Hughes (CH1) – item 7
Adrian Green (AG) – item 7
Ben Brook (BB) – item 7
Richard Cavanagh (RC) – item 7
Phil Tucker (PT1) – items 8 and 9
Alex Robertson

As this would be Alex’s last full Board meeting with everyone present JW wanted on behalf of the Board to thank him for his work for the Commission, and to wish him well for the future.

1 Apologies

None.

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 forthcoming 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 make 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 recently 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 since his advice was sought by referendum campaigners, had now learnt that he was supporting 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 reported that as a function of his role as CEO of the Occupational Pensions Regulatory Authority (OPRA) and its successor body the Pensions Regulator (TPR), he 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).

2.17 BP took the opportunity to update her Register of Interests entry by removal of Bridget Prentice Associates.

2.18 As a result of their declarations, David Howarth and John Horam had at an earlier meeting recused themselves from designation decision-making. Jenny Watson continued to recuse herself from designation decision-making as Chief Counting Officer (as did Andrew Scallan as Deputy Chief Counting Officer).
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 13 April (Ordinary) 2016 (EC 45/16)

Agreed: That the minutes of the Commission Board meeting held on 13 April 2016 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC 46/16)

Noted.

4 Update from Chief Executive for April (EC 47/16)

4.1 The main updates for Programmes 1 and 2 were contained in the two slide presentations later on the agenda.

4.2 In relation to various aspects of these programmes, a Commissioner commented that it would be useful to have examples of the sort of organisation classified as a local third party campaigner, or the number and type of people accredited as election observers.

4.3 Para 2.11 – electoral registration pilots – it was noted that more information on these pilots would come to the Board when details had been finalised, and that meanwhile a brief summary would be circulated when available.

Agreed: That:-

(a) Electoral registration pilots be reported on more fully to a future Board meeting, and that meanwhile, as soon as available, a brief summary be circulated to the Board for its information; and
(b) The Minister’s response to our letter raising concerns about the allocation of expenditure on electoral registration ahead of the EU referendum (paras 3.26 to 3.28) be circulated to the Board for information.
5 Chief Counting Officer/Deputy Chief Counting Officer update for May (EC 48/16)

5.1 JW thanked staff for the considerable work being done across the organisation.

Noted.

6 Chair’s and Chief Executive’s meetings (EC 49/16)

6.1 The 11 May meeting of the Parliamentary Advisory Group had not taken place.

Noted.

7 May polls – initial review of issues and key messages (EC 50/16 – presentation TABLED)

7.1 AS introduced the opening slides, followed by AON, RT and CH1 on the picture in Scotland, Wales and Northern Ireland respectively, followed by AG on issues in England, including London. The overall picture had been one of successful and well-run polls.

7.2 In Scotland, AON commented that apart from a routine polling day, one point of note following the election was that the potential for an Electoral Reform Bill being introduced in the Scottish Parliament existed, to put the Electoral Management Board on a statutory footing for Scottish Parliament elections, together with associated changes to be made in relation to the Commission’s role in Scotland.

7.3 In Wales RT said that the National Delivery Group which had been constituted for the first time for these polls had proved successful and would be built on in the future.

7.4 In Northern Ireland CH1 reported that the main focus had been on the count (where there had previously been problems) where he was glad to say that the issues identified in 2011 and 2014 were not present, with support provided by the Commission having resulted in definite improvements. The mock count in particular had borne fruit. It was hoped that the Electoral Office might be receptive to other possible improvements to the STV count in the light of this experience.
7.5 There had been a high number of accredited observers in Northern Ireland, sixteen of whom were found to be strongly affiliated to or elected members of a political party and therefore not politically neutral and so their accreditations had been revoked.

7.6 These observations were endorsed in turn by JMcC, GH, and AC.

7.7 In London there were two issues of note: problems caused by the provision of incorrect electoral registers to polling stations in Barnet; and problems reconciling data from the electronic counting systems which had delayed the announcement of the result for the Mayoral and London-wide Assembly member elections. In both cases we had assisted in significant ways. AG described what our response had been in each case. RV and BP added their reflections on the evening.

7.8 The following points were made:

- Electronic counting was transparent for the purpose of adjudicating doubtful ballots, but far from transparent or accountable in terms of ownership of the problem with the software (which was outsourced) – there seemed to be no process to authenticate the results, and no plan for what to do in the event that the numbers did not tally. It seemed that the testing of the software, as well as the software itself, had been outsourced.

