Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 13 April 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)
Ailsa Irvine (AI)
Kairen Zonena (KZ)
Chris Meade (CM)
Victoria Fox (VF) – item 4
Denise Bottom (DB) – item 4
Andrew Whyte (AW) – item 4
Katy Thomas (KT) – items 7 and 8
Elena Crini (EC) – item 7
Linda Acquaye (LA) – item 8
Ben Brook (BB) – item 9
Charlene Hannon (CH1) – item 9
Dan Adamson (DA) – item 10
Daniel Stoker (DS) – item 10
Enver Necip (EN) – item 10
1 Apologies

Andrew Scallan.

JW had been advised of the designation decision before the Board and went on to advise the whole Board of it, including those who had recused themselves or apologised for absence. She reminded the Board that the decision was confidential until we had told the campaigners and announced it at 3pm. She thanked JMcC and TH for their contribution to the process, and staff for their work.

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).
3a Minutes of 10 February 2016 (EC 28/16)

**Agreed:** That the minutes of the Commission Board meeting held on 10 February 2016 be approved as an accurate record and the Chair be authorised to sign them.

3b Confidential minute of 10 February 2016 (EC 29/16)

**Agreed:** That the confidential minute of the Commission Board meeting held on 10 February 2016 be approved as an accurate record and the Chair be authorised to sign it.

3c Minute of 6 April (Governance) 2016 (EC 30/16 TABLED)

**Agreed:** That the minutes of the Commission Board meeting held on 6 April 2016 (Governance) be approved as an accurate record and the Chair be authorised to sign them.

3d Minute of 6 April (Designation) 2016 (EC 31/16 TABLED)

**Agreed:** That the minutes of the Commission Board meeting held on 6 April 2016 (Designation) be approved as an accurate record and the Chair be authorised to sign them.

3e Record of decision by correspondence – ERO Performance Standards Framework (EC 32/16)

**Agreed:** That the decision by correspondence to agree the ERO Performance Standards Framework be approved as an accurate record and the Chair be authorised to sign it.

3f Record of decision by correspondence – designation of lead campaigners (EC 33/16)

**Agreed:** That, subject to noting that DH had also not taken part in this decision, the decision by correspondence to agree the amendment to the process to designate lead campaigners be approved as an accurate record and the Chair be authorised to sign it.

3g Decision/Action tracker (EC 34/16)

**Noted.**
4 Update from Chief Executive for April (EC 35/16 plus TABLED slides on PEF Advice and Guidance)

4.1 Programme 1 – AI noted that we were firmly in the delivery phase of the May 2016 elections, with around 600 queries dealt with during the nominations period, and that no significant issues relating to the administration of the polls had arisen to date.

4.2 Para 1.3 – election petitions – there was discussion about nomination forms, an error with which had led to one of the petitions. It was noted that while we made the necessary forms available free of charge, local authorities and candidates were not obliged to use them, and might use those provided by other suppliers.

4.3 A number of further points were made: that we should ideally be the sole supplier of forms, for reason of quality and consistency; and that forms should be simplified, while recognising that a number of forms, including nomination forms, were currently prescribed by legislation. BP1 alluded to the project to digitise EA and PEF guidance and forms. A presentation on the review of electoral registration forms and letters was due to be made to the 18 May Commission Board, and staff would see whether some reference could be made also to these points.

4.4 Para 1.29 - Facebook advert for registration – AR reported that following the launch of the Facebook advertisement, there had been an almost immediate spike in online registrations and 136,000 in total that day. AC remarked on continuing frustration that those in Northern Ireland still had no access to the on-line registration available in the rest of the UK.

4.5 Paras 2.10 – 2.11- electoral registration pilots - AI reported that work continued on the Cabinet Office pilots, to try to ensure that the schemes were well developed and could be robustly evaluated. CB added that the Board would be updated on the pilots in more detail in the next two months.

4.6 EU Referendum Programme – In addition to confirmation by AR of the detail of the Update, VF gave a detailed account of the Party and Election Finance advice and guidance service, which answered queries from campaigners, candidates and the public on aspects of the many complex rules on the regulatory side of the Commission’s work. The team worked with external stakeholders to help them understand and apply the rules, and conduct their campaign activities in a complaint way.

