Agenda Item no. 3(a)

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

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

Observing: Professor Elan Closs Stephens

In attendance: Claire Bassett (CB)
Caroline Hughes (CH)
Robert Posner (RP)
Craig Westwood (CW)
Ailsa Irvine (AI)
Kairen Zonena (KZ)
Louise Footner (LF)
Tom Hawthorn (TH1) – items 4 and 6
Katy Thomas (KT) – items 7 and 8
Davide Tiberti (DT) – item 4
Michelle Mann (MM) – items 4

Kay Jenkins

JH reported that Kay Jenkins was about to retire. She had been with the Commission since its inception, and her work over more than 16 years included heading the Wales Office, and the Regional Offices, work on referendums, and latterly on the strategic review. She had made a significant contribution and would be missed. On behalf of the Board he thanked her and wished her well for the future.
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 22 February 2017 (EC 18/17)

3.1 For their information, CH updated the Board on the Business Plan and Main Estimate (minute 8), reporting that: the cost of the Scottish local government elections had now been agreed with the Scottish Government and the expenditure and income figures amended; the provisions figure had been updated; and the EU Referendum event budget had been increased to fund on-going investigation activity. The Treasury had received the Estimate and were content, and the Business Plan and Estimate would go to the Speaker’s Committee on 29 March. [NB: post-meeting note – the Committee did not take place.]

Agreed: That the minutes of the Commission Board meeting held on 22 February 2017 be approved as an accurate record and the Chair be authorised to sign them.

3b Decision-Action tracker (EC 19/17)

3.2 CB updated the Board on a number of actions which had now been completed, and on future plans for Board discussions.

Noted

4 Update from Chief Executive for March (EC 20/17)

4.1 AI briefly commented on aspects of Programme 1, noting that all was currently running smoothly in the run up to the May polls. Staff remained alive to the possibility of an unscheduled election, and contingency plans were in place.

4.2 In relation to that part of our public awareness campaign which utilised social media, and against the background of recent stories of
advertising by others appearing against unsuitable or extremist content, CW said that we bought advertising through the agency the government used, on the same terms. The government’s current bar on advertising via YouTube and Google therefore also applied to our campaign. Staff had responded by increasing campaign activity in other ways in order to ensure that the campaign’s ability to reach target demographics was not affected.

4.3 Re-launch of the YourVoteMatters website – para 1.13 – the site was complimented by a Commissioner, and suggested as a useful platform for an accessible explanation about how postal voting works, and the safeguards in the system. CW said short video clips or animations were being developed to explain the Single Transferable Vote, and that format would be ideal for other areas, such as this one – the idea would be pursued.

4.4 Discussion took place on the Northern Ireland Assembly and the potential electoral implications of various possible outcomes of current talks. The latest position on whether there could be transparency of donations and loans in Northern Ireland, and how this might work, was also touched on in this context.

4.5 In relation to Programme 2, Electoral Registration, it was noted that the Higher Education Bill currently going through its parliamentary passage now included an amendment made by the House of Lords for electoral registration applications to be incorporated into student enrolment processes. It was unclear whether this would be accepted by the House of Commons. Automatic registration more generally continued to be a long term goal which we would continue to raise.

4.6 Para 2.1 – voter materials – BP asked if the selection of areas to undertake trials of materials during the annual canvass could also take account of the performance of EROs, something which would be considered.

4.7 Programme 3 – EU Referendum - considering the costs of a referendum, and the fact that we now had a reasonable body of data, AC hoped we would at some point be in a position to benchmark the costs of referendums. The NAO were considering a Value for Money report into costs of polls, to complement the VfM study they had carried out on the work we had done previously in this area in publishing the costs of referendums. We were also working on a project to share good practice on counts, which would take account of the information about costs.

