

Note of Meeting of the Referendum Project Board- Thursday 11 March 2010

Wales Office: Fiona Adams-Jones, Glynne Jones and Sandie Green

Welsh Assembly Government

Hugh Rawlings

Electoral Commission

Kay Jenkins

Adrian Fryer

Ministry of Justice


 MOJ official
MOJ official

Following introductions, **FAJ** said that Sarah Canning would be joining the Wales Office on a one year secondment from the Welsh Assembly Government as Project Director taking the lead on the Referendum Order. SC had worked on the "All Wales Convention" and also had legal background, and she would be an asset to the team. SC would report to Glynne Jones and would be supported by Sandie Green.


Remit of Board {Doc 2}

It was agreed that the main focus of the remit of the Project Board would be to co-ordinate and oversee the preparatory work required within the 120 days period, with a deadline for the Referendum Order of 17 June 2010. There was a brief discussion on adding additional members to the Board and it was agreed that people would be invited on a case by case basis.

Electoral Commission: Key principles for Referendum {Doc 3}

KJ confirmed that the EC had submitted evidence to the House of Lords Constitution Committee in February 2010, following lessons learnt from the North East Referendum. The key principles had also recently been sent to key stakeholders, including UK Ministers and Devolved Administrations for consideration. **{Action:  MOJ official to co-ordinate a response on behalf of the UK. KJ to send HR the letter that was sent to the FM. Wales Office and WAG to liaise on responses}.**

HR suggested that it would be useful for the EC to produce a factsheet setting out the key criteria to ensure that Political Parties were alive to the EC's responsibilities, and what can and can not be done during a referendum period. **KJ** confirmed that briefings had taken place but acknowledged that it would be productive to produce a factsheet **{Action KJ- to produce a fact sheet}.**

HR said that in relation to public awareness it would be helpful if the EC were to set out the consequences of a yes or no vote. ** MOJ official** confirmed that whilst PPERA set out that if the EC were unable to designate for General Elections then the UK Government would produce guidelines, there was no such provision for referendums. It was agreed that the issue would be considered again at the next meeting. This was also an issue that UK Government and WAG might want to raise in their responses to the key principles document. **{Action: SG to add to agenda for next meeting and consider with SC, lawyers and MoJ}.**

Electoral Commission note on lessons learnt {Doc 4}

KJ said that following the North East Referendum a number of lessons were learnt and as a result a number of amendments had been taken forward in the

Constitutional Renewal and Governance Bill, which the EC would welcome being replicated in the draft Referendum Order.

Appoint Deputy Counting Officers

It was agreed in principle that a provision for appointing a Deputy Counting Officer be included in the draft Order.

Restriction on the publication of promotional material

HR said that it was essential to be clear what precisely was meant by restrictions on the publication of promotional material by the Welsh Assembly Government, which the EC were proposing should apply from the start of the referendum period. Given that Welsh Ministers' day to day duties were inextricably linked to enhancing devolution, it could prove problematic if for an extended period they were unable to make any announcements on the basis that it could be interpreted as them campaigning for votes.

MOJ official

confirmed that provisions were set out in the PPERA Section 125. It was agreed that WAG would need to be consulted formally on any proposal to extend the current restriction of 28 days before polling day. **{Action: SG to add to the agenda and consider further with WAG/MoJ at an early stage}.**

Powers to promote public awareness of the voting process

It was agreed in principle that a provision for the EC to have powers to promote public awareness of the voting process be included in the draft Order.

Aggregation of spending limits for permitted participants who operate to a common plan

Agreed to mirror provisions in the draft Order.

A provision for electors to register to vote up to 11 working days before the date of the poll.

Agreed to add provisions in the draft Order.

A mirroring of the provision in the Political Parties and Elections Act 2009 regarding elections that take place during the annual canvass period

Agreed to add provisions in the draft Order.

Electoral Commission note on Referendum Spending {Doc 5}

KJ stated that the note circulated did not yet have formal EC ratification, but anticipated that it would be agreed at their Board meeting on 14 April. PPERA currently prescribes that the spending limit for each registered political party should be based on their % vote at the last General Election. The EC believed that the limits for this referendum should be based on the 2007 Assembly elections. HR agreed that that this was a sensible approach and suggested that it was important to factor the spending limits into any factsheet produced. It would be useful to see set out clearly the spending limits that applied to the various participants in a referendum. It was agreed that there was no need at this stage to request an amendment to PPERA. **Action: KJ- to reflect spending limits in the factsheet}.**

Consultation with the EC

KJ said that it would be helpful to have a timescale for when the EC would be formally consulted on spending limits. FAJ said that it was anticipated that the

Secretary of State would write to formally consult the EC before Purdah. The First Minister had said that the precise question to be put in the referendum was, along with the matter of the timing, for consideration only after the General election.

{Action: SG to prepare draft letter for SoS to send to EC before beginning of Purdah}.

KJ confirmed that the EC needed a minimum of 2 weeks notice plus 10 weeks in which to provide a report to the SoS on the intelligibility of the referendum question. If the EC were given less time, they could still produce a report but it would most likely need to be heavily qualified. It was agreed that the aim would be to involve the EC as much as possible in the preparation of the question.

