Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 10 February 2016 at 9.30 am


In attendance: Claire Bassett (CB) Carolyn Hughes (CH) Andrew Scallan (AS) Bob Posner (BP1) Alex Robertson (AR) Kairen Zonena (KZ) Louise Footner (LF) Chris Meade (CM) Kate Engles (KE) – item 4 Tom Hawthorn (TH1) - items 4 and 7 Emma Noyes (EN) – item 4 Katie Hamilton (KH) – item 4 Katy Knock (KK) – item 4 Louise Edwards (LE) – items 7 and 14 Majella La Praik (MLP) – item 14 Phil Thompson (PT) – item 9 Katy Thomas (KT) – items 9 and 10

An additional item was added to the agenda at item 13, and considered in the course of the meeting, but for convenience is recorded in its numbered place.
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.

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, and a Trustee of the Wildfowl and Wetlands Trust, both of which received EU funding.

2.7 JMcC had previously declared (in relation to the Scotland Independence Referendum) his friendship with Nigel Smith, who was now being approached by those on both sides of the forthcoming EU Referendum for advice on the conduct of referendum campaigns.

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 was a friend of the Head of the Behavioural Insights Team at the Cabinet Office.

2.9 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.

2.10 TH declared, in relation to EU referendum matters, that as a function of being CEO of the Occupational Pensions Regulatory Authority and subsequently the Pensions Regulator, he had been a UK representative on the Committee of European Insurance and Pensions Supervisors (CEIOPS) between 2003 and 2010. He had chaired the Occupational Pensions Committee of CEIOPS from 2007 to 2009 and had been a member of the Managing Board of CEIOPS from 2009 to 2010.

3a Minutes of 20 January 2016 (EC 10/16)

Agreed: That the minutes of the Commission Board meeting held on 20 January 2016 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision/Action tracker (EC 11/16)

Noted.
4 Update from Chief Executive for February (EC 12/16)

4.1 Paras 1.1 – 1.6 – allegations of electoral fraud – AS reported that he and CB had chaired a successful SPOC seminar the previous Friday (Single Point of Contact – named police officers for fraud reporting). This had been followed by an Integrity Roundtable.

4.2 There were a number of questions of detail about electoral fraud allegations (paras 1.1 to 1.6) and staff agreed to provide a detailed breakdown of the figures by category.

4.3 While these were allegations, many of which were not investigated or prosecuted, it was recognised that public perception could be that it had happened, even if not proven. Communicating our concerns around fraud without appearing complacent would be a key aspect of this part of our report.

4.4 In relation to Lutfur Rahman’s application for judicial review (para 1.9) the hearing on 26 January had given leave to JR on one of the three grounds (undue spiritual influence) but not on the other two, which meant that the five year bar on him standing for election remained. Election petitions due to be considered elsewhere in the country (para 1.7) awaited a new panel of Election Commissioners.

4.5 Para 1.13 – candidate spending returns – BP1 undertook to come back to the Board with information about whether the candidate returns sampling was risk-based, and the threshold (agreed previously by Board) for ‘significant overspending.’

4.6 In relation to public awareness activity for the May 2016 polls, and in particular calls from people wanting simply to check that they are on the electoral register, it was noted that these had been referred by the call centre to local authorities. The volume of these for limited local authority staff resources could be very significant. AR agreed to check the call centre script to ensure that it was as helpful as possible, but some transfer of calls was inevitable particularly if people wanted to check if they were registered. JW reminded the Board that one of our recommendations emerging from the May 2015 UKPGE, and the transition to Individual Electoral Registration, was to enable people to check online whether they were registered. This would reduce duplicate registrations, and unnecessary workload on electoral registration staff.

