Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 24 May 2017 at 9.30 am

Present:
- Sir John Holmes (JEH) Chair
- Sue Bruce (SB)
- Elan Closs Stephens (ECS)
- Tony Hobman (TH)
- John Horam (JRH)
- David Howarth (DH)
- Alasdair Morgan (AM)
- Bridget Prentice (BP)
- Rob Vincent (RV)

In attendance:
- Claire Bassett (CB)
- Carolyn Hughes (CH)
- Ailsa Irvine (AI)
- Robert Posner (RP)
- Craig Westwood (CW)
- Kairen Zonena (KZ)
- Rupert Grist (RG)
- Ben Wilkinson (BW) – item 4
- Kate Engles (KE) – items 4 and 6
- Katy Thomas (KT) – items 4, 7 and 8
- Tom Hawthorn (TH1) – item 6
- Katy Knock (KK) – item 6
- Mel Davidson (MD) – item 6
- Sarah Mackie (SM) – item 6
- Rhydian Thomas (RT) – item 6
- Phil Thompson (PT) – item 6
- Sheilja Shah (SS) – item 6
- Tracey Blackman (TB) – items 7 and 8
- Sharon Jager (SJ) – items 7 and 8
- Philip Tucker (PT) – item 9
The Chair welcomed the new Head of External Communications, Ben Wilkinson.

1 Apologies

Anna Carragher.

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 forthcoming 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 JH1 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 19 April 2017 (EC 34/17)

Agreed: That the minutes of the Commission Board meeting held on 19 April 2017 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision-Action tracker (EC 35/17)

A Commissioner queried whether the Electoral Fraud Update item, currently shown as coming back to Board in February 2018 (in time for the May 2018 polls) should not in fact come sooner. It was confirmed that it would in fact be considered next in October 2017.

Noted

4 Update from Chief Executive for May (EC 36/17)

4.1 In relation to Programme 1 (Elections and Local Referendums), AI advised that we had published our report on the Northern Ireland Assembly election, which had gone well. The main issues of note had been around registration and we had taken the opportunity to refer to our earlier recommendations on this.

4.2 RG updated the Board regarding Lutfur Rahman’s judicial review of aspects of the Election Commissioner’s findings on him.

4.3 In response to a question about how we were communicating with political parties about campaign finance rules, para 1.11, RP confirmed that
his meetings with the major parties about the rules had been positive and constructive.

4.4 A Commissioner asked whether in ‘electoral pact’ constituencies those parties which had decided not to stand candidates were likely to be clear about the rules on third party campaigning. RP confirmed that parties had been written to with the rules and limits on any spending they made in support of another party’s candidate.

4.5 RP added that active and continuous monitoring of campaign activity meant that we were able to spot possible contraventions. Should it prove necessary we were ready to take action against any organisation refusing to register as a non-party campaigner or otherwise comply with the rules, including by issuing a Stop Notice.

4.6 Programme 4, Political Finance and Regulation, paras 4.1–4.5 and item 8, Performance and Finance Report 2016-17 – a Commissioner queried the fact that the PFR programme was rated as green, while elements of it were red. This reflected the fact that the programme as a whole was on track, even while elements within projects were not, for various reasons.

4.7 Paras 5.3-5.4 – donations and loans and statements of accounts – while all the main parties were likely to report on time in spite of the additional unexpected burden of the UKPGE, some of the smaller parties might not do so. We were considering how best to manage those that missed the deadline.

4.8 Para 5.6 – CPS announcements regarding allegations against candidates during the 2015 UKPGE – RP touched on the remaining announcement awaited from the CPS in the case of South Thanet.

4.9 The Board regretted the efforts which had been made in a few quarters to discredit members of staff and the Commission as a whole in the aftermath of the CPS decision not to mount prosecutions over the so-called Battlebus issues, and placed on record their unqualified support for the staff.

4.10 Para 5.10 - secondary legislation to effect changes to reporting of donations and loans in Northern Ireland – a Commissioner queried whether the effective date of any proposed Order was realistic, and it was acknowledged to be ambitious.

4.11 ECS and SB both commented on a visit by ECS to Scotland the previous week on the date the Scotland Act was commenced, with a particular focus in discussions on arrangements for our accountability to both the Scottish Parliament, and, in time, the Wales Assembly. Both Commissioners looked forward to being involved in the development of those arrangements. SB added that discussions were under way with the Scottish Parliament and she promised to keep the Board updated. It was noted that other
commissions were similarly accountable to both parliaments, and we would consider those models in drawing up our own proposals in consultation with relevant people, to be agreed in due course by the Board, and put forward to the Scottish Government.

