Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 18 January 2017 at 9.30 am

Present: Sir John Holmes (JH) Chair
Anna Carragher (AC)
Gareth Halliwell (GH)
Tony Hobman (TH)
John Horam (JH1)
David Howarth (DH)
Alasdair Morgan (AM)
Bridget Prentice (BP)
Rob Vincent (RV)

In attendance: Claire Bassett (CB)
Carolyn Hughes (CH)
Robert Posner (RP)
Craig Westwood (CW)
Ailsa Irvine (AI)
Kay Jenkins (KJ)
Kairen Zonena (KZ)
Rupert Grist (RG)
Tom Hawthorn (TH1) – items 4 and 6
Vanessa Assante (VA) – item 4
Katy Thomas (KT) – item 6
Katharine Sparrow (KS) – item 6

1 Apologies

Dame Sue Bruce.

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 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?'

2.4 DH had stood for election on a manifesto supporting an in-out referendum on the European Union.

2.5 DH was a council member of Justice, an organisation which had in the past received EU funding.

2.6 DH reported that the European Parliament subsidised a regular annual visit by his Public Policy students to Brussels.

2.7 DH declared that he had been awarded a research grant of over €40,000 from the European Parliament.

2.8 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.

2.9 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.

2.10 (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.)

2.11 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).

2.12 RV, in relation to a discussion during item 4 which touched on Batley and Spen, declared that he knew the Returning Officer and other electoral staff for the constituency.
3a Minutes of 7 December 2016 (EC 01/17)

Agreed: That the minutes of the Commission Board meeting held on 7 December 2016 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision-Action tracker (EC 02/17)

3.1 CB noted that the Board effectiveness review and the session on interests referred to in the decision tracker would now happen in the autumn.

Noted

4 Update from Chief Executive for January (EC 03/17)

4.1 Paras 1.2-1.4 – Mayoral elections for Combined Authorities – candidates had reportedly been selected in advance of the legislation confirming the elections. There was discussion about the implications of this generally, and for campaign spending in particular. Meanwhile, pending legislation, we were prepared to update our published guidance as and when the legislation was passed, and Electoral Registration Officers and Returning Officers had the necessary arrangements in place for those elections.

4.2 Staff responded to other queries on various aspects of Programme 1.

4.3 The announcement the previous Monday that a snap Northern Ireland Assembly election would be held on 2 March 2017, following the resignation of Martin McGuinness from the joint administration, was discussed under Programme 1. Staff had reacted very swiftly to the announcement, immediately carrying out many of the pre-election tasks for which we usually had much longer planning time.

4.4 AC gave a flavour of the key issues, and the Board discussed particularly the position on potential transparency of donations and loans, as James Brokenshire, the Secretary of State for Northern Ireland, had written to the parties seeking their views on the possible commencement of the relevant legislation. It should not be taken for granted that action on this would be delayed, given the particular circumstances of the election. In relation to other matters, it was noted that: public awareness work in advance of the registration deadline would target young people and home movers, the two groups most likely to have come off the electoral register; polling station issues (notably Moygashel) were being monitored and checked; and Virginia McVea, the new Chief Electoral Officer Northern Ireland (CEONI) would start
on 1 February. Finally, it was noted that the fact that there had been an election only last year meant that the electoral community felt reasonably well prepared for the election, even though the number of seats had now been reduced from 108 to 90.

4.5 Para 2.1 – analysis of December 2016 electoral registers – Al gave the headline figures emerging from the data being analysed, a report on which would be published on 22 February. Noting the figure of ‘115 good quality submissions from 380 electoral registration officers’, the Board discussed the persistent difficulties of getting decent data from the systems. The software systems used by the 380 local authorities were provided by four small suppliers, procured and paid for by the Cabinet Office. We continued to set out to the Cabinet Office what we needed from the systems to ensure good quality data, but for various reasons this had not yet led to different results. A key project of the Modernising Electoral Registration Programme (MERP) was to improve electoral registration data, but it was also recognised that a key underlying problem was the limited size of the market for companies providing this software. The limited size and capacities of the current companies meant that they were not necessarily well-placed to deal with cyber security risks either. The limited market was also an issue in the case of suppliers of electoral printing services and paper. By 2020 the government aimed to divest itself of the relationship with electoral registration software suppliers and for it to be managed directly by local authorities.