4.7 Para 1.38 – Northern Ireland STV count project – it was noted that the Chief Electoral Officer Northern Ireland (CEONI) had indicated his intention not now to use the mini-count approach at any of the count venues for the Northern Ireland Assembly election in May. This approach was intended to overcome previous problems with the STV count, and to improve speed and efficiency. We would continue to work with him on this.
4.8 Para 2.6 – **Electoral Registration – Minister’s Vision** – The Minister had accepted an invitation to the Electoral Advisory Board meeting the previous week. We continued to work as closely as we could with the Cabinet Office, to help shape the programme outline for the Vision, aspects of which (such as the Academy) were not yet clear in the programme structure. The underlying concept, of sharing and promoting best practice was to some extent being undertaken by existing bodies, including the EAB and we had encouraged CO and the Minister to develop these. Board members commented that peer review was resource-intensive, difficult for the electoral community to carry out and that there were other routes to achieving the same goal. RV mentioned the Local Government Association ‘hub approach’ to sharing best practice.

4.9 Paras 2-7 – 2.8 – **review of electoral forms and letters** – AS would make a presentation to the Board on this work once it was completed.

4.10 AR updated the Board on the state of preparations for the EU Referendum based on the latest information and the anticipated conclusion of the Summit on 18 or 19 February.

4.11 A brief discussion on aspects of the timetable in relation to designation took place, during which -

**JW and AS as Chief Counting Officer and Deputy Chief Counting Officer left the room and TH took the Chair. JW and AS then returned and JW resumed the Chair.**

4.12 BP1 introduced the new **PEF Development Programme** (Programme 4), briefly setting out its various projects, which were above day-to-day business and designed to consider our role as a modern regulator. There would be Board papers arising from the project from time to time as decisions were needed. Meanwhile, the Board would be kept updated in the usual way, in the Chief Executive’s Update, and given the opportunity to provide a steer at appropriate points.

4.13 Commissioners heard that state-funding was included within the scope of the Changes to Party Funding Rules project, insofar as we would explore a framework of principles for party funding rules. The continued lack of progress on transparency in party funding in Northern Ireland was raised.

4.14 On the Party Registration Development project, the importance of considering the timing of any de-registrations in the run-up to an election was noted.

4.15 **Strategic Review** – regular updates would be included in the Chief Executive’s report in future, but meanwhile CB advised the Board that initial feedback from stakeholders had made clear that they would be unable to meaningfully engage in our review if there were a June Referendum. We
would therefore review timings, and to some extent, approach, to ensure that the Review would engage properly with stakeholders.

**Agreed:** That:-

(a) Information on candidate spending returns be sent to Commissioners;
(b) The approach to reporting the May 2016 polls set out at paragraphs 1.21 to 1.30 of the Update be agreed, noting that the timings would be adjusted in the event of a June date for the EU Referendum;
(c) A presentation of the review of electoral forms and letters be arranged for a time when the work had been completed; and
(d) Points for consideration in the fraud report (minute 4.3 above) and the PEF Development Programme (minutes 4.12 to 4.14 above) be noted and considered.

5 Chief Counting Officer/Deputy Chief Counting Officer update for February (EC 13/16)

5.1 JW reported that she and AS had now carried out 7 out of the 12 seminars/briefings around the country for Regional Counting Officers, and these were going very well, with excellent awareness and engagement on the part of RCOs.

5.2 She advised the Board that she would make a direction on the use of international business response licences to facilitate the return of overseas postal votes.

5.3 In response to a question, she confirmed that the count collation software had been load- and pressure- tested, and the rehearsal next month was designed to replicate as closely as possible the scale of live count. A future rehearsal was also planned to test the system in situ at count venues.

**Noted.**

6 Chair’s and Chief Executive’s meetings (EC 05/16)

6.1 JW commented that her meeting with Lord Hodgson on 28 January had been useful, but the date of publication of his review into the application of the Non-Party Campaigner rules was still uncertain. Meanwhile, we had encouraged reflection on any possible recommendations which our experience indicated might be difficult.

**Noted.**
7 Standardisation of Statements of Account (EC 15/16)

7.1 LE introduced the paper, giving the background to our long-standing efforts to standardise statements of account. On the whole, political parties were accepting rather than actively welcoming of the initiative, as it would involve some work and adaptation on their part. For this reason, a long-lead time was planned. This, together with pro-active audits designed to support easier compliance and better understanding of parties’ accounting set-ups, should enable us to make standardisation as smooth as possible.