- In Scotland where electronic counting would be used for the local government elections in 2017 the count software algorithm at previous elections had been authenticated by a university in the Netherlands, and the data subsequently uploaded to the website after the election, which safeguarded the process, and ensured transparency and confidence in the result – this could be a useful model.

- The GLRO would be asked to undertake a further cost-benefit analysis of manual versus e-counting.

- The GLRO’s lack of communication during the evening exacerbated matters and it was felt he had not gathered round him a team with strong election experience.

- The presence of both senior staff and Commissioners at the count had been helpful.

- Should we have a power of direction at election counts in future?

- Should the Commission or another body have a role in authenticating count software, or suggesting minimum standards for authentication and testing?

7.9 AG reported that enquiries had been launched into both Barnet and the London count, and we had fed into the terms of reference for each of them.

7.10 In response to a question, AS reported that the proposed report on the PCC elections would include the local government elections in England.
In terms of the observer scheme, AS commented that it was a statutory requirement for us to have a scheme, and that in the 10 years it had been running, there had only previously been one revocation (for violent behaviour). However, this was a good moment to reflect on its efficacy and how it could be adapted to suit some of the challenges of elections now.

Agreed: That:-

(a) the key messages for the post-poll report outlined in the tabled slide presentation be endorsed, and that further consideration be given to including the additional points concerning the potential e-counting software authentication and governance/ownership; powers of direction at counts; balance in terms of properly reflecting English local government in the report; and the issue of accredited observers; and

(b) Commissioners wishing to join AC, GH and JMcC in reviewing the draft reports should let the Chair know.

8 Referendum count event (EC 51/16 – presentation TABLED)

8.1 KJ, AI and PT introduced their respective slides setting out the arrangements for the EU Referendum count, relating to the location of the media, the timing of announcements and declarations, the extent of scenario planning, the security of the system, and contingency plans.

8.2 Commissioners asked a number of detailed questions, and were shown a demonstration of the count software.

Noted.

9 Q4 performance and finance report (EC 52/16 plus TABLED update of the budget figures)

9.1 CH reported that this was the final performance report for the 2015-16 financial year. Red-rated key performance measures were listed at paragraph 2 of the covering report. In relation to risk, on this occasion the full register had been attached (in response to the Board’s request). The updated table which had been laid round showed the revised financial summary, subject to audit, with revised actual expenditure of £18.308M (compared to the figure in the original Board paper of £18.352M). The full accounts would be presented to the Audit Committee on 28 June and the Board on 30 June.
9.2 KT reminded Commissioners that she was reviewing the format of the report for the new financial year including how reporting of the performance measures in the 2016-17 Corporate Plan should be covered in the quarterly reports to the Commission Board. Commissioners were invited to put themselves forward to share their views on the format of the report for 2016-17 and in autumn 2016 to review the performance measures to support the new plan following the strategic review.

9.3 Points made on the Key Performance Measures included:
- Where securing 100% of an activity was resource-intensive we might want to consider revisiting our approach
- In relation to staffing (page 25), a question was raised as to how exit interviews with senior staff were carried out and reported, and it was noted that this would be taken forward with the senior team
- It was noted that complaints (page 27) were reported quarterly, together with a summary of their outcomes, but that an annual review of complaints would be useful
- The summary dashboard on page 3 would be amended to better reflect the detailed position in each programme and re-circulated
- On page 9 of the appendix, last line (% of the UK public who say they are satisfied with the system of registering to vote, annual indicator – score of 75% against a target of 90% - plus footnote 13) AS commented that planned work on forms would improve this.

9.4 Points raised on the risk register included:
- As part of Risk 4, *Events not wholly within the Commission’s control have an impact on its reputation*, should we add issues occurring at electoral events?
- As part of risk 5, *Ineffective regulation of the Party and Election Finance rules*, should we add possible breaches of the candidate reporting rules at the UKPGE?
- Is the increasing number of elections itself a risk which should be added?

9.5 JW suggested finding a way to minimise the lag between quarterly reports and Board consideration. She added that the aim was to interrogate both risks and KPMs in a way which enabled us to learn from them.

**Agreed:** That the quarter 4 performance and finance report 2015-16 be noted, together with the further actions noted above, and that Commissioners wishing to share in the process of reviewing how we report performance and finance be invited to put themselves forward to Katy Thomas.
10 Draft minutes of 15 March Audit Committee (EC 53/16)

Noted.

11 Draft minutes of the Remuneration and Human Resources Committee meeting of 15 March 2016 (EC 54/16)

Noted.

12 Meeting wash-up (Commissioners only)

The meeting ended at 12.50 pm.

________________________________________Chair