4.7 On the question of journalists not quoting the rules or getting them right in news pieces, it was noted that there was a media handbook available, which they were encouraged to use. Briefings on the rules were taking place the following Tuesday and on other dates.
4.8 **Programme 4** – PEF Development Programme – BP1 confirmed that the new Enforcement Policy (para 4.3) had been published on 4 April with immediate effect.

4.9 Paras 5.13 – 5.14 – **Law Commissions’ Review of Electoral Law** – in response to how questions about the meetings with Lord Lang, Chair of the Constitution Committee in the Lords, and John Penrose, Minister for Constitutional Reform, JW replied that that it looked as though more work with Cabinet Office officials was needed to analyse how this could be progressed.

**Agreed:** That:

(a) The review of electoral registration forms and letters coming to 18 May Board meeting also include reference to issues around, and work in progress, on other forms and guidance; and

(b) It be noted that more detailed information on the Cabinet Office electoral registration pilots would be given to the Board in the next two months.

5 **Chief Counting Officer/Deputy Chief Counting Officer update for April (EC 36/16)**

5.1 Questions were asked in relation to arrangements for media management at the count, and stewarding and accreditation of observers.

5.2 On observers, and how easy it was to apply and be accredited, it was noted that there was a statutory code which required observers to be politically neutral. In the event of any problems being reported, accreditation could be revoked. Guidance and briefings were offered to prepare observers. BP1 undertook to see whether the Law Commissions’ Review offered any opportunity to examine the arrangements for and rules applying to observers.

**Agreed:**
That the Law Commissions’ Review be checked for any opportunities it offered for reviewing the arrangements for and rules applying to observers.

6 **Chair’s and Chief Executive’s meetings (EC 37/16)**

**Noted.**
7 Key Messages Annual Report and Accounts 2015-16 (EC 38/16)

7.1 CH introduced the paper, and JW reminded the Board that the Annual Report and Accounts was a factual report of the previous year’s activities but was not our primary means of communicating our work to stakeholders.

7.2 A number of points were noted:

- Electoral Registration (para 4.1 of the cover paper) – say more about our concerns about the removal of entries on the register caused by early completion of transition
- Electoral fraud (para 4.3, 2nd bullet) – review to be clearer about the issues covered. We would continue to look at how we responded to the challenges in this area as part of the strategic review, incorporating any opportunities offered by recommendations in the forthcoming Pickles review.
- Review the use of the heading ‘Good Regulation’ (para 4.6 of the cover paper).
- ‘donations and loans’ – para 4.5 and Appendix, make clear it is both.
- Last bullet on page 16 – add a note to explain the increase in public funds received by parties and say how many parties accepted £66.9M of donations and loans.

7.3 These points would be responded to, and Commissioners were invited to refer any other points they noted direct to Elena Crini and Katy Thomas.

Agreed: That the paper be noted, and the points raised be incorporated into the final draft Annual Report and Accounts 2015-16 to be considered by the Audit Committee in June.

8 Summary Financial Plan and budgets 2016-17 (EC 39/16)

8.1 CH introduced the report, which followed up agreement of the 2016-17 planning assumptions at the October 2015 Board and approval of the draft Corporate Plan 2016-17 to 2020-21 and draft Main Estimate 2016-17 at the February 2016 Board. The Speaker’s Committee on 23 March had approved the Corporate Plan and Main Estimate 2016-17.

8.2 Detailed directorate plans were being developed and work carried out to support the development of the strategic review. As the Commission moved towards managing more of its activities in programmes and projects, we needed to consider whether to also maintain the ‘core’ and ‘event’ spending analysis. In considering the analysis to use in the future the Commission would need to agree a new baseline to measure efficiency.
8.3 CH said that zero-based budgeting was used each year for event costing and new areas of work, but we did not identify and apportion the time spent by staff on different activities. The strategic review provided a good opportunity to review and evaluate all activities from a zero-base.

8.4 There was discussion of the level of contingency and level of risk for the Commission as an organisation that had to account for resources within its own Estimate without opportunities to balance potential financial risks with other organisations, and the requirement on staff to be aware of and tightly manage their budgets.