7.2 In answer to questions, LE confirmed that there could be potential costs for parties, in standardising their accounts. Reasons for resistance were varied and practical rather than on questions of principle.

7.3 In response to a suggestion, LE agreed that it was also important as part of standardisation and to achieve better compliance to engage the parties’ own auditors, although our auditing of parties gave us a valuable insight into their problems on the ground. The aim would be to support parties into compliance, including smaller parties with a reliance on volunteer treasurers.

7.4 The Board strongly endorsed the need for support, proportionality and as much simplicity as could be provided for. (This might include seeking the views of others about what should be standardised to best aid transparency). At the same time, they recognised that this initiative had been in prospect since 2002 and it was time to press ahead. The lead times and implementation plan looked reasonable and workable.

7.5 The Board would see draft regulations and a consultation plan in due course.

Agreed: That:

(a) We progress the compulsory standardisation of statements of account through the use of our regulation-making powers;

(b) A reasonable implementation plan (and period) be determined taking account of the views of the major political parties; and

(c) Two Commissioners be invited to provide a sounding board for the proposals.

8 Law Commissions’ Review of Electoral Law – final recommendations (EC 16/16)

8.1 BP1 was pleased to be able to introduce the Law Commissions’ recommendations, which were the fruit of something we had long sought and worked towards. If governments agreed to proceed with the
recommendations, it would lead to a great clarification and rationalisation of electoral law. Having got this far – a considerable achievement – the next critical stage was to ensure that governments supported the drafting of legislation. Responses from governments had been, in the case of the Scottish Parliament, that their main focus would be the May election, and they would turn to it after that. In the case of the UK government, the intention so far appeared to be that the Cabinet Office should work on this in conjunction with the Law Commissions and other significant stakeholders, such as us.

8.2 Drafting of the new legislation would be led by the Office of Parliamentary Counsel.

8.3 There was considerable value in continuing with the next stage of this work bearing in mind also the extent to which it would further and provide a basis for the Minister’s vision of electoral modernisation. This point was being made as clearly as possible, and we would enlist the support of other stakeholders (including local authority Chief Executives, and opposition parties) who could make clear the benefits from a variety of points of view, and also indicate their probable support for legislation in its Parliamentary passage.

8.4 It was agreed that the importance of this for modernisation be brought out in our support for moving it forward, and we would encourage other partners to take a similar line, and use all avenues to communicate their views.

8.5 We would continue to work closely with the Law Commissions’ in developing the project, and report periodically to Board. The ‘sounding board’ Commissioners (David Howarth and Alasdair Morgan) would continue to be involved.

Agreed: That the next steps set out in the report at paragraphs 4.4 to 4.9 be endorsed, and that efforts to step up support for the project and emphasise its value to the Minister’s Vision for electoral modernisation be underlined as discussed.

9 Corporate Plan 2016-17 to 2020-21 and Main Estimate 2016-17 (EC 17/16)

9.1 The Board was reminded that this was the last of the plans under the old system whereby a five-year plan was produced every year. It was our holding position pending completion of the strategic review, after which there would be integrated planning and reporting.
9.2 On the question of those targets which were designed to measure our operating environment, which included things we were not responsible for or might not be able to influence, CB noted that she had made some changes this time, with a view to a new approach in future. It was agreed that separating and clearly differentiating the operating environment KPIs from those that measured our performance, would be a good start. It was agreed that they enabled us to understand the environment in which we were working, how we might properly try to affect it, and help us carry out work to influence the wider system. Together with this change, there would be a review of all the KPIs to ascertain the value of what we were measuring and why. Commissioners would be involved in that conversation later in the year.

9.3 As part of that we would consider: the cost of collecting the information, and what we have done differently on knowing the information we have collected.

9.4 CB said that the new approach could involve a dashboard, with the main top-level measures, from which you could drill down to more detailed.

