

Minutes of the Elections, Referendums and Registration Working Group

26 July 2012

Present: Kate Brown (Manchester City Council)
Matt Carey (Cabinet Office)
Louise Cooke (Dover District Council)
Christie Dennehy-Neil (Electoral Commission)
Alex Doyle (Home Office – item 2)
Julien Du Vergier (Law Commission – item 3)
Sandra Hardy (Wakefield District Council)
Debra Harrod (Poole Borough Council)
Keith Hathaway (London Elects)
Ailsa Irvine (Electoral Commission)
Debbie Janes (Luton Borough Council)
Laura Lock (Huntingdonshire District Council)
Christopher Morgan (Electoral Commission – items 3 and 4)
Glynne Morgan (Pembrokeshire Council)
Henni Ouahes (Law Commission – item 3)
James Pack (Electoral Commission – items 3, 4, 5 and 6)
Karen Quaintmere (AEA)
Will Reburn (Electoral Commission – item 2)
Hannah Riley (Home Office – item 2)
Phil Thompson (Electoral Commission – item 2)
David Wilks (Cabinet Office – items 3 and 4)
Ian White (Kettering Borough Council)

Apologies: Robert Connelly (Birmingham City Council)
George Cooper (London Borough of Haringey)
Lindsay Dixon (Sunderland City Council)
Chris Highcock (City of Edinburgh Council)

(**Note:** the minutes may not reflect the exact order in which the items recorded under each item were discussed - some items have been grouped together for ease of reading).

1. Welcome and revised terms of reference

1.1 Ailsa welcomed the group and noted apologies.

2. Issues for consideration from the electoral regions

1.2 KQ noted that she had received an enquiry around the EC template press release designed for use at end of the canvass, which she had raised with the Commission. AI noted that as a result it had been agreed that it would be made clearer on the website what the template was designed for and when it should be issued.

1.3 A number of members of the group noted they had issues to raise in relation to the PCC elections, and it was agreed that these would all be considered under item 2 on the agenda. LL noted specific issues relating to tactile voting devices for PCC elections and uncertainty about Royal Mail sweeps, which it was agreed would also be discussed under item 2.

1.4 MC noted that the Electoral Registration and Administration Bill had had its second reading, and that Committee stage would begin in October when the Lords return from recess.

The group discussed an issue that had been identified recently in response to a query regarding the consent to nomination form for local government elections in England and Wales, namely the requirement for the copies of sections of the Local Government Act had to be submitted as part of the consent due to the wording on the form which states that these provisions are printed overleaf. LC also raised a question about recent legislative amendments affecting the Standards Board and whether this had affected the local government election disqualifications or nominations paperwork. AI agreed to take these points away and identify whether any changes were required to forms or guidance. **Action:** EC to review local elections nominations paperwork and guidance, and to highlight to suppliers if any changes are required. **Post-meeting note:** EC are looking at this as part of ensuring guidance and supporting resources are ready for the next scheduled local elections in May 2013 (for completion by not later than end December 2012).

1.5 KH questioned what local support would be available for administrators in London given the London Regional Liaison Officer will shortly be leaving the Commission. AI confirmed the Commission would continue to provide support to all the electoral regions through its network of staff in the English offices, and that Adrian Green would continue to manage the London electoral region. AI noted that the level of support provided should not be affected by personnel changes or by changes to homeworking arrangements for some regional office staff.

1.6 Following an unusual circumstance arising at a parish election where a candidate proposed himself, there was a request for the Commission's guidance to specifically cover this scenario. **Action:** EC to flag this up in a future EA bulletin and to ensure it is covered when the guidance is next revised. **Post-meeting note:** EC have added this into the Bulletin schedule as something to be communicated closer to the opening of the nomination period for the November elections.

2. PCC elections

Home Office update: Alex Doyle

2.1 AD acknowledged that she had received a large number of email queries, and that a number of these were still outstanding. She noted that while these will be responded to in the next few weeks, some of the issues raised should be addressed by information due to be issued shortly by the Home Office.