4.12 Likewise it was felt that the Scottish Electoral Management Board had proved a sound model on which to base the co-ordinating group in Wales, albeit on a voluntary rather than statutory basis at this stage.

Noted.

5 Chair’s and Chief Executive’s meetings (EC 37/17)

5.1 International observers for the UKPGE on 8 June would be briefed by us on 7 June, and there would be an early evening reception, for any Commissioners who were available and cared to attend.

Noted.

6 Post-polls immediate reflections on May elections, and draft key messages for reporting, and update on preparations for the UKPGE (slide presentation, EC 37A/17)

6.1 AI introduced the presentation, with an outline of which elections had taken place across the country on 4 May, including the new Combined Authority Mayoral Elections in six areas, and any particular features of each. Key themes were outlined for each of England (slide 6), Scotland (slide 8, introduced by the Commissioner for Scotland), and Wales (slide 10, introduced by both the Commissioner for Wales and RT).

6.2 In general all the elections had been well run. Some of the points of note included issues on which we had previously made recommendations to government. The issues would be included in our post-polls reporting.

6.3 Discussion touched on the possible reason for higher rejection rates for SV (Supplementary Vote) votes, the impact of the voter booklet - including information about the candidates standing - on voter awareness and turnout, and the effect of candidate deposit and subscriber requirements at the Combined Authority Mayoral elections. It also included discussion on the increasingly transparent arrangements and efficiency of electronic counting at the Scottish local council elections, but noted continuing issues around collection and publication of results, and of turnout figures.
6.4 In Wales, the setting up of an advisory group to co-ordinate arrangements for the running of elections in Wales and to provide a single point of contact for Returning Officers had proved effective.

6.5 In terms of next steps, AI would come back to the Board in June with more detail about our proposed approach to reporting on the May and June elections, which would include moving away from a single report for each, towards a series of smaller reports focused on particular themes, as well as seeking other opportunities to engage with our stakeholders.

6.6 Moving on to the preparations for the 8 June UKPGE, CH introduced slide 12, on the finances, by confirming that the additional resources we had sought for the UKPGE had been approved, including a contingency which would be sufficient to cover a further election for the Northern Ireland Assembly should one be called later in the year. She noted that, of the short term staff roles recruited for the elections, some were working already, fielding calls and queries, and others would be recruited at a later date, as work could continue for one or two years after the event (as in the case of investigations following the 2015 UKPGE which had only just concluded) - hence the post-election provision made for 2018-19.

6.7 Turning to the UKPGE on 8 June, TH1 outlined political parties’ manifesto commitments that had been published to date in areas relating to the work of the Commission or which would otherwise have implications for us (such as proposals to hold a UK-wide referendum). We would also be turning our attention increasingly to our accountability to, and ways of working with, devolved legislatures.

6.8 AI gave more detail about our activities, outlined at slide 13, to support a well-run election, including continued support for Returning Officers, managing cyber-security and physical threats to the election, and preparing for reporting on the election. On-line applications on deadline day for registration amounted to 622,000 and applications over the period leading up to the election exceeded the equivalent number for the EU Referendum by 23%. However, it was estimated that up to 40-50% of those could be duplicate applications.

6.9 On regulatory preparations, slide 14, RP added that about 40 non-party campaigners had been registered so far. Financial reporting was currently a major exercise, with considerable manual data input, which linked to the development project for PFR Online. Generally monitoring and enforcement was going well. Concern about social media campaigning continued to be an issue, and we were considering a project after the election to analyse what parties and some other campaigners had spent on social media and the nature of such activity. We would also check donations through companies, although so far no evidence had been provided to give substance to rumoured ‘dark money’.

6.10 CW gave an overview of the voter registration campaign activity, including the performance to date of the Your Vote Matters website (slide 15).
He noted the significant increase of traffic when compared to the same period for the 2015 UKPGE, and in particular the large volumes of postcode-based information being served to site visitors rather than them needing to call their local authority.

**Agreed:** The Board again recorded its appreciation of the way in which staff had responded to the demands of the work entailed by a snap election.

### 7 Performance Report, Annual Report and Accounts 2016-17 (EC 38/17)

7.1 CH introduced the paper, explaining that this and the next item were closely linked. This item was the first of three parts of the Annual Report, which followed a prescribed format. The National Audit Office had nearly concluded their audit and found nothing of significance. The Annual Report would go to the Audit Committee and on to the Board in June, when all that could be achieved internally would have been completed.

