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and introductions Minutes of the Commission Board meeting of 26 June 2018 Delivering

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meetings and meetings in Northern Ireland, Scotland and Wales Conclusion of the

meeting First published: 18 July 2019 Last updated: 18 July 2019 Overview Date: 19

September 2018 Time: 9:30am Location: Boothroyd Room, 3 Bunhill Row, London Date of

next scheduled meeting: 24 October 2018 Who was at the meeting Who was at the meeting

John Holmes (JEH), Chair Sue Bruce (SB) Anna Carragher (AC) Sarah Chambers (SC) Elan

Closs Stephens (ECS) John Horam (JRH) David Howarth (DH) Alasdair Morgan (AM) Bridget

Prentice (BP) Rob Vincent (RV) Claire Bassett (CB) Ailsa Irvine (AI) Robert Posner

(RP) Craig Westwood (CW) Louise Footner (LF) Nancy Bruseker (NB) Jennifer Hartland

(JH) Tom Hawthorn (TH) Niki Nixon (NN) Louise Edwards (LE) Emma Hartley (EH) Katy

Thomas (KT) Apologies and introductions Kieran Rix offered apologies and JEH

introduced the new Head of HR, Jennifer Hartland. Declarations of Interest 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). 2.2

AC is a Trustee of the Wildfowl and Wetlands Trust, which received EU funding, and,

having stepped back from her WWT role during the Referendum, has now re-engaged with

it (pro bono). AC is a Trustee of the National Heritage Memorial Fund (The Heritage

Lottery Fund) (remunerated). AC was a Commissioner for the Equality Commission for

Northern Ireland until 23 September 2015 (remunerated). 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 was 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 in

2015 he was awarded a research grant of over €40,000 from the European Parliament. DH

is a Fellow of Clare College, Cambridge (remunerated). DH is Professor of Law and

Public Policy at the University of Cambridge (remunerated). DH is a Non-executive

director of RAND (Europe) as well as a member of its Council of Advisers (pro bono).

DH is a member of the Council of Advisers, Constitution Society, and Editorial

Advisory Board of Parliamentary Affairs (pro bono). DH was a Liberal Democrat MP for

Cambridge until 2010 (remunerated). DH was a member of Cambridge City Council until

2004 (remunerated). DH declared that his spouse is Bursar and Fellow of St Edmund's

College, Cambridge. JRH was a member of the pro-Europe Conservative Europe Group. JRH

is an Honorary Non-Executive Director, CRU Holdings Ltd (pro bono). JRH was made a

Life Peer on 4 September 2013 and sits as a Member, House of Lords (remunerated). JEH

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). JEH

is Chair of the Board of International Rescue Committee, humanitarian NGO (pro bono).

JEH is an advisor for MasterCard International (remunerated). JEH is a Council Member

for the Governing Council, Radley College (boys' school) (pro bono). JEH is Chair of

the Humanitarian Aid Memorial Steering Group (pro bono). JEH is a member of the

Advisory Council, Wilton Park (Government-linked conference centre) (pro bono). SB is

a Non-Executive Director for SSE plc. She is Chair of RemCo; a NomCo member; and a