Legislation:

- The Conduct Order and RO Functions Order were made on 25 July.
- PAROs will be designated imminently.
- Provision of indemnity has been confirmed by Government (with retrospective application). The Home Office will circulate a document to confirm what cover is in place and what it includes (such as all reasonable liabilities for professional indemnity, employer's liability, etc.), and will also provide LROs and PAROs with certificates.

Fees and charges:

- Information will be issued to PAROs on Friday 27 July to cascade to LROs. This will set out the overall approach including revised assumptions reflecting underspends at recent elections. The assumptions will be based on average actual costs from 2009 and 2010 elections. Maximum recoverable amounts within heads of expense may have changed but overall funding provision should be the same. Any reasonable costs above the maximum amount will be recoverable: the message from Home Office is to contact them as soon as such costs are identified and check that they will be covered. PAROs can choose to do this on behalf of the LROs in their police area (e.g. for count-related costs if they will be counting centrally).
 - If LROs' actual figures (e.g. number of polling stations) differ to those used in the assumptions, the actuals will need to be provided with the claim and the amounts will be adjusted accordingly.
 - The claim deadline will be 8 months after the election. Home Office are considering piloting a shorter period (of 6 months) with some ROs to try to spread out the period over which ECU receive claims to help enable a more prompt response and processing of claims.
 - In response to a query about evidence requirements, AD confirmed that the usual rules would apply and that these were in line with National Audit Office requirements. Information on proof of payment requirements would be included in guidance.
 - Bookkeeping costs will not be specifically funded but could potentially be claimed under the 'general clerical' head if necessary.
 - Home Office are considering organising regional training sessions in conjunction with ECU to address any issues (January 2013 is currently being considered). KH said that the briefings London Elects had done for ROs on more complicated funding issues (e.g. treatment of VAT) had been helpful at the GLA elections. The

group agreed that earlier production of guidance would be helpful in ensuring claims were properly completed as this gives time for it to be read and understood before the election. AD confirmed that the Home Office intends to issue the guidance by the end of August.

- There was a discussion about additional costs related to holding the poll in November. AD confirmed that the Home Office position is unchanged and that all reasonable costs would be covered. If costs are likely to exceed the maximum recoverable amount then evidence of necessary spend will be required. She advised ROs to contact ECU in advance to check what would be covered and evidence requirements, etc.
- LL requested that the Home Office circulates contact information for fees and charges queries to ensure that these get a timely, informed and consistent response.

Action: AD to provide the answer to a specific query about whether the costs of securing contingency venues would be covered. **Post-meeting update:** The Home Office are considering this issue and will get back to the group.

Welsh forms Order:

- AD noted that this has been delayed due to translation issues and is currently being finalised. GM fed back that this is causing great uncertainty in Wales and reported that some ROs in Wales have begun developing their own bilingual materials in the absence of the Order. He asked for this to be dealt with as a matter of urgency and for a date by which the Order will be available. He also requested that the draft be circulated as soon as it is available. **Action:** Neil King (Home Office) to provide update to Bryn Parry-Jones and Glynne Morgan on expected timings for the Welsh Forms Order and to provide a draft as soon as possible. **Post-meeting update:** The forms went out for comments in w/c 30 July, and the consultation closes on 10 August. The Order will be laid soon after.
- AI noted that the Commission cannot publish its template nomination forms until the Welsh forms Order is published. **Post-meeting note:** As explained in the [EA Bulletin](#) issued on 7 August, EC have now published the English versions of these forms.
- In response to a query regarding a lack of clarity in the legislation around subscribers, AI also confirmed that the guidance for PAROs will make clear what should happen in the event of a subscriber subscribing more than one nomination form.