9.5 Other comments on points of detail to look at further in the draft Corporate Plan included:

- Appendix 3.1, p46 – the final column could be more positive (eg Barriers to performance, and mitigation')
- pp 46-48 – some KPIs were out of date, be specific and topical (ie look at attainers)
- messaging on the Law Commissions’ review project would be checked
- the use and occurrence of ‘United Kingdom’ would be checked, as would language throughout, with a keener awareness of the shifting devolution agenda, and add among achievements the work of the Devolution Reference Group
- In the text make clear where name refers to system of some sort (eg Tableau on p6)
- Add the Four Countries Conference to activities in last year
- Place more emphasis on the consistent achievement of cost efficiencies
- Make language consistent (either electoral fraud or electoral integrity)
- Mention the forthcoming change of Chair, and Electoral Commissioner for Scotland
• Refer to CB being Accounting Officer for EU Referendum and costs associated with this

9.6 The strategic review would take further the work on developing the dashboard, including how to use and present more clearly the operating environment measures and which ones to continue. It would also consider what sort of questions we should ask stakeholders, and assess what measures cost, and what we did as a result of them.

9.7 Commissioners were invited to relay any other points of drafting direct to Katy Thomas.

9.8 Katy Thomas was thanked for her work on drafting a clear and well-written Plan.

Agreed: That, subject to the addition of points minutes above, the draft Corporate Plan for 2016-17 to 2020-2021 and the draft Main Estimate or 2016-17, be approved.

10 Quarter 3 Finance and Performance Report (EC 18/16)

10.1 CB asked the Board to give some thought to what indicators they would like to see (as opposed to what was wrong with the current set). She said the organisation would provide more analysis on the KPIs captured from April onwards.

10.2 KT would make contact with Commissioners to follow up.

10.3 Meanwhile, questions were asked and answered on a number of them. One that was noted was permissibility checks of donations to parties. BP1 explained that these had been given a lower priority to cover a period of pressure but that the figures should now come back up. He added that there were no adverse effects – anything captured would still be enforced where necessary. This raised the question of whether the measure was a worthwhile one, in that case, and whether it could be either risk-based, or stopped altogether (something that would be asked of the KPIs generally). JW reminded the Board that it had previously decided that any measures that had a red rating for two quarters in the row could trigger a strategic discussion.

Agreed: That the Quarter 3 performance report be noted.
11 Annual Review of Corporate Governance (EC 19/16)

11.1 Various drafting points were made, including more broadly that the language by which nominated Commissioners were referred to was occasionally cumbersome, and inconsistent, and should be addressed.

11.2 JW gave the background to one or two of the changes, and the Board was content.

**Agreed:** That the changes to the Corporate Governance Framework and the Electoral Commissioners’ Code of Conduct be endorsed, and the new Framework be uploaded to the website.

12 Review of Board Effectiveness

12.1 The Board had no undue concerns or areas for change or development in the way it operated. In terms of easing the transition to a new Chair, the Board asked JW to consider what had been of benefit to her and what had not, and how that could be fed into the incoming Chair’s induction.

12.2 It was agreed that for anyone coming into a role, it was about getting to know the people and the work, forging an understanding and cutting one’s teeth on live issues.

12.3 It was noted that the new Chair would be doing two rather than three days a week, so the challenge for that individual would be different.

12.4 Thought would be given to introducing informal topical briefings (by staff) to the Board, partly for their information and general knowledge, and to help spread some of the extensive organisational knowledge JW had as Chair that Board members might not have. This would be done around Board meetings and focus on background rather than items on the Board agenda.

12.5 It would also be useful for the Board to have a longer view of the forward agenda.

**Agreed:** The points above be noted and taken forward.
13 Regulatory matters – update and decision (EC 21/16 – TABLED)

13.1 JW began by reminding all those present of the utmost necessity for complete confidentiality.

13.2 BP1 updated the Board on some current regulatory matters. The Board considered and made a decision in relation to one matter.

Agreed: That the recommendation be adopted

14 Meeting wash-up (Commissioners only)

The meeting ended at 1.25 pm.

____________________________________Chair