4.6 Paras 3.2 -3.6 – EU Referendum – Counting Officer fees and charges – KJ reported that all claims had been received, and at an earlier juncture than for any other election. The number of claims exceeding the Maximum Recoverable Amount (MRA) had fallen from the 97 mentioned in the Update to 93. There were also some underspends. It was noted that, despite the additional claims, the total amount claimed by Counting Officers was £93M compared with a budgeted amount of £102M.

4.7 All claims involving additional claimed spend would go into the Election Claim Unit’s (ECU) scrutiny process to check that they were reasonable. The claims data provided by ECU would show the reasons behind the claimed spending, and enable us to identify any trends relating to count practice as well as any questions relating to the Maximum Recoverable Amounts set by Cabinet Office. The Board were interested in whether there was any correlation between spending and efficiency and therefore any lessons to be learned. It was explained that we would include full analysis and identify lessons learnt in our report on referendum costs, to be published in the summer after the conclusion of the Fees and Charges claims process. CB said that we had been calling on the UK and devolved government to publish full reports on election spending, after we had reported fully on referendum spending in 2011, but timely reporting on election costs was not yet government practice.
4.8 AI added that meanwhile data on the cost of running count events, and on their efficiency, had been collected and would be shared with the electoral community to spread best practice.

4.9 Para 4.1 – **Party Registration Development project** - RP reported that since the planned meeting of the Political Parties Panel (PPP) in Northern Ireland had been postponed (in view of the election) - the PPPs being the forum where we were discussing with parties a potential approach to considering what were appropriate party descriptions - there might be a slight delay in coming back to Board in February as originally intended. However, once that contact with parties was complete staff would be in a position to give the Board an indication of parties’ responses in the round.

4.10 There was brief discussion – para 4.7 – **Regulation-making powers project** - on our powers to make regulations. RG explained we had within PPERA power to make regulations, which were legally enforceable. These would lead to better information and transparency which would in turn lead to better regulation. Codes of Practice were different, requiring Ministerial approval via a Parliamentary process.

4.11 Para 6.3 – **Pickles review, voter ID** – JH said we would continue to press government on our proposal to offer a specific form of photo ID at polling stations for those who did not otherwise have any (as opposed to the various forms of non-photo ID proposed by the Government). It had not yet been raised with the new Minister, Chris Skidmore. Badging it as, for example, an ‘election card’ might help differentiate it from national identity cards (which the government was keen to avoid). We could also highlight what made it different from a national ID card: ie that it was not national, nor part of a central database. Government Ministers could see for themselves the ease of photo ID in use at the forthcoming Northern Ireland Assembly election. On a related matter, BP queried whether the proposed use of utility bills for identification might disadvantage married women, who might not be named on them.

4.12 In the same part of the Update, and referring particularly to **evaluation of pilot schemes to tackle voter fraud**, AM pointed out that it was unfortunate that the evaluations did not seem to assess the impact on fraud, but simply the effect on the perception of fraud. It was agreed that it would be important to try to ensure that the pilots were well-designed and enabled proper evaluation of their impact afterwards. This had not always been the case in the past

4.13 Paras 6.8 - 6.12 – **Law Commissions’ review of electoral law** – in the absence of any likely primary legislation in this parliament, the Board nevertheless noted the possibility of some modest progress with the Law Commissions’ recommendations through secondary legislation.
4.14 Para 6.11 – **Wales Bill 2017** – it was noted that the changes to electoral practices in Wales following the enactment of this Bill were likely to be very considerable.

4.15 Paras 6.16 – 6.17 – **Investigation and enforcement** – RP gave a brief update on various cases currently in hand. He would keep the Board updated. JH reminded all those present of the strict duty of confidentiality in relation to the matters reported.

4.16 Para 6.23 – **HR Plan** – this was happening and staff would be in a position to give more detail in next month’s Update.

4.17 Para 6.24 – 6.25 and Appendix A – **performance management infographics** – the graphics would evolve and develop from this early version. Two suggestions were to ensure that colours were clearly different (two had been so close as to appear the same) and to beware of the partial vertical axis, which could be distorting. On occasion, straightforward figures were clearer than graphs and charts. The graphics were nevertheless generally welcomed.