**Agreed:** That the 2016-17 summary Financial Plan and budgets be approved.

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9 National Audit Office Value for Money Studies on our role in Individual Electoral Registration (EC 40/16)

9.1 The paper summarised the findings of the two-part NAO value for money study on our work in supporting the transition to IER, including the recommendations in the reports, our response, and what we had done to address any recommended actions.

9.2 The recommendations varied from high level (better defining our role and objectives where a project involved others and was not under our control, so as to limit risk and better evidence success against our criteria) to detailed (better recording the assessment and follow-up of performance standards issues).

9.3 JW was keen to see that the lessons contained in the studies had led to the necessary changes, where these were appropriate. It was pointed out by another Commissioner that the lack of consistent and thorough record-keeping had echoes of the findings from the party registration incident in 2014.

9.4 CB confirmed that we would challenge our procedures to ensure that they were right and suitable for purpose. Indeed, as the paper pointed out, we had already begun to do this. BB commented on the earlier frustration that poor logging had meant we could not demonstrate the strength of changes in performance which had been brought about.

9.5 JW suggested that the registration pilots might pose similar risks and issues to those of IER itself, and therefore be a good subject for demonstrating how well we had absorbed the lessons of the VfM recommendations.
Agreed: That the NAO recommendations and the Commission’s responses in the paper be noted, together with the assurance provided by staff that more rigorous systems were in place, and there were mechanisms for capturing and applying the lessons learnt from audit recommendations.

10 Candidate Expenditure in the 2015 UK Parliamentary General Election (EC 41/16)

10.1 DA introduced the paper, and the factors which had led staff to consider what steps could be taken.

10.2 Commissioners were very supportive of what they thought was a very important move to improve transparency and reporting in this area. AC suggested that as it was the one element of party finance which was public in Northern Ireland, it would be very welcome to see it rolled out there at the earliest opportunity.

10.3 There was some concern about the resource implications of the recommendations, and whether we could understand the risk posed by candidate expenditure compared to other risks faced, and whether it was of an order to divert resources from elsewhere (if that was needed) or stop doing another lower-risk activity.

10.4 It was pointed out that this was an increasingly high-profile area, and much could be achieved with proactive guidance. However, there would be resource implications for following up those (Acting) Returning Officers and candidates who had failed to send in the candidate returns within the deadline.

10.5 Even though the transparency argument was a strong one, this did not remove the need for a strong business case. It was accepted that there was anecdotal evidence that the police and the Crown Prosecution Service would be happy for us to take over prosecution, but we should formally ascertain from stakeholders their views on this.

10.6 DH suggested that at its most significant this went beyond a simply moral imperative as a good regulator to improve transparency and that in cases where local/national spend was blurred, he thought it possible that national results could be affected.

Agreed: That the issue be taken forward as part of the strategic review process, with an assessment of the resource implications, and how the issue might be managed in Northern Ireland.
11 Minutes of Audit Committee meeting of 19 January 2016 (EC 42/16)

11.1 In response to questions about risk, CB explained that we had carried out a useful exercise across the organisation to map our assurance about risk, which had been reported back to the last Audit Committee.

11.2 Work on risk appetite had been carried out with the Board about two years previously, and a summary of the organisational risk register was reported to the Board with each quarterly performance report.

Agreed: That the minutes of the Audit Committee meeting of 19 January 2016 be noted, and consideration be given to reporting on risk in more detail annually to the Board.

12 Minutes of the Remuneration and Human Resources Committee meeting of 19 January 2016 (EC 43/16)

Noted.

13 Minutes of the Commission Board meeting of 13 April 2016 - Designation (EC 44/16 – TABLED)

13.1 It was agreed that the words ‘in section 6’ be inserted at paragraph 3.8, that the words ‘it be noted that’ be deleted from (c), and that TH’s declarations be recorded in full, as per the standard declarations.

Agreed: That subject to the amendments above the minutes of the Designation Commission Board meeting of 13 April 2016 at 9am be approved as a correct record of the proceedings, and the Chair be authorised to sign them.

14 Meeting wash-up (Commissioners only)

The meeting ended at 1.30 pm.

_________________________________________Chair