member of SHEAC (Safety, Health, Environment Advisory Committee) (remunerated). SB is Convenor of Court at the University of Strathclyde (pro bono). SB is Chair of RSNO (pro bono). SB is the Independent Chair of the Nominations Committee for the National Trust for Scotland (pro bono). SB is Governor of Erskine Stewart's Melville Schools (pro bono). SB is a member/Court member of the Merchant Company of Edinburgh (pro bono). SB is a trustee of The Prince's Foundation (pro bono). SB is Chair of the Expert Panel on measures for the environment: Represents Scottish Government (remunerated). SB was previously Chief Executive (and Returning Officer) of Edinburgh City Council from 01/11/2011 to 31/08/2015 (though she usually gave RO fees to charity/other staff). ECS was appointed in July 2017 for three years as a non-executive Director of the BBC Unitary Board. Within her Non Executive role, Elan also Chairs the BBC Wales Committee, is a member of the N Ireland Committee and of the Fair Trading Committee. (remunerated). ECS is Member of the Authority of S4C, Welsh Fourth Channel, until end of October 2018. (remunerated). ECS is Deputy Lieutenant for the three counties of Dyfed (Ceredigion, Carmarthenshire and Pembrokeshire). (pro bono). ECS is Chair of the Public Bodies Forum (Arm's Length bodies of Welsh Government) (remunerated). ECS is a member of Strata Florida Trust (Charitable organisation) (pro bono). ECS is a member of Aberystwyth Arts Centre Advisory Committee (pro bono). ECS is Emeritus Professor and member of Court at Aberystwyth University (pro bono). ECS was a Board Non-Executive Director of the Permanent Secretary's Board of Welsh Court and Chair of Audit & Risk until April 2018 (remunerated). BP is a trustee of Age Exchange (reminiscence and inter-generational work for people with dementia) (pro bono). BP is a trustee for Foundation for Jimmy (working with young people to be good citizens) (pro bono). BP is Chair of Governors, Trinity Lewisham (all-through school) (pro bono). RV is Chair, Kirklees Cultural Education Trust (pro bono). RV is Non-executive Director, Bradford Community Health Trust (remunerated). RV is Director, New Ing Consulting (mentoring and technical assessment work with Local Government Chief Executives) (remunerated). RV was Chief Executive of Kirklees MBC between 2004 and 2010 (remunerated). RV was Implementation Director for the West Yorkshire Combined Authority from September 2013 to March 2014 (remunerated). RV was Chair of the Rotherham Improvement Board from September 2014 to March 2015 (remunerated). RV was advisor to Tower Hamlets Council on governance and decision-making issues from May to October 2015 (remunerated). SC was a panel member of the Competition & Markets Authority until 30 June 2018 (remunerated). SC is a panel member of the Judicial Appointments Commission (remunerated). SC is Chair of Legal Services Consumer panel (remunerated). SC sits on the Civil Aviation Authority Consumer Panel until 1 October 2018 (remunerated). SC is Chair of the renewable energy consumer Code Applications Panel (remunerated). SC is a member of the Determinations Panel of the Pensions Regulator (remunerated) Minutes of the Commission Board meeting of 26 June 2018 The minutes of 26 June were approved and the record of the catch-up call of 18 July 2018 was noted. Delivering the Commission's policy agenda CB introduced the paper, explaining that it followed work by various teams and the Executive Team to look at how the Commission should set its future priorities and develop plans. CB provided the context of these discussions, identifying some of the policy opportunities and challenges ahead. She noted that this paper was part of the Commission's planning to make the most of these opportunities and was coming to the Board at an early stage, when priorities were still being identified. CB outlined the need for this focus on policy to allow the Commission to raise its own profile and have both a proactive and reactive strategy to address policy issues and achieve practical goals. CB invited input and feedback

