

Board minutes: 23 May 2018 | Electoral Commission Search

Board minutes: 23 May 2018 You are in the Electoral Commission Board section
Home How we make decisions Electoral Commission Board On this page Apologies
Declaration of Interests Minutes of 21 March 2018 Notes of 18 April 2018 Post
elections – Key messages for post-poll report(s) and potential policy implications
Corporate Governance Update Codes of Practice Key messages for the 2017 - 18 Annual
Report Chief Executive's Update for April 2018 Annual Review of Risk Register Quarter
4 Finance and Performance Report and achievements against 2017-18 Corporate Plan
Minutes of Audit Committee Meeting, 20 March 2018 Forward Plan of Board business
2018-19 Action-tracker Chair's and Chief Executive's meetings, and meetings in
devolved legislatures Commissioner wash-up (Commissioners only) First published: 23
July 2019 Last updated: 23 July 2019 Overview Date: 23 May 2018 Time: 9:30am to
12:30pm Location: Boothroyd Room, 3 Bunhill Row, London Date of next scheduled
meeting: Who was at the meeting Who was at the meeting Sir John Holmes (JEH), Chair
Sue Bruce (SB) Anna Carragher (AC) Elan Closs Stephens (ECS) John Horam (JRH) David
Howarth (DH) Alasdair Morgan (AM) Bridget Prentice (BP) Rob Vincent (RV) Claire
Bassett (CB) Kieran Rix (KR) Ailsa Irvine (AI) Robert Posner (RP) Emma Hartley (EH)
on behalf of Craig Westwood Sarah Chambers (SC) – attending as an observer Nancy
Bruseker (NB) Polly Wicks (PW) Phil Thompson (PT) Tom Hawthorn (TH) Apologies Craig
Westwood (CW) Declaration of Interests 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. AC is 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. AC declared her sister is
Head of BBC News in Northern Ireland. 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?' DH
stood for election on a manifesto supporting an in-out referendum on the European
Union. DH is a council member of Justice, an organisation which had in the past
received EU funding. DH reported that the European Parliament subsidised a regular
annual visit by his Public Policy students to Brussels. DH declared that he had been
awarded a research grant of over €40,000 from the European Parliament. DH declared
that he had been at university with Jon Lansman, but had no current contact with him.
JRH is 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. JEH reported that he
is Chair of the Advisory Board, Cargo Logic Air (British Air Cargo Company
established in 2015 by the Russian owner of the Volga Dnepr Group) (remunerated). SB
is Chair of the Expert Panel on Environmental Charges and Other Measures for
Scotland. ECS is Chair of the Public Leaders Forum of Chairs and CEOs of Arm's Length
Bodies in Wales. Minutes of 21 March 2018 Approved. Notes of 18 April 2018 Subject to
correction of a typographical error in section 2, these notes were Approved. Post
elections – Key messages for post-poll report(s) and potential policy implications AI
gave a presentation on post-poll reports and potential policy implications. There
were scheduled local government elections in England only. These encompassed 150
local authorities and 5 local directly-elected mayors. There was an election for a
Combined Authority Mayor in Sheffield and Voter Identification pilot schemes took
place in 5 authorities. There were only a small number of performance issues

identified and polls were well-run in both Plymouth and Newcastle-under-Lyme, further to issues at the June 2017 UKPGE. There was a steady level of electoral administration queries throughout the election period. Key messages from the May 2018 polls were: Overall the elections were well-run, with no significant problems which affected voters or campaigners. While ROs and administrators had delivered well-run polls this time, this did not mean that the pressures on the electoral system we had identified previously had gone away. AI reminded the Board that there was no statutory duty to publish a report on local government elections, and invited them to consider how we should respond. EH presented an overview of campaign activity in the run-up to the poll. This had been the first use of our "Got 5?" registration campaign and we had exceeded our ambitious target for applications to register. We had also set high targets for the numbers of additions to the register, and would be able to report more fully on these once we had gathered more data by the summer. For the first time we ran a brand uplift study with Facebook. We saw an 11 percentage point difference in ad recall between the test and control groups. As this was the first time we had run a study like this we didn't know what a good result was, however Facebook have told us this is really good and we exceeded the benchmark for government campaigns. We had had a relatively low level of public enquiries in the six weeks leading up to the poll, with only a smaller number of enquiries (18 in total) about the voter ID pilots. TH and PT gave some initial perspectives on the pilots. We had deployed over 20 EC representatives as observers across the 5 pilot areas on polling day. They had observed processes operating reasonably smoothly, including where new technology had been used. Feedback suggested that the majority of voters had appeared to be aware of the need to bring ID, although EC representatives did observe some voters being turned away. It was noted that these observations ran counter to some of the negative media coverage both before and after polling day. JEH noted that a report from Democracy Volunteers on the local election and Pilots had been issued. AI acknowledged that this had been an interesting report that would be considered in future evaluation, but noted that the methodology they used was not known, which raised risks that their findings were overstated. JH asked for an update on issues raised about the poll at London Borough of Tower Hamlets by Peter Golds, Leader of the Conservative Group. AI noted that the Chief Executive and RO for Tower Hamlets, Will Tuckley, had responded in a detailed letter that overall the administration of the polls and count had gone well and had been much improved from the position in 2014, at the last local elections. This corresponded with our observers' experiences. However there had been one or two unfortunate mistakes, including around Councillor Golds' own result. Next steps on the ID pilots would be to analyse detailed data, in order to fulfil our statutory responsibility to evaluate and report back on them. We aimed to compile a high-level report containing conclusions about what needed to happen next and a statutory assessment of schemes and data and publish this before the summer parliamentary recess. It was noted that there would be a debate in Parliament on 6 June 2018, called by Ellie Reeves MP, whose constituency was in one of the Pilot areas, before the report was ready. Agreed: That: There would be no separate report on the local elections overall. A more detailed report on the ID pilots would be prepared for the June Board. A high-level report containing conclusions about what needed to happen next and a statutory assessment of schemes and data would be published before the summer parliamentary recess. Corporate Governance Update Each annex of the proposals before the Board was discussed separately. The change to the quoracy of board as proposed in Annex A was AGREED. This will be incorporated into Standing Orders in the Corporate Governance

