Agenda Item no. 3(a)

Minutes of the meeting of the Electoral Commission held on Wednesday 22 February 2017 at 9.30 am

Present: Sir John Holmes (JH) Chair  
Dame Sue Bruce (SB)  
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, 7, 8 and 12  
Louise Edwards (LE) – items 4, and 6  
Katy Thomas (KT) – items 4, 8, 9 and 10  
Davide Tiberti (DT) – items 4 and 7  
Katherine Hamilton (KH) – items 4 and 7  
Mel Davidson (MD) – items 4, 7 and 12  
Matthew Franks (MF) – item 6  
Emma Hartley (EH) – items 7 and 12  
Mark Williams (MW) – items 7 and 12  
Andy Zuill (AZ) – items 8 and 10  
Katharine Sparrow (KS) – item 8  
Phil Thompson (PT) – items 8 and 12

JH welcomed Dame Sue Bruce to her first formal Board meeting.
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 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 18 January 2017 (EC 07/17)

Agreed: That the minutes of the Commission Board meeting held on 18 January 2017 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision-Action tracker (EC 08/17)

3.1 In relation to EU Referendum fees and charges, CB referred to the debate in Scotland about whether to continue to award fees to Returning Officers. SB observed that local government often underwrote the cost of centrally-funded elections, something that was not generally recognised or acknowledged.

3.2 It was noted that the report back with further information on the proposal for the Commission to prosecute certain cases, flagged in the decision-tracker for the March meeting, might now come to the April Board.

Noted

4 Update from Chief Executive for February (EC 09/17)

4.1 Paras 1.4 -1.9 – **Northern Ireland Assembly elections** – AI said that preparations continued to be well in hand. There were eight count venues, and the count was likely to carry on until late Friday, or possibly Saturday, a consequence of the complexity of the voting system in use, and a manual count. It was noted that in spite of difficulties in Scotland during the count for the 2007 Scottish Parliament and local council elections, the latest local elections in 2012 had been electronically counted, perfectly successfully.

4.2 As part of our administration of the observers’ scheme, 120 people had registered, of whom 40 had addresses in Northern Ireland. AC added her own observations about the state of preparedness, and possible outcomes of the election.

4.3 The two **UK Parliamentary by-elections** were to take place the following day, on 23 February, and the Commission would observe at both.
4.4 RP advised the Board that should UKIP win either of the by-elections, they would have two MPs in Parliament. This would qualify the party for receipt of Policy Development Grant, and membership of the Political Parties Panel.

4.5 **Tower Hamlets** – RP reported that an application to register a party with which Lutfur Rahman was allegedly associated had been received and rejected by the Commission, because the party name was already used by another local organisation. Meanwhile, Mr Rahman had been given leave to challenge the judgement of the Election Commissioner Richard Mawrey which had resulted in him being barred from standing for election for five years. RP would keep the Board advised of developments with these issues.

4.6 TH1 reported that the Returning Officer (RO) for the London Borough of Tower Hamlets had embarked on planning for the May 2018 elections, and TH1 had attended a meeting the previous day with the RO, the Met and a local police commander - an indication that the planning and preparation were being taken seriously by all sides.

4.7 Para 1.15 – *ministerial speech by Chris Skidmore MP on fraud* – in response to a question, it was noted that the Government’s approach was that both real fraud and the perception of fraud must be tackled.

4.8 Para 1.22 - **Breitbart** – CW commented on some reported concern over the Commission’s public awareness campaign for Northern Ireland appearing on the Breitbart web-site. This had happened as part of the Google search advertising network, which enabled the message to reach the under-registered groups we targeted, and which was proving very effective. We had looked into the issue and were satisfied that our approach was defensible.

4.9 Para 2.1 – *analysis of December 2016 electoral registers* – AI noted that this report would now be published in March (the delay having allowed for more and better data to be received and analysed, as reported at the last Board).