from Commissioners. TH explained that the list of policy priorities had been drawn from previous work to identify and track all existing recommendations and then prioritise these in line with the current corporate plan goals. The priorities did not exclude other policy recommendations and the team would still take advantage of opportunities to bring these forward when possible. The paper included discussion of likely policy priorities for the devolved offices. TH noted that the team would like to come back to the board in summer 2019 to report progress, particularly on digital campaigning. NN then spoke about the communication of these priorities. She explained that the aim was not just to respond to others but also to influence others. She noted that a key aim was to use communications expertise to promote the changes we were seeking - for example by producing memorable phrasing to get ideas across more quickly. The team were also looking at creating new communications opportunities along the lines of the Vote 100 'I vote' campaign, without forgetting roundtables and other traditional methods. As the plan for the policy agenda was staggered over three years, the communications around them would also be phased. RP noted that although the paper indicated that this work would be managed within approved resourcing, resource implications might be greater if the agenda were to take off and additional work were agreed. JRH suggested that the policy agenda should draw the distinction between those activities where the Commission's role was as advocate, while Government and Parliament had the executive power, and those where the Commission could take on the work itself. CB noted that his example of the accessibility agenda was a good one for the latter, as legislation would not be required for some aspects of our recommendations. SB noted that the communications plans might draw more press attention, and create a dialogue with a wider public, which would be welcome. She noted that accessibility was a high priority for Scottish government. She also observed that the expected Scottish electoral bill and the Welsh bill were distinct and should be addressed as such. ECS complimented the work, though she noted that the presentation of the recommendations could still be clearer. She suggested that a pocket sized prompt card on our priorities might be helpful for Commissioners in the future. RV said he was pleased to see the paper, though cautioned that it could be a long process to change public opinion on some issues. He suggested that the Commission's role was as a 'careful voice' to facilitate discussion, and warned against over-simplistic messages. CW explained that there would be a comms plan for each priority with its own strategy. The purpose of these strategies was to prepare the ground of the debates we hoped would follow. AC welcomed a change to a more proactive policy agenda. She suggested it would be helpful to have versions of the agenda specifically geared for the particular circumstances in Northern Ireland, Scotland and Wales. AC asked if there was more work planned on the evidence base for the recommendations. She was advised that this work was planned and would be scheduled according to need. The planned Board discussion on research would feed into this. AM asked about policy positions no longer active in the Commission, and was advised these were documented in the tracker referred to earlier. A discussion followed on deprioritised activities. AM also noted that devolved governments and legislatures were in some cases doing things that were completely different, for example voting age in Scotland. The language of 'different policy priorities' did not quite address what might in some cases be different policies altogether. BP noted that different positions among the different legislatures could be an advantage in some respects. DH cautioned that it was important to check that evidence had not changed over the course of the 3 year programme, using the example of the extension of the franchise to those under 18JEH summed up the discussion as the Commissioners

giving broad agreement to the proposals in the paper, and supporting the production of a 'pocket explainer card' of the recommendations, as well as the separation of Wales, Scotland, and Northern Ireland. In further discussion, RV noted the importance of influencing the commentariat, while JRH reiterated the importance of research. CB added that in addition to deploying the Commission's research capacity, the Commission was seeking to influence other researchers. The aim was a multilateral evidence base, which would be stronger than anything the Commission could do by itself. 4.19 JEH noted that the policy work of the Commission was not about advocacy for its own sake, but more about gathering the evidence, taking positions on that basis, and encouraging interest and discussion among stakeholders and the wider public. Referencing our corporate images, DH noted that the images used in communications should be consistent with the messaging. CW briefly updated the board on our recent corporate branding update, which helped to address that point. SC noted that the majority of the policy recommendations involved some influencing role, which the Commissioners themselves could help advance. It was agreed to include this in the communications plans. Prosecutions policy LE introduced the paper. The proposals included building limited capability to bring prosecutions, setting out how we would do this and ensuring transparency by including this in our published Enforcement Policy. LE advised that the policy proposed was based on an industry standard and the consultation would provide the organisation with an opportunity to discuss details. Many stakeholders were already aware of the consultation and were broadly supportive. Once the consultation had closed early in 2019, the team would use the Regulatory Steering Group to consider the response and agree any amendments to the proposed policy. The intention was to publish a new enforcement policy in May 2019, which would include the prosecutions language. It would then be possible to prosecute cases if necessary. DH queried the inclusion of financial gain as one of the bullet points against the public interest test. LE noted this was already written into the existing enforcement policy, and there had been some cases where financial gain had indeed played a role. SC counselled caution in proceeding, based on her experience at CMA, and noted that creating a 'small prosecution capability' would not be as easy as it sounded. Despite these notes of caution, she did agree that what was proposed was the right way forward. LE agreed that CMA would be consulted and their advice considered. BP agreed with SC, noting that it was important to maintain confidence in the Commission. She asked why the policy was described in the paper as outside the scope of statutory guidance. LE noted that the guidance issued by the Commission was much broader already than the statutory requirements, to support transparency. BP noted that clarity would be needed as to what would be passed to police and what prosecutions would be undertaken by the Commission. LE explained that the Commission had no intention to take over all the work of the police or CPS and would liaise where appropriate. The final guidance would be clear and consistent in explaining this. SC noted that one of the risks around establishing capability at the Commission could be that the police might be less willing to take on referrals. AC asked if the policy would come back to the Board; RP reported it would be discussed at the regulatory steering group, and brought back to the Board if a major issue arose. RV noted the risk of judicial review if the perception was that the selection of prosecutions was inconsistent. LE explained that the guidance would be careful to note the distinction between sanctions versus prosecutions. The guidance set out checkpoints as cases progressed, which included considering resources. We would of course always need to be able to justify decisions to prosecute or not prosecute, including publicly. ECS noted that consultation was coming at a very difficult time,