Candidates' addresses website

- It was noted by the group that the candidates' addresses website URL is also needed as soon as possible for inclusion on poll cards. The Home Office will communicate this as soon as it is confirmed follow final user-testing – they hope this should be in early August. The website is due to

go live on 20 August. **Action:** Home Office to confirm final website URL as soon as it is confirmed.

- AI asked the group to consider whether a consensus should and could be reached among PAROs on the deadline for candidate addresses to be submitted to them, in the interests of consistency, as the Commission understood that this was at the discretion of PAROs and not specified in the legislation. AD said that she understood there had been a late change to the legislation and that the deadline is in fact specified as being the close of nominations, although PAROs could still set their own deadline for candidates to correct 'proofs' of addresses prior to publication. It was agreed that the Commission would share its draft guidance for PAROs to the Home Office prior to publication, and that AD would review this and confirm the final legislative position. **Action:** AD to confirm provisions as soon as possible. The Commission will provide their draft wording for the Home Office to review before publication of the PARO guidance. **Post-meeting update:** AD has agreed with the Commission's interpretation of the legislation and guidance, i.e. that there is no statutory deadline for the submission of candidates' addresses to PAROs. This issue will be brought back to a future meeting of the group to further consider how clear and consistent deadlines can be established.
- AD noted that the intention is for the September PARO seminar to cover consistency of decision-making by PAROs.
- Costs for PAROs obtaining legal counsel in relation to candidate addresses and compliance with the rules will be covered by fees and charges. A centralised process will be in place for PAROs to first get advice from their regional representative and then, if necessary, seek counsel's opinion. Details of the mechanism and funding will be confirmed by the Home Office.
- There were some queries about the process by which local authorities should pass on requests for candidates' addresses to the Home Office. **Action:** AD to confirm how local authority staff should deal with requests for candidates' addresses: for example, is the obligation to pass requests to the Secretary of State met by redirecting callers to the phone line/website, something that it was noted had previously been suggested by the Home Office would be sufficient? **Post-meeting update:** The Home Office have now confirmed that in their view the requirement can be met by each Returning Officer or their staff entering any details they get on to the website form directly, on behalf of the caller. The Home Office agrees that it is not sufficient for a Returning Officer to redirect members of the public to the website or phone line.

General issues

- There was considerable discussion around tactile voting devices in both a general sense and in particular in regard to how they would work at PCC elections. MC noted that Cabinet Office is looking into the possibility of central procurement. **Action:** AD to confirm whether existing tactile voting devices could potentially be used at the PCC elections by being positioned over the first column and then re-

positioned over the second column. **Post-meeting update:** The Home Office's view is that existing devices cannot be used by re-positioning over the second column.

Action: AD to confirm whether, if tactile devices need to be purchased for the PCC elections, these will be funded (normally the local authority buys them and leases them out for elections, but SV devices will only be needed for PCC elections in most cases and so authorities are not keen to subsidise their purchase). **Post-meeting update:** The Home Office is considering this issue and will get back to the group shortly.

- The Home Office is discussing with Royal Mail the possibility of central procurement of sweeps. Group members reported that some ROs have already signed off postal vote stationery using their 'standard' licences whereas special licences are usually used for sweep purposes. **Action:** AD to confirm whether postal vote sweeps will be funded and whether sweeps would pick up postal votes issued under normal licences. (AD noted that this should be covered in the fees and charges information due to be circulated on 27 July.) **Post-meeting update:** Royal Mail will be doing a national final day sweep for postal votes in their mail centres and the Home Office is still negotiating with Royal Mail as to the specific detail of that service. The Royal Mail has implemented a new licensing scheme meaning each local authority returning officer will need to apply for a licence at £598 + VAT. This is reflected in the Fees and Charges assumptions, where each local authority will be able to claim the cost of the licence.
- There was a request for clarification of who the PCC declaration of acceptance of office oath can be taken in front of. **Action:** AD to confirm the requirements for the PCC declaration of acceptance and in whose presence the oath can be taken. **Post-meeting update:** Section 70 of the Police Reform and Social Responsibility Act 2011 sets out the requirements for this. The Act states that the oath must be taken within 2 months of the election, and must be made before either the appropriate officer, justice of the peace or magistrate, or a commissioner of oaths, and it is ultimately the candidate's choice. The Home Office is currently consulting on the wording of the oath, and will be laying the relevant Order in October.
- A general point was made about access to the register for independent candidates (which is not possible by law until the last date for publication of the notice of election) and the disparity between them and party candidates (whose parties can request copies of the register at any time). AI noted that the Commission had made recommendations on this point in its reports on London elections.
- In response to a query, AD confirmed that local government by-election polls may be combined with the poll at the PCC election at the discretion of the ROs.