**Agreed:** That:-

(a) The Board’s appreciation of the swift and effective response across the organisation to the announcement of the Northern Ireland Assembly election on 2 March 2017 be noted with appreciation;

(b) Further information on EU Referendum claims for fees and charges and relationship to quality of preparation be included in a future Update; and

(c) It be noted that the issue of the shortage of suppliers for aspects of electoral administration (software suppliers, electoral printers, and paper) would be explored further with MERP and EARWWG.

5 Chair’s and Chief Executive’s meetings (EC 04/17)

**Noted**

6 Strategic review - update (EC 05/17, plus TABLED slides 05a/17)

6.1 JH introduced the paper, which built on feedback from the Board’s October session on the strategic review, and discussion with the Commissioner reference group. He confirmed with the Board that they were broadly comfortable with the shape and approach adopted so far, and with the level of ambition this represented, and indicated that today’s discussion would take in turn each of the three categories of supporting activities which sat
below our vision and our goals, namely Business Delivery; Improvement Projects; and Modernisation and Development.

6.2 CB then reminded the Board of the purpose of the strategic review and outlined the approach that had been adopted. The approach was designed to tackle two main things: to enable us to address the big strategic questions; and to undertake significant improvements to our processes and infrastructure, while balancing that work with our business-as-usual activities. The proposals before the Board would form a five-year plan, while necessarily allowing room for us to be flexible in response to changing circumstances.

6.3 KJ took the Board through the graphic of the review (page 11 of the paper, and slide 2). From the top of the graphic, beneath the Vision and the three goals, the first category of identified topics/activities - Modernisation and Development - were the big picture issues, particularly those where external stakeholders had said they wanted to see us taking a lead. Projects in this category involved scoping and assessing issues with a view to developing an action plan. These projects would be subject to a gateway process, enabling the Commission Board to contribute to direction.

6.4 If the results of such a project were approved, the project would move down a level and become one of the Improvement projects. This category of projects involved substantive changes or improvements, aimed at transforming the way we did things. Once improvement projects were complete, the new approach would become part of our normal business delivery. Business delivery included many of our statutory duties and responsibilities and the process of continuously improving in how we did things, as well as ways of making savings. It was noted that following feedback from the Board workshop in October business delivery included our activities to support the delivery of scheduled elections.

6.5 What was being sought from Board was in principle approval to the projects in the graphic. An exercise was ongoing to assess the likely time, staff resource, and cost of each project and the optimum time to deliver it. If approved in principle by the Board, the Executive Team would prioritise the projects and phase them across the five years.

6.6 The Board was content with the approach, and with the principle of the Commission working within an innovative policy space, often in partnership or collaboration with others.

6.7 A number of general points were made as follows, after which Commissioners’ views were sought on each of the categories:

- Consider substituting ‘innovation’ for ‘modernisation’
- The organisation needed to be prepared for some uncertainty and ambiguity and still to be able to take risks where appropriate
The need to stay creative and open, rather than to narrow the focus too much – without innovation, organisations became irrelevant – and the need for organisational behaviour and values to stay flexible

This review should position us as (continuing to be) the people with the greatest knowledge, analysis and depth of understanding of key issues surrounding elections – which was also the best defence against anyone from outside querying whether the Commission was right to devote resources to them.

Business Delivery

6.8 The following points emerged in response to questions raised by Commissioners:

- Electoral fraud in this category related to the prevention of fraud activities we undertook as part of the election cycle. Our response to the Pickles Report and the Government’s response on 27 December would come back to a future Board, and feed into the fraud project in the improvement category.

- ‘influence and scrutinise legislation’ was intended to be both reactive (part of our statutory role) and proactive

- ‘undertake research and publish reports’ was a cross-cutting activity (as were other activities)

Improvement Projects

6.9 Points were made as follows:

- These projects represented areas where we already knew where we wanted to go, and tended to be internally focussed, unlike those in the Modernisation and Development Section, which represented areas where we were not yet sure and were wider in scope.

- Some of these projects straddled other categories

- ‘reinforce our regulatory role through our powers to make secondary legislation’ – we had powers to make legally binding regulations, but it was accepted that the wording should be clarified to avoid confusion or any appearance that we were trying to usurp the role of Parliament.