and suggested that the management of comms would be important. JEH asked if any political parties had already objected; LE responded no. In response to JEH's question on potential criticism about resourcing this new step, LE explained that the team was expanding their toolkit to deal with different scenarios. The goal was to look at the whole toolkit and establish how prosecutions fitted in overall. JRH strongly supported the move, though he cautioned that some criticism would be unavoidable, particularly around the notion of bias. AC asked for clarification as to the use of civil versus criminal sanctions. LE noted that the possibility of criminal conviction for groups with no political future (for example, referendum campaigners) could present more of a deterrent. SB noted it was important to have a discussion with a wider public audience, many of whom would support the Commission having more 'teeth'. She also noted that despite the fact that no prosecutions were possible in Scotland, it was important to consult nonetheless. She noted in passing that the appetite was there to allow the Commission to give higher fines in Scotland. JEH declared the Board's endorsement of the paper. Public awareness campaign for May 2019 – approach and budget CW kicked off the discussion with the presentation of the campaign team's award for their 'Got 5' campaign. The Board congratulated the team. EH explained the context for the forthcoming May 2019 elections in England and Northern Ireland. The planned campaign would build on the success of the award-winning 2018 campaign. She noted that the Commission had met its target for additions to the electoral register from its 2018 campaign, so would continue with a similar approach and some minor improvements. New opportunities would come from being able to evaluate the impact of the campaign in Northern Ireland in more detail now that online registration was in place. There were also discussions ongoing with Cabinet Office, to investigate the possibility for setting up bespoke landing pages on the gov.uk service. JEH enquired about messaging on registration duplication. EH responded that they were doing some extra messaging to try to reduce duplicate applications, and Comms were also discussing the issue with Cabinet Office. AC asked if the 'your vote is yours alone' campaign would be used in Northern Ireland. EH replied that it would, but potentially with some tweaking of the messaging. A discussion followed on communications during a difficult period, and how this would be accomplished. EH said the Commission had the requisite budget and networks to deliver the messaging, and would focus on our remit. The Board confirmed the plan and its budget. Q1 performance and finance report CB introduced the paper in KR's absence. She noted that the revised report aimed to respond to feedback from the Board to be more visual, and welcomed feedback on the new format. She also noted that the project updates were more recent than quarter 1. AM noted that some of the targets missed were due to excessive workload. He asked how this was being reconciled with the idea of a new prosecutions capability. RP responded that it was for the Commission to consider, in the planning round, whether the current circumstances around investigations and court cases were exceptional or the 'new normal'. CB noted that the missed targets were around event-driven work, and that, in future business planning, an increase in event-related resources could help the organisation to deliver these activities more consistently. At the December board meeting, the intention was to bring an 'in principle' budget and business plan in advance of the final documents. AM noted that numbers of staff leavers as presented could be more informative. CB replied that more comprehensive charts were available and considered by ET. RV also noted that more detailed information was provided to Remco. SB remarked that a staff turnover of 12% seemed quite high. In her experience, the outside London standard was nearer 8%. She also asked about the speed at which