Commission update

- AI explained that all guidance that has been due to be published to date had been published.

- She noted that the remaining LRO resources will be published on or before 31 July, with the exception of doubtful ballot guidance, which will be sent out in draft this week for comment and will be published as scheduled by 10 August. The guidance is largely unchanged from that issued for the last mayoral elections but includes more examples and more detailed explanations in response to feedback from the ERRWG.
- LL said the group has been asked to do a lot of activity between meetings recently and whether this could be managed better so that things could be discussed at meetings as it can be difficult for members to find the time to look at documents between meetings. AI accepted this point and noted that the issue had been exacerbated by late legislation meaning that work could not be coordinated as well as intended. Going forward the intention is to have a planned programme of work for the ERRWG in relation to developing and reviewing Individual Electoral Registration (IER) guidance and resources, and further discussions on how the group thought this could best work would start under the item on IER later in the agenda.
- AI noted that the first LRO performance standards returns were due by 21 July, and that a summary of these will be provided to PAROs by 10 August.
- AI highlighted that the Steering Group had discussed the draft performance standards for PAROs at their meeting on 9 July, and that in response to their feedback the framework has been amended to focus on the management and coordination aspects of the PARO's role. The revised performance standards for PAROs were issued on 23 July. PAROs had been asked to submit their first plans by 6 July, and in light of these amendments to the standards have now been asked to submit a further draft by 17 August. Commission staff will provide feedback on this documentation and intend to meet with PAROs over the summer to discuss their plans.
- She also explained that the PARO guidance was currently being finalised following amendments as a result of feedback received through the consultation process and to reflect the changes to the performance standards framework for PAROs, and would be published on 31 July.

Other PCC issues

2.2 KB noted that there still remained some confusion regarding the dates for the conclusion of the canvass and publication of the revised register, and the interface of these with the date for issuing poll cards. AI agreed that the Commission would include a note in a future bulletin to re-state the key dates. **Action:** Future EC bulletin to include reminder on key dates related to the end of the canvass and the November polls. **Post-meeting note:** EC have added this into the Bulletin schedule as something to be communicated closer to the November elections.

2.3 AD said that the candidates' addresses website will make clear that the addresses will not be available until 26 October to those who visit it earlier,

which may be a particular issue once poll cards have been issued with the web address on them.

2.4 The group discussed paperwork to be used at SV counts. KQ explained that the AEA have developed some template SV count paperwork which they would be happy to share. The group confirmed that it would be useful, and that there was an expectation, for the Commission to develop templates, particularly given that SV counts are new for most people. **Action:** AI agreed to take this away and consider what the Commission may be able to provide, including paperwork to support the declaration of results, and to discuss this further with the AEA. To be discussed again at the Working Group meeting on 21 August. **Post-meeting update:** the AEA has published its example PCC count statements on the Members' area of its website.

Data collection

2.5 Ailsa welcomed Phil Thompson and Will Reburn from the Commission's research team to talk about election data collection in response to a discussion at the March meeting of the group when queries were raised regarding what the Commission does with the data it collects from EROs and ROs after elections.