4.10 Paras 2.3-2.4 and Appendix B – *Modern Electoral Registration Programme (MERP) and the Memorandum of Understanding (MoU)* – Commissioners asked questions about aspects of the MoU and commented. The governance (part 2 of the MoU) did not give a sense of the hierarchy of decision-making and Commissioners asked for a schema that would show it more clearly.

4.11 Para 3.1 – *EU Referendum spending returns from campaigners that spent over £250,000* – these were not published on 16 February as originally scheduled, due to the poor quality of campaigners’ returns. Publication would now take place on 24 February. Even though some of the returns were still incomplete, in the interests of transparency it was better to
publish what we had. It was noted that publication would be in the lead up to the Northern Ireland Assembly elections. We would issue a statement explaining various factors around the publication, including the incompleteness of the returns themselves. Organisations formed for the purpose of participating in referendums needed to ensure they met their responsibilities with regard to spending and submission of returns. The Democratic Unionist Party (DUP) had meanwhile contacted the Commission to object to publication close to an election (2 March). However, publication was in accordance with our usual practice and as set out in PPERA, which was ‘as soon as reasonably practicable’ following receipt of returns. Failure to publish could well raise questions from others.

4.12 Para 4.2 – **Registration of Party Names etc Development project** - the Political Parties Panels were reported as recognising the merit of the Commission’s proposals to revise our approach to registration of party names, emblems and descriptions, and RP confirmed that when the item was reported back to the March Board meeting this matter would be considered in more detail.

4.13 Para 6.2 – **Donations and Loans – Northern Ireland** – AC commented that the DUP had recently come out with qualified support for the publication of donations and loans in Northern Ireland, in the light of their own problems with this, and she was now cautiously optimistic about the likelihood of the long-awaited commencement of the legislation.

4.14 Paras 6.6-6.9 – **Winter Tracker results and Appendix A** – Commissioners asked questions about the findings, querying in particular the reason for variations in the figure for ‘confidence that elections are well run’ (up 10 points since 2015 and a variation of 14 percentage points between 2012 and 2013).

4.15 Commissioners heard that the figures tended to correlate with higher turnout at electoral events as participation appeared to make people more positive about the system. People were also more likely to express confidence in the safety of their preferred voting mode (where in person or by post); for example those that did not vote by post were more likely to believe that the system was vulnerable to fraud and abuse. Much of that could be based on a lack of understanding of how postal voting worked, and the safeguards which existed. An analysis of the statistics by country within the UK would also be interesting.

**Agreed:** That:-

(a) The position regarding the two by-elections and a potential addition to the Policy Development Grant scheme and the Political Parties Panel, together with the steps that would be taken, be noted; and
(b) A schema of the governance arrangements for the Modern Electoral Registration Programme under the Cabinet Office be circulated to Commissioners for their information.

5 Chair's and Chief Executive’s meetings (EC 10/17)

Noted

6 Regulatory decision (EC 11/17 - CONFIDENTIAL)

6.1 The Board were reminded of the necessity for strict confidentiality.

6.2 Following detailed discussion, questions and careful consideration of the facts. The Board then came to a decision.

Agreed: That one of the options set out in the report be unanimously supported.

7 Update on Electoral Fraud (EC 12/17)

7.1 TH1 introduced the paper, which sought feedback and input on our future direction and approach, following Board discussions on this issue in September and October 2016. He added that the improvement project on electoral fraud to be led by Phil Thompson, Head of Research, was intended to implement any revised approach in time for the May 2018 elections. He highlighted the potential impact on resources for other areas of existing work if the Board decided to step up the extent or intensity of our work on fraud: an assessment of these would be included in conclusions and recommendations to the Board later in 2017.

7.2 The formal definition of electoral fraud used by the Commission was that which applied to offences under the Representation of the People Act 1983, which included voting offences (polling station and postal voting), registration offences, nomination offences, and activity by campaigners (undue influence and false statements of fact). In answer to a question, the aspects of electoral fraud which were alleged in the May 2014 London Borough of Tower Hamlets elections included fraudulent postal voting, intimidation and undue influence.