4.8 Para 4.4 and Appendix A – Party Registration Development Project – RP provided the further detail which had been requested when the original proposal had been considered at the 19 October 2016 Commission Board meeting. The response from political parties had been broadly positive. RP reminded the Board of the background to the project, which was to review the register of party descriptions, to provide a more rigorous definition of a
description when considering applications to register. An increasing number of small parties had taken to registering descriptions which were in the nature of slogans, and which increased the risk of voter confusion - it was this that the review was designed to remove. The impact on the large and mid-range parties was likely to be less than for smaller parties. The approach to smaller parties which were required to de-register any description would be to advise them, and offer them the opportunity to register an alternative at no extra application fee.

4.9 The only Political Parties Panel not yet to have had an opportunity to discuss the proposed review were in Northern Ireland, where the meeting had been delayed because of the election there. However those parties on the panel had all been contacted directly about the proposed review. If a date for their re-arranged meeting continued to be in doubt while efforts were made to form a government, those parties with elected members would be further contacted. In response to the point about the number of smaller parties in Northern Ireland and the need for particular care there, RP said that he and the team would be conscious of local conditions in their approaches.

4.10 He added that it would be more desirable for this area of PPERA to be amended, but until such time as our existing recommendations for this were acted on, the action set out in this review was a step the Commission could and should take.

4.11 The Board was content for the review now to proceed.

4.12 Paras 5.12-5.19 – electoral integrity pilot schemes – there was discussion about the extent to which these Cabinet Office pilots, due to be run in May 2018, could provide comprehensive information on the potential for voter ID to strengthen electoral integrity. In spite of our recommendations to the contrary, and continuing efforts in this direction, the pilots did not so far include proposals for any bespoke form of ID which could be provided to those without the usually accepted forms of ID such as passports and driving licences. Since voters in areas participating in the pilots would be denied a vote if they could not produce ID and the issue had become politically charged, it was possible that certain local authorities might not volunteer for the pilots. Some had already said as much. The Cabinet Office had agreed to the need for an equality impact assessment to be carried out as part of the pilots, which would at least provide some evidence in this area, and could be considered as part of our statutory evaluation.

4.13 The normal method of raising our concerns through briefings was not open to us here because there was no parliamentary process involved in setting up the pilots. However, our evaluation would be able to explore those areas of concern and give a clear evidence-based view of any impact.
4.14 Our detailed evaluation plan had yet to be developed, but the arrangements pertaining in Northern Ireland could be used as a benchmark for the way in which a successful scheme operates, focussing on data at the introduction of the scheme. Other questions that would need to be covered during evaluation included validation of any national or local ID cards (such as travel or student ID), and how successful the operation of any delegated powers in this area was. It was also noted that second order forms of ID could be more likely to be vulnerable to fraud.

Agreed: That:-

(a) Noting the information in Appendix A of the paper, the further review of the registration of party names, descriptions and emblems now proceed, with revised guidance published after the elections in May, after which
(i) any new applications regarding party descriptions would need to meet the clarified definition of a ‘party description’;
(ii) existing descriptions on the registers would be reviewed to determine whether or not they met the proposed clarified definition of a ‘party description’, and any registered descriptions that did not identify the party would be removed;
(iii) affected parties would be invited to apply for an alternative description, and the fee for those applications be waived; and

(b) The points raised at minutes 4.12-4.13 be included in the development of our evaluation of the Cabinet Office electoral integrity pilots due to be run in May 2018.

5 Chair’s and Chief Executive’s meetings (EC 21/17)

5.1 SB reported that the Scotland Advisory Panel was due to meet in the following week. There would be value in including these and other relevant meetings held with and by Commissioners in this paper on a regular basis.

Agreed: That relevant meetings held in Scotland, Wales and Northern Ireland be included in future.
6 Principles for Political Finance Rules (EC 22/17)

6.1 RP introduced the proposed principles as something which staff had developed as a useful tool in shaping and supporting our response to emerging events and issues in political finance.