2.6 WR gave an overview of what the Commission would be asking for at the PCC elections:

- Administrative data requested would be largely as per usual – postal votes; electorate; turnout. There will be a 'form S' to be completed (the statement as to postal ballot papers - equivalent to 'form K' for local elections). Any changes, which should only be minor, will be covered in accompanying guidance.
- The Commission will request additional authority-level data, e.g. 11-day registrations and reasons for postal vote rejections. Result data will be collected at police area level only.

2.7 WR also explained what the Commission does with the data that we collect:

- Local authority-level data is published on our website.
- The data is used to inform consideration of policy issues, e.g. looking at whether there is any link between postal vote rejection rates and signature refreshes.
- There was some discussion about what can be concluded from 11-day registration figures. There was a concern expressed that this figure in itself does not say very much without understanding what processes have been undertaken to compile the register (so, for example, if registration forms are sent out with all council tax letters to new residents, it might be that those EROs have a higher figure here than some other areas that are not doing this activity, which doesn't actually say anything about the state of the register and the number of people seeking to register simply in order to vote and not as a result of a house-move (when they may well in fact still be registered and able to vote at

their previous address)). AI confirmed that the Commission does not use this data to assess EROs' performance. It's used as part of our assessment of the voter experience and to provide an overall picture of the effectiveness of the registration framework, e.g. to demonstrate that the 11-day provision helps people to register and participate who may not otherwise have been able to. The Commission understands that the data only gives a broad picture and that registration applications received in this period may not always be directly related to the forthcoming poll.

- PT said that the Commission tries to balance getting useful data with not placing too great a burden on the authorities providing it and that it is used to draw indicative conclusions and provide a broad picture of what is going on rather than to draw specific inferences about specific local authorities. AI said that Commission may look at what data could be collected in the future as part of any revision to the ERO performance standards framework as a consequence of the transition to IER to try to provide a more detailed picture of what is happening locally with registration.
- There was a request that data collection requirements be communicated early, so that they can be planned for, with a reminder sent following the poll. **Action:** EC to include data request details in a forthcoming EA bulletin as soon as they are confirmed, and follow-up with a reminder after the elections.

3. Law Commission review of electoral law.

3.1 Ailsa welcomed Henni Ouahes (Team Lawyer) and Julien Du Vergier (Research Assistant) from the Law Commission to give the group an overview of its review of electoral law.

3.2 The presentation is enclosed with these minutes. In summary:

- There are 3 phases to the review. Phase 1, scoping, is underway now. The consultation will finish on 17 September 2012, after which the final scope will be decided.
- Phase 2 will be to produce a draft Bill by 2017. The proposals will also be consulted on at that stage.
- Working with the Law Commissions of Scotland and Northern Ireland with a view to ensuring that the three jurisdictions can work together on a simultaneous review.
- Overall aim is to simplify and rationalise the legal framework to make it consistent for all elections.
- The group discussed the consultation paper and what it is currently envisaged will be inside and outside of scope.
- LL noted that she would like to see parish polls included in the scope.
- IW asked whether the electoral provisions in the Local Government Act would be in scope e.g. processes for triggering elections. HO said not –

the review is looking at the legislation relating to the administration of elections.

- CM asked if Cabinet Office lawyers were talking to the Law Commission when they were preparing the IER legislation. HO noted that the Law Commission are aware of the forthcoming changes to the registration process but are letting CO get on with IER and will reflect the changes later in the process.

HO encouraged the group to respond to the scoping consultation to help to ensure that the right things are included. HO explained that he is happy to take individual comments or questions at any time – see presentation for contact details. **Post-meeting update:** The group agreed that it broadly supported the Law Commission's review and are happy for the Electoral Commission to reference this in its response to the Law Commission's consultation. The AEA and London Elects will be submitting their own responses to the Law consultation.

4. IER

Cabinet Office: Implementation plan

4.1 AI welcomed David Wilks from Cabinet Office to the meeting. AI explained that it had been agreed at the session with Colin Dingwall at the May meeting that the group would return to discuss the IER implementation plan at a later meeting, and she noted that the implementation plan had now been published.