- The wording for ‘deliver new proactive ways to assess registration applications’ should also change
Modernisation and Development

6.10 CB said that this was the area where we had received most stakeholder feedback, and included issues where work had previously started and stopped in the past, and which needed now to be taken forward. In some cases work would not therefore commence from a standing start. These were also the areas in which we hoped to bring in others externally to work with us.

6.11 JH noted that the first issue, ‘identify how registering and voting can be modernised to meet voters’ needs and expectations in our digital society,’ included many strands of work within it. Consideration of digital approaches would obviously include the considerable cybersecurity risks. He would not want the Commission to be somehow tagged as a blind cheerleader for digital voting.

6.12 In discussion, Commissioners noted as follows:

- A balance needed to be struck between technical optimism and technical pessimism in considering and distinguishing between what was possible and what was advisable.

- In some but not all cases we would aim to identify issues and weaknesses and highlight conclusions and concerns without necessarily aligning ourselves one way or the other.

- We should also be aware of the need for key enablers for future changes to be in place, for example changes to the registration system would be needed before any kind of digital voting or more flexible voting methods could be contemplated.

- We should also pursue non-digital approaches to better polling practices, for example more days for voting or polling stations in supermarkets. There were some old ideas out there worth looking at.

- ‘Scope and define the landscape of public democratic engagement to improve voter confidence and participation’ – this needed further definition and unpacking.

- We should be clear about what confidence meant, and on the part of whom. Was it only to be measured by participation, and how would we allow for other factors outside our control which affected participation?

- Our statutory role was to make voters confident in the electoral system, and we needed to be clear about how far beyond that, if at all, we wanted to go.
• ‘*Analyse developments in modern political campaigning and identify the regulatory implications, particularly on the financial side*’ – campaigning affected turnout, and had a key role in democratic engagement. We should be careful not to make campaigning harder.

• We should make a particular effort to look at what was happening elsewhere in the world (peer organisations, use of international comparators etc)

• Being ahead of the curve and working with partners provided the best opportunity to influence thinking ahead of decisions, and to avoid the DAD model of decision-making (Decide, Announce, Defend) where it became extremely difficult to persuade policy makers to change a course of action once they had declared it.

• The issues for regulating political campaigning by social media were considerable, and linked with transparency (some campaigning did not identify itself as such, some appeared voluntary and individual but was in fact paid or sponsored)

6.13 CB directed the Board’s attention to Appendix D, which set out the next steps for the review. This included working closely with groups of Commissioners on some of the more detailed work as projects took shape, in the role of reference groups. This was welcomed.

6.14 Turning to the draft budget set out at Appendix C, pages 16-21, CH took the Board through the outline high-level budget and each of the underpinning assumptions. Detailed budgets had been constructed to reflect the categories of the review discussed above. The figures would shift following the prioritisation process between projects and categories which might result in the short term in moving more money into contingency for non-event related expenditure.

6.15 CH added in response to questions that: any unforeseen electoral events would lead to a bid for more money (as was accepted practice); and, the main projects in the capital programme were the updating and redevelopment of PEF Online, the online guidance project, the review and upgrade of the corporate website, implementation of a new Finance and HR system, and social media tracking.

**Agreed:** That:

(a) The approach to strategic and business planning set out in the paper be endorsed;

(b) Noting the points made above for further consideration, the list of projects and business activities proposed over the five years from April 2017 be approved in principle;
(c) It be noted that as part of this work Commissioners would be involved in small topic groups in due course; and

(d) The overall draft Commission budget for 2017-18 be approved.

7 Draft minutes of the Audit Committee minutes of 18 October 2016 (EC 06/17)

7.1 TH gave a brief account of the various points in the minutes, which served to highlight the important work done by the Committee.

7.2 JH took the opportunity to thank Gareth Halliwell for his work on the Committee, and in view of the impending vacancy, invited expressions of interest from those keen to fill it. The vacancy at the end of this year meant that a further interest would be sought later in the year, too.

Noted: That Commissioners be invited to advise the Chair of their wish to fill the forthcoming vacancy of the Audit Committee.

8 Commissioner wash-up (Commissioners only)

The meeting ended at 12.25 pm.

_________________________________________Chair