Framework. Changes proposed to the Complaints procedure as shown in Annexes B and C were introduced in the context of the recent complaints being investigated by Liz Butler, appointed as an independent investigator. CB would share the report with the Board when it had been finalised. JEH asked for clarification on the process following the delivery of future reports to the responsible person. KR indicated that given the variability of the complaints possible, the guidance had been deliberately left open. CB reminded the board that the Speaker's Committee of the House of Commons remained the ultimate authority. AC discussed an issue she had faced in a different board, suggesting that it was important that the procedures were as clear as possible, including for any circumstance where there could be a dispute between Chair and Chief Executive. CB clarified that internal complaints would be treated as grievances, whereas external complaints would follow the complaints procedure. JH questioned whether the use of the chair of the Audit committee would be considered to be sufficiently independent; CB noted that it was good practice to attempt to internally resolve issues, and that if no internal resolution could be found, one next step would be to raise it with the Ombudsman. SC noted that the paper as drafted did not detail the duties of the EC to the complainant re response times. SB noted the need to demonstrate that measures taken were reasonable and proportionate, and suggested that if the Audit committee chair was to have this investigative responsibility, it ought to be included in the job description. AM proposed a redraft which modified the clause on the use of the Nolan principles. SB noted that the issue of grievance against a Scottish Commissioner had to be clarified in terms of ultimate responsibility. JEH asked if annex C would be public; KR explained it was currently for internal use but they were considering publishing a version of it. It was agreed that a redrafted version of the annexes would be submitted to the board. BP explained that with regards to Annex D, the Board would be kept informed on referrals to police. Annex D was AGREED. A general discussion on governance then followed, with ECS noting that regular reviews of 'soundness of the internal decision making' should include checking resourcing within the EC to undertake the work. RV noted that there was a question around which processes the board should scrutinise. It was agreed this should be an item on a future agenda board, with the possibility that in the first instance the scrutiny should be on enforcement. Codes of Practice BP introduced the paper and invited detailed comments from commissioners on drafting in due course. This was the first time codes of practice, rather than guidance, had been drafted by the EC. In the wake of the 2015 election, the decision had been taken in order to be as clear as possible on some issues, including the distinctions between candidate and party spending. BP noted that a case before the Supreme Court on the date of the Board, around which there were reporting restrictions, had the potential to alter substantially the previous interpretation of PPERA in some areas. The EC was participating in the hearing as a kind of expert witness. The hope was that the Supreme Court's decision would be available before the summer recess. ECS asked whether, if the interpretation changed dramatically, the EC would have to repay previously issued fines. BP said previous cases would not be affected. DB noted that the portions of the code most likely to be affected were highlighted in the draft. The codes were written to make explicit that digital spending should always be included. Significant discussion had already taken place with stakeholders, including officials in Scotland and Wales. The current plan was to go to external consultation with e.g. political parties in September 2018. KE outlined the risks and mitigations: given the uncertainty around the Supreme Court case, they proposed to consult first on the parts of the codes unaffected. KE also noted the risk of another snap UKPGE