4.2 DW asked for feedback from administrators on the plan and particularly on its workability and any delivery implications. GM noted that administrators are fully occupied at the moment with the canvass and PCC election preparations and so may have limited time at this stage to consider it fully and to feed back.

4.3 The group had the following comments and questions:

- It was noted that the plan had been useful to brief elected members on plans and expectations, but that there are still some gaps in local authorities' knowledge and understanding of IER and the implications of the change. Some group members noted that they understand that Cabinet Office intend to produce a letter for elected members and senior managers to explain the changes and resource implications.
- DW asked the group to identify any practical issues and where more detail is needed.
- There was some discussion around the level of information that will be needed at local authority level in order to feed into budget planning for the forthcoming 3-year financial plans – including, where precise details aren't known, sufficient assurances of when that detail will be available and when cost estimates will be able to be made.

- DW confirmed that funding will be provided under the 'new burdens' principle and acknowledged the need for the implementation process to be expressed in terms of resource requirements.
- He noted that while fixed costs are relatively easy to estimate the costs of the transition work will be more difficult to estimate, but that they should have a clearer idea after the next round of pilots.
- KQ asked that Electoral Services Managers are copied into any correspondence being sent by Cabinet Office to Chief Executives/elected members.

Electoral Commission: guidance

4.4 AI explained that the purpose of this session was to highlight the progress that had been made to date and to test some of the initial planning assumptions that the EC were working to with the group. She also noted that she wanted to discuss with the group how they could support the EC in developing best practice guidance.

4.5 AI noted that one of the key objectives is that the guidance is accessible via one source, with EROs being clear how they can access everything they need. It has therefore been agreed that the EC will lead on the production of guidance and will incorporate any guidance that the Secretary of State is responsible in law for giving in relation to the determination of applications for registration.

4.6 She explained that initial plans for the provision of guidance have been developed jointly by the Commission, Cabinet Office, and the AEA. The proposal is for a phased approach to the delivery of guidance to enable the timely provision of information and to allow the guidance to evolve over the implementation period. Although the timings need to be further mapped out to ensure they are achievable, broadly, depending on the timing of primary and secondary legislation, it is intended that the phases will cover:

- Early 2013: general planning and preparation guidance, covering the period up to and including the early 2014 canvass
- Sept 2013: guidance to cover activities in 2014 from the confirmation phase onwards
- Late 2014: guidance for 2015 (which will largely be an update to the 2014 guidance)
- Late 2015: business as usual guidance (which again will be an update to the 2014/15 guidance)

4.7 There was a discussion of how best to engage with the group in developing guidance and agreement that:

- Producing guidance will be a challenge due to the fact that the legislation to be followed will be new, and consequently new processes and procedures will need to be developed
- It would be useful to work with those who have participated in pilots (including potentially shadowing and observing their practices in real

- time) to identify what needs to be covered and capture the processes they are following so that any good practice can be identified and shared
- The group could usefully look first at the draft secondary legislation to identify workability issues and start to consider good practice processes to show how it can be implemented in practice. This could be done at the next few meetings and fed back to Cabinet Office to influence the draft legislation.
 - The Commission will bring more detail of the plans for guidance to the August meeting setting out what is needed and when, and proposing how the group can be engaged in that process
 - It was proposed that a workshop format would be a good way to map out new processes.

5. Future meetings

5.1 Future meeting dates (currently):

- 21 August
- 25 September
- 4 December

5.2 The 4 December meeting may clash with AEA branch meetings so the Commission will look at changing the date and holding the meeting in late November instead, and adding another in mid-December.

5.3 A supplier meeting is likely to be convened in the next few months.

6. Any other business

6.1 Some members noted that they hadn't received the previous meeting minutes. **Action:** EC to check whether these are on the website and to circulate them along with the minutes from this meeting.

Post-meeting update: The minutes from the May meeting have been circulated and are now on the Commission's website.