7.3 Points made during discussion included the following:

- We still did not know enough. While we collected data on allegations reported to the police and on overall public perceptions, we also needed to recognise that it was much harder to measure incidences of electoral fraud which were not reported.

- Although the absence of allegations did not necessarily mean the absence of attempted electoral fraud, there would be significant
methodological challenges in designing research projects to try to measure unreported fraud. In particular, discovering the extent of undue influence was extremely difficult given how much of it took place in the private realm. There were limits to the resources we could devote to this. Nevertheless it would be good to be clearer about the practices we were really worried about.

- Since 2013 we had commissioned and published extensive qualitative research which explained the factors which drove public concern about electoral fraud, including the extent of knowledge and understanding of electoral fraud.

- There might be opportunities to improve further public understanding and knowledge about what electoral fraud meant, what was and was not acceptable behaviour during elections, and how to report concerns about electoral fraud. This could be led by ROs locally, but the Commission could play an important role in developing, coordinating and encouraging local activity.

- It was accepted practice for some community groups, including churches, trades unions and others to express views on political issues and encourage their members to vote, but it was not always clear if and when such advice could become ‘undue influence’.

- We needed to recognise that the types of offences which were reported to, and investigated by, the police might not be the same as the issues about which the public were most concerned.

- There was widespread concern about postal voting, even if the evidence of fraud in this area was limited. Intimidation of one sort or another was the underlying concern here. One view was that the best protection against this was voting in person.

- There were specific issues such as personation where the number of reported cases was low but the overall vulnerability and level of risk were nonetheless high. The Commission arguably had a responsibility to make recommendations in such areas.

- International comparisons might be useful for us to consider, although it would be important to recognise the differing historical, constitutional and political contexts which informed approaches to tackling electoral fraud in other countries.

7.4 Suggestions for further work to be explored during the project included: encouraging ROs and the Cabinet Office to consider pilot schemes to test other anti-fraud proposals, such as restricting the availability of postal voting on demand in areas where there was a higher risk of allegations of fraud; no
longer making the register of postal voters available to candidates and parties; further work with Returning Officers, who had the best understanding of local factors; identifying partners who were best able to deliver the ‘your valuable vote’ message. It would also be worth looking again at the academic work in this area, and talking to some of those who were most knowledgeable about it.

7.5 Research staff provided further information on the Winter Tracker public opinion survey (Chief Executive’s Update, at minute 4 above), and in response to questions about whether those that voted in person were likely to be more or less satisfied that voting was safe than postal voters. The results showed that people who used postal voting were more convinced it was safe than those that did not. It was agreed that a general quantitative public opinion survey would not be the best way to find out the extent to which people had experienced electoral fraud.

TH1 added that he would recirculate the qualitative research studies, including two significant studies in 2014 looking at vulnerabilities in the system, which indicated that concerns tended to be driven by a lack of understanding and factors other than people’s direct experience of electoral fraud.

Agreed: That:-

(a) The points made during discussion and outlined above be used to inform proposals for a revised approach to fraud to be worked up and brought back to the Board later in 2017, for implementation in the run up to the May 2018 elections;

(b) An informal Board discussion in the meantime might also be useful to explore the issues further and reduce the gaps between different views around the table; and

(c) The Commission’s 2014 qualitative studies on electoral fraud be circulated to Commissioners for information.

8 Business Plan and Main Estimate 2017/18 (EC 13/17)

8.1 CH introduced the Plan, which was the next stage of the Strategic Review, setting out as it did the business plan for 2017-18 based on the work done in the Review, and the main estimate for the period. Once this was agreed, the five-year Corporate Plan would come to the Board in April.

8.2 One figure in the estimate had still to be finalised, and any comments made by the Board incorporated, after which the Plan and Estimate would be
sent to the Treasury for examination before the Speaker’s Committee considered it in late March.