which would push back the timeline for finishing the codes from 2020, and also push back the date where they could be used first. DH proposed a 'red team' reading of the codes to make them more robust, which was agreed. The issue of separate codes of practice for Scotland and Wales was discussed, as Commissioners suggested the drafts as presented were likely to be unfit for those purposes. The issue of current campaign spending levels was also discussed, including the balance between party and candidate spending. KE indicated that spending rules could be changed in secondary legislation if necessary. RV raised the issue of non-party campaigners. CB said that a decision had been taken to prioritise the current draft Codes, but a draft Code for non-party campaigners was likely to follow in due course. Meanwhile work was continuing to reassure eg the voluntary sector that their fears about the so-called chilling effect of current legislation were exaggerated. The board agreed that work on the Codes of Practice should continue. Key messages for the 2017 - 18 Annual Report KR introduced the paper. 3 key messages were being proposed: The Commission had responded quickly and effectively to the announcement of the unscheduled UK Parliamentary General Election which followed on rapidly from local government elections in England, Scotland and Wales, whilst managing to deliver our business as usual work and minimise the impact on our project delivery. We had taken a proactive approach in our regulatory activities, undertaking a wide range of investigatory activity primarily on investigations relating to the UKPGE and EU referendum. This complex work had continued alongside our regular regulatory work. 2017-18 had been the first financial year since we undertook our strategic review of our priorities and activities. Despite the additional pressures faced by the organisation, we had still managed to progress this ambitious programme of work. CB noted that it had been a very full year and that the organisation had largely been able to step up and respond. Next year we would build in more time for discussion and review in advance of the themes for the Annual Report. Commissioners commented briefly on these themes, while suggesting that they needed significantly more work for when the draft came to the Board at the next meeting. It was generally agreed among Commissioners that communications in the annual report should be accessible, in plain language, include infographics and be 'digital first.' It was also highlighted that context should be included (threats to democracy, maintenance of voter confidence in the face of this) and that the EC demands for more powers should be included in this messaging. It was agreed that National Democracy Week (first week of July) would a good context in which to speak about the work of the EC. Chief Executive's Update for April 2018 CB set the context of the preceding few weeks, which had included the local elections, the appearance before the DCMS select committee and the announcement of the Leave.EU investigation. The Board recognised the hard work of the Communications and legal teams in all this work. CB also noted that the Commission had been busy internally with end-year financial work. BP and LE updated the Board on the status of current investigations. AC updated the board as to NI-specific issues, including the recent 'incinerator ruling' which determined that civil servants were unable to take decisions, and the ramifications of that on decision-making while the NI Assembly was not meeting. She also highlighted the upcoming Irish Republic referendum on abortion, and the decision taken by the Irish Government to prevent external Facebook ads in that context. AM asked for an update on a recent data breach involving the Scotland in Union party. CB explained that the issue had been an unfortunate and unexpected redaction failure, for technical reasons, and that a solution had been found to prevent this recurring. We had used social media to communicate and minimise the impact of the leak. Stakeholder management had also been part of the response,

contacting the people whose data had been released to apologize. KR noted the ICO had asked clarifying questions but their investigation was still ongoing. We were also in touch with Adobe about the failure of their software in this case. Annual Review of Risk Register Noted. Quarter 4 Finance and Performance Report and achievements against 2017-18 Corporate Plan KR noted in his introduction that the numbers included in this report were still subject to audit and not final. JEH noted that a superficial reading of some of the target numbers could give the impression that some had been badly missed, when in reality we had largely achieved against ambitious targets. It was also hard to measure a lot of what the Commission did, which was qualitative and not subject to numerical targets. KR acknowledged the problems with setting ambitious targets, but stressed the importance of not simply reducing targets to match performance. Rather we should adjust the messaging/ reporting appropriately to reflect the reality. KR would incorporate this thinking into the review he was undertaking into internal and external reporting for the following performance year. AM asked for clarity on the level of inaccuracies in financial returns submitted by parties to the EC, which CB confirmed was quite high. BP indicated that the project to update the PEF IT system would help resolve some of these issues, together with clarifying the guidance. AC noted that the indicators that measured how we ensured an increasingly trusted and transparent system of regulation in political finance, overseeing compliance, promoting understanding amongst those regulated and proactively pursuing breaches, had showed a slight decline since 2016. JH asked for clarification on income, and KR indicated that future reporting would make this clearer. RV wondered whether some of the underspend could be turned towards more research activity, for which the Commission otherwise had limited resources. It was noted that the Board would be returning to the issue of research capacity and priorities in the coming months. Minutes of Audit Committee Meeting, 20 March 2018 This item was circulated for information. Noted. Forward Plan of Board business 2018-19 The issue of the subject for the next Commissioner Day was noted. RV expressed his support for a session on the future of voting. The question of whether to have a board meeting in July was raised. The decision on whether to go ahead, or substitute a telephone briefing as in 2017, would be considered at the Chair and Chief Executive's next Governance meeting, for report back at the June Board. Action-tracker It was decided to amend the first action to clarify the action as scheduling a further Board effectiveness session, with a likely date in early 2019. Chair's and Chief Executive's meetings, and meetings in devolved legislatures JEH reported that he had paid one of his regular visits to the Speaker of the House of Commons, who had been very supportive in general of the work of the Commission, despite recent criticism from some quarters. Commissioner wash-up (Commissioners only)