7.2 The audit of Policy Development Grants given to the political parties had been partially completed but with the announcement of the election it had not been possible to complete all of them in time for the Resource Accounts to be laid in Parliament before the summer recess. Dates for the remaining audits were fixed for July, and because the election had caused changes to timetables generally, our laying the Annual Report and Accounts in September should not elicit particular comment.

7.3 Moving on to the Annual Report, the following points were made:

- The current wording could give the impression that we were under-performing, since it did not give a clear enough picture of the impact of external events on some of the targets (now remedied in our updated and future approach to KPMs, but could we at least apply the new thinking to the narrative of the old ones?)
- Some explanation of the underspend would be helpful
- Key issues and risks should appear lower down, at least below performance summary, the risks should be put in a box and numbered, and the fourth bullet should either use our re-named risk or mention the revised approach
- In Performance Summary, in the first full paragraph on page 10, the three key goals should be spelled out.
- Some points needed to be completed eg page 15 last bullet point ‘we considered…’ – say what came out of that; page 17 first bullet point, monitoring RO performance – specify how many issues? Specify that the issues were for the RO to address rather than us
• If we had undertaken to add 1% of the population increase to the register was that an accurate measure, or should it be 1% of the eligible electorate (a quite different figure from the population)

• Law Commissions’ work pages 22-23 – this should be more emphatic and forceful

• Devolution of powers, page 23 – the reference to the Wales advisory group was slightly premature; the group was in the process of being set up now

7.4 BP had a further question to ask in relation to IER but suggested this be done by email.

Agreed: That the Performance Report section of the Annual Report and Accounts 2016-17 be revised taking into account the points raised above, and that any further points be emailed to staff.

8 Performance and Finance Report 2016-17 (EC 39/17)

8.1 KT introduced the report, following which TB introduced the finance element of the report, setting out the nature of the underspend on voted expenditure of £800,000 (made up of an underspend on the public awareness campaign which was cancelled at the last moment, and some provision for the EU Referendum which was moved into contingency and of which £500,000 was not needed).

8.2 TB went on to outline the position with regard to processing of EU Referendum claims (83 completed so far, a further 9 waiting for Treasury approval, leaving 301 with the Electoral Claims Unit). The EU Referendum claims had been deprioritised by the ECU in order to allow for work generated by the snap election. She added that the NAO were content with the way we had accounted for provision.

8.3 We would consider whether our support and guidance to Returning Officers had contributed to the under-spend, perhaps in the context of any evidence we might be called to give before a select committee.

8.4 SJ introduced part 7 of the report, concerning staffing. It was noted that the figure of 7.67 in the opening sentence of paragraph 7.3 should in fact have read ‘7.17’.

8.5 It was noted that the equality and diversity data was not as robust as it could be. A Commissioner suggested that exit figures should be screened for disproportionate representation of BME, disabled, or long-term sick staff.

Noted.
9 Annual Risk Update (EC 40/17)

9.1 PT introduced the paper, explaining that the risk ‘events not wholly within the Commission’s control’ had now been revised to a horizon scanning exercise. The assurance mapping exercise at Appendix C highlighted where further was needed to strengthen assurance.

9.2 Thought should be given to how we framed the change in risk referred to above.

9.3 At risk 4, Commission Fails to Respond Adequately to Increased Devolution, SB asked for further information about the project board referred to and how she could be updated. CH said it had just met, was chaired by Andy O’Neill, and she herself was a member, along with Rhydian Thomas. The project board would consider proposals and how and when to bring them forward to the Commission Board. CB added that it was principally about costs and practicalities, rather than matters of principle.

9.4 RV suggested that the RAG ratings for risks E1 and E2 at Appendix B should be reconsidered and possibly reversed.

Agree: That the report be noted, together with the points at 9.2 and 9.4 above.

10 Appointment of Audit Committee Advisor/Chair (EC 41/17)

Agreed: That:-

(a) The appointment of Dean Parker, the independent advisor/Chair of the Audit Committee, be extended by one year to expire on 11 October 2018, following which a Board member would be appointed as Chair in his place; and

(b) An independent advisor be recruited to the Audit Committee to take up the position on 12 October 2018, to be remunerated at a daily rate equivalent to that of an Electoral Commissioner (currently £374 per day).

11 Commissioner wash-up (Commissioners only)

The meeting ended at 12.30 pm.

____________________________________Chair