6.2 CO and KE went on to describe how the project had been approached (research and analysis, followed by development and testing, and some sharing with others), and the potential value of the principles. KE said that while we were experienced in commenting on proposals and draft legislation, the principles offered a helpful foundation and structure, with language and concepts which could be used to make a proactive case, or evaluate others’ proposals. They would also be useful in the context of the strategic review proposed projects. They had deliberately decided not to include a point about the overall objective of preventing undue influence of money on elections, but this could be discussed. If agreed, the Board could decide on when and how the principles would be used. Questions were invited.

6.3 A number of points were made, including:

- While we might well need a framework of principles for internal purposes, it did not necessarily follow that these should be published – certainly we would need to be fully satisfied about them before we did so
- It was not clear whether the principles were trying to address the issue of raising money as well as spending – these were two different questions
- The danger of principles was that they could be too inflexible and oversimplified – or so broad as to lend themselves to fit widely differing propositions. A high-profile framework was in any case a hostage to fortune
- The issue of party financing would certainly come back on to the agenda at some stage, but the prospects for progress at the moment were slim
- Support for the idea of a framework, but this was at an early stage, and too much based on the previous CSPL work. Starting points should be what was necessary for a well-functioning democracy, and how to protect the principle of equality of access, though these two aims could be in tension with one another. The undue influence point was crucial
- As well as making sure the high-level aims were clear, we should test the framework by applying it to actual examples to see how it would work
- Were the principles based on those underpinning the existing legislation, in an effort to apply them more systematically? Or should we be aiming for something more ambitious and radical?
• What outcomes did we want, what question(s) were the principles answering? Could the principles become a simple and accepted framework, in the same way as the Nolan Principles of Public Life?

• The principles were Westminster-centric and did not reflect the issues in devolved nations

• If the principles were going to be published in the future, there should be consideration of whether consultation, including with the Devolved Advisory Panels and a Northern Ireland equivalent, would be beneficial and if so to what extent.

6.4 Other points around aspects of regulation were touched on during discussion (such as the split between party and candidate expenditure, the way Policy Development Grants were calculated, and the relevance of Hampton principles).

6.5 Although there were limited resources to devote to further fundamental work in this area, and the priority should go to the projects planned as a result of the strategic review, it would be useful to complete this work as a tool for internal use by addressing related points raised above, and particularly the high-level purpose or aim, and the application of the principles to particular examples.

Agreed: That the principles for political finance rules be the subject of further consideration of the bullet points above, and Commissioners be invited to express an interest in forming part of a Reference Group for the purpose.

7 Proposals for Board Engagement (EC 23/17)

7.1 JH introduced the paper. Commissioners welcomed the suggestions contained in the paper, and asked questions.

7.2 A number of points were clarified:

• Commissioner days would be those days previously reserved for formal meetings – those dates should stay in Commissioners’ calendars

• Any electronic Board pack application should function on Commissioners’ home devices and not just on iPads, and would allow the use of hyperlinks

• Commissioners could continue to receive their Board papers in hard copy as well, if they wished
• Commissioners wishing to make more use of virtual attendance, especially at smaller groups, could do so by way of Vidyo, which could be installed on their devices

• Training would be offered on the electronic pack system chosen, and on Vidyo

• The Forward Plan of Board business would be made available to Commissioners

**Agreed:** That the proposals for Board engagement set out in the paper be taken forward, taking into account the points raised above, and the Board be kept informed as to progress.

8 Annual Review of the Corporate Governance Framework 2017/18 (EC 24/17)

8.1 In relation to the change on page 6 ‘Submission of plans and estimates’ it was noted that annual plans were not routinely published by us, and therefore the words ‘which are published’ would be removed.

**Agreed:** That, subject to the extra deletion above, the highlighted changes in the Corporate Governance Framework be agreed and the updated document published on the website.

9 Commissioner wash-up (Commissioners only)

The meeting ended at 12 noon.

____________________________________Chair