leavers were replaced. CB advised that the impact of turnover depended on whether it was planned or not. The Commission had previously relied on fixed term contracts in some areas but was moving towards a higher number of more flexible permanent staff to provide a more stable base. The current strategy was not immediately to fill a vacant post, but take time to think what was really needed. ET were involved in every decision on posts, and each had to come forward as a business case at an ET meeting. SB commended the new format. ECS noted that the Electoral Coordination Board in Wales was working well. RV commended the efforts made to address the underspend issues. The report was noted. Chief Executive's update CB introduced the paper, noting that good progress had been made on contingency planning for a fresh election or referendum. She noted the court judgment on the recent judicial review, explaining that while the Commission had been prepared for the result to be announced, it was much more difficult to prepare for deliberate misinterpretation of the judgment, which had happened in some of the media coverage. It was however, a good indication of the sort of communication challenges the Commission might face in future. AI highlighted three areas of work, beginning with canvass reform. The work here would use DWP data to put resources where they were most needed. The three governments (Westminster, Wales, and Scotland) were to publish a joint policy statement in October, followed by a two-month period for consultation ahead of legislation. The aim was to bring about a culture change among ROs, alongside new guidance and a new performance standards framework. AI noted that work was continuing on preparations for the May 2019 elections, and that Cabinet Office plans for the 2019 electoral fraud pilots were also being developed. AI highlighted the work on the recall petition in Northern Ireland, noting that the Commission had a statutory duty to report on the petition. She noted also that there might be questions around the framework for such petitions, even if the analysis showed that the poll itself had been well run. RV reported on the observation visit he and SC had made to see the petition process in action. They had found that the administration of the process was good, though noted that six weeks appeared too long, and could paradoxically result in a low engagement in the process. He also noted that the Commission was the only observer. The note of their findings was to be circulated after the meeting. AC commented that the opening hours for the petition were perhaps unhelpful - 9-5 – though postal votes were available. She noted also that being seen to sign the petition was in its own way fraught, given the particular circumstances in Northern Ireland. In the case of the petition, merely being present was a 'giveaway' as to one's choice. This might need further thought. AI commented on the Northern Ireland assembly elections. The current understanding was that the Secretary of State would introduce primary legislation in October to stop elections for a fixed period, length to be determined. AC noted that the SoS had also given permission to civil servants to take decisions in the absence of lawmakers. A discussion followed on the role of the Commission in these matters, and how best to support democratic processes in Northern Ireland. It was agreed to take up the issues with the Secretary of State for Northern Ireland. RP provided an update on investigations, and touched on the result of the Supreme Court case. He noted that the Crown Court trial around the South Thanet constituency had been set for mid-October. Appeals from the referendum campaigners were due to be heard in the County Courts in early 2019. RP also noted that the team were actively undertaking a review of registered political party descriptions, and that the consultation on statutory codes for party and candidate spending was ongoing. RP explained the result of the judicial review of the Vote Leave case, and its potential implications, including on the wider electoral regime for candidates, political parties and non-party

campaigners. RP explained that the Commission would probably be seeking leave to appeal, and then considering whether an appeal itself should go forward. The decision to do so (or not) was delegated to the Chief Executive. RP also noted that Vote Leave were also likely to appeal. DH asked if the implication would be that the Commission would have to review older judgments in light of the change of law. RP said that the judgment could not have retrospective effect. However LE confirmed that the team were looking at where the judgment could impact other areas of our work, and what effect that might have on eg third party campaigners. This would be relevant to any appeal. CW noted that the Communications and Research aspects of the business had included a new section in the Chief Executive's update to increase the visibility of their work. KT noted the arrival of the new permanent Head of HR. She also briefly discussed the work of the Finance and Corporate services team, including business planning, budgeting, IT developments, FOI increases, and upgrade work. Forward plan of board business 2018-19 JEH noted that the next meeting would be a Commissioner day, and that an agenda would be circulated shortly. ECS noted that there had been a recent decision taken to hold a youth parliament in Wales. The date of the March 2019 board meeting was unclear and would be resolved promptly. Action tracker The action tracker was noted. Chair and Chief Executive's meetings and meetings in Northern Ireland, Scotland and Wales The paper was noted. Conclusion of the meeting At the conclusion of the meeting, the Chair expressed his warm gratitude, and that of the Commission as a whole, for the commitment, integrity and enthusiasm of the departing nominated Commissioners (BP, DH, and JH), and wished them well for the future. They had all made significant contributions and would be much missed.