8.3 Each Director illustrated how the plan worked by taking an activity, and talking through its associated performance measure and impact indicators.

8.4 The Board was generally supportive of the structure of the Plan, the linkage of outputs to outcomes, and the clearer separation of performance measures (within our control) from impact indicators, which we would measure as providing important information but which included factors beyond our control.

8.5 It was noted that we would be adding baselines against which some performance measures would be measured and tracked, but not before it went to the Speaker’s Committee.

8.6 Both the two preceding points - difference between KPMs and impact indicators and the arrangements on baseline measures - should be explicitly referred to in the document, on page 17.

8.7 Goal 2 (on pages 11-12) should include in the description mention of the improvement project on party registration.

8.8 Organisational enablers (the people plan) would be a significant element of the Plan’s success, but were currently mentioned only towards the end of the Plan. The reference should be made more prominent, and mentioned on page 17.

**Agreed:** That, subject to incorporation of the points at minutes 8.5 - 8.8 above, the draft Business Plan and Main Estimate 2017-18 be approved for submission to the Speaker’s Committee.

9  Appointments to Committees (EC 14/17)

9.1 Although it had not been noted in the paper, BP had also expressed interest in the Audit Committee, although she understood and happily supported the recommendation.

**Agreed:** That:-

(a) Dame Sue Bruce be appointed to fill the impending vacancy on the Audit Committee left by Gareth Halliwell’s departure, for a term of three years from 13 March 2017 to 31 March 2020;
(b) Rob Vincent be appointed to fill the impending vacancy on the Remuneration and Human Resources Committee left by Gareth Halliwell’s departure, for a term of three years from 13 March 2017; and

(c) It be noted that a further vacancy on the Audit Committee would arise following Tony Hobman’s departure at the end of 2017.

10 Quarter 3 Finance and Performance report (EC 15/17)

10.1 It was noted that the forecast financial position, an underspend of approximately 2% of the budget, represented an appropriate margin for a budget of this size (and was much lower than in previous years).

10.2 In response to a question, CB confirmed that in future we would have contingency plans for making use of projected underspends (for example on research work, where we knew we would have significant demand across a number of projects).

10.3 Questions were asked about better representation of long- and short-term sickness, and about reasons for resignation. The latter information was currently monitored and considered by the Executive Team only, as the numbers were comparatively small and it would be possible to identify individuals.

Noted.

11 Draft minutes of the Remuneration and Human Resources Committee meeting on 1 December 2016 (EC 16/17)

11.1 CH updated the Board on the pay and reward proposals, which had been considered by the Executive Team. ET had asked for further revisions to the model and would consider the proposals again. An update would go to the Remuneration and HR Committee in March, and change would be rolled out gradually during 2017-18.

11.2 TH commented that the Human Resources plan had been re-planned more than once due to changes among key HR staff. The staff survey revealed issues which were the subject of work, but in his view there was nothing there of significant concern for the organisation, especially compared to others of a similar size.
11.3 A group had been formed to do more concentrated work on bullying and harassment. While the figures were still relatively low, any incidence or perception was too much. The approach adopted was informed by best practice. A specific staff survey on bullying and harassment was under way and the issue was being taken extremely seriously.

11.4 AC had now taken over as Chair of the Committee, and TH was thanked for his work in chairing the Committee in recent years.

**Noted.**

12 Evolution of Voter Registration (EC 17/17)

12.1 PT and EH introduced a series of slides and answered questions.

12.2 The slides would be circulated after the meeting.

**Noted.**

**Gareth Halliwell**

This was Gareth’s last meeting, and on behalf of the Board, Sir John thanked him warmly for his contribution over the four years – he would be missed. A presentation was made, and Gareth responded and expressed his appreciation for his colleagues, the organisation, and his time at the Commission. The Board wished him luck in his next endeavours.

13 Commissioner wash-up (Commissioners only)

The meeting ended at 2.15 pm.

____________________________________Chair