Key Stages {Doc 6}

GJ said that it would be helpful if WAG could lead on providing the draft schedule in relation to the conduct rules. **HR** confirmed that he would need to discuss this with the Director of Legal Services, Jeff Godfrey. **GJ** confirmed that it was intended that SC would be responsible for all instructions, ensuring that a consistent approach would be taken to the drafting of the Order. **{Action: SG to add to agenda for next meeting and discuss workload capacity with SC and lawyers. HR to also report back at the next meeting}.**

GJ said that further consideration was being given to whether and when a Schedule 7 Amendment Order would be drafted. It would be important to ensure that Schedule 7 was aligned with Schedule 5. **HR** said that he would need to discuss with Jeff Godfrey, but in his opinion Schedule 7 should be updated following a successful referendum and should be drafted as a Consequential Order by WAG. **{Action: SG to add to agenda for next meeting. HR and GJ to report back}.**

Referendum Expenses

KJ confirmed that the EC had been successful in their bid to the Speaker's Conference for a supplemental budget for 2010/11 for £2.7m to cover referendum costs which they have statutory responsibility. The Board acknowledged that the wider question of whether the main costs of the referendum would be met from the Welsh Consolidated Fund was currently under discussion. **HR** suggested that there would need to be a separate Fees and Charges Order, and further discussion on who would draft this Order would be needed. **{Action: SG to add to next agenda and discuss with SC and lawyers}.**

Next meeting

It was agreed that the Project Board would meet fortnightly, via V/C if necessary. **{Action: SG to arrange the next meeting for 25 March and every two weeks thereafter}.**

Key Action points arising from the meeting

Wales Office

- **SG to consider with SC a draft response to EC's letter on key principles for Referendum, liaising with WAG - to be fed to MoJ.**
- **SG to consider further with SC, lawyers, MoJ, EC and WAG the proposal that the restriction on the publication of promotional material apply from the start of the referendum period.**

- SG to prepare draft letter for SoS to send to EC before beginning of Pudrah.
- SG to consider further with SC, lawyers and MoJ the issue of possible guidelines for the consequences of yes or no votes.
- SG to prepare a letter for SoS to formally consult EC on spending limits.
- SG to circulate agenda and date of next meeting.
- SG to consider with SC, lawyers and WAG the drafting of the Fees and Charges Order.

Welsh Assembly Government

- HR to discuss with Jeff Godfrey the drafting of the Schedule on conduct rules and amendment of Schedule 7.
- WAG to liaise with SG on FM response to EC letter on key principles.

Electoral Commission

- KJ to provide HR with a copy of the letter that went to the FM re key principles.
- KJ to produce a factsheet on what can and cannot be done during a referendum period, and the spending limits that apply to various participants.

Sandie Green
12 March 2010

Note of Meeting of the Referendum Project Board- Tuesday 23 March 2010

Wales Office: Glynne Jones and Sandie Green

Welsh Assembly Government

Kate Cassidy
Sarah Canning

Ministry of Justice

Mark Sweeney
[REDACTED] *MOJ official*

Electoral Commission

Kay Jenkins
Adrian Fryer

Minutes of the last meeting were agreed.

Electoral Commission: Key principles for Referendum

GJ referred to the Western Mail article {23 March} by Martin Shipton, which contained claims that the EC's principles for referendums meant that public funds would be available for office and staff costs but not the costs of campaign materials. **KJ** said that she was aware of the article, which was misleading, and that the EC would be responding. **{Action: KJ to share a copy of the response with the WO}**.

KC confirmed that the First Minister had now received the letter from the EC on the key principles for referendums and would be responding. **MS** also confirmed that it was anticipated that a UK Government response would be issued before purdah and MoJ hoped to circulate their first draft for comment within the next day. The response would be a general response covering all referendums and not just the one for Wales. **{Action: [REDACTED] to co-ordinate a response on behalf of the UK}**.

MoJ official

Public Awareness

KC asked how much voter information would be made available by the EC in relation to the consequences of a yes or no vote. It was important that impartial information was available to voters. **GJ** reiterated that both the Secretary of State and the First Minister were concerned to ensure that there was sufficient guidance to the public. It was recognised that the EC's role was not to set out the arguments for and against a yes or no vote. **MS** confirmed that there was no legislative framework which allowed the EC to carry out this function. However, provisions have been included in the Constitutional Renewal and Governance Bill that will enable the EC to take whatever steps they think appropriate to ensure that persons entitled to vote in a referendum on the Alternative Vote are provided with sufficient information. This was a discretionary power that UK Government did not envisage the EC employing because UK Government would be publishing a Command Paper explaining the First Past The Post and alternative systems. Nevertheless, consideration could be given to putting a similar provision in our Referendum Order, enabling the EC to publish factual information. **KJ** explained that there were arguments for and against EC adopting this role, and it would be helpful to have a fuller discussion. It would also be important to check that there was no existing statutory block to the EC producing such material. It was therefore agreed that this matter should be discussed at the first meeting of the sub- group **{Action: SG to add to the agenda, and confirm the existing position with lawyers}**.

Restriction on the publication of promotional material

KJ said that the provisions for general information about referendums were set out in PPERA Section 125. The current period of restriction on producing promotional material was 28 days. During the North East referendum, there was a self-imposed restriction from dispatch of the ballot papers, and **KJ** wondered whether that might be a more acceptable restriction than the start of the referendum period, which the Board felt would be overly-prescriptive in the Welsh context. **MS** confirmed that UK Government policy was that these issues would be determined on a case-by-case basis. It was agreed that **KJ** would confirm how long the period was likely to be if the starting point was dispatch of ballot papers **{Action: KJ}**.

Formal consultation on Referendum Spending

GJ confirmed that the Secretary of State had formally written seeking EC's views on the limit on referendum spending. It was noted that the limits for this referendum should be based on the % vote at the 2007 Assembly elections. It was also noted that as soon as agreement had been reached Political Parties would be informed. **KJ** said that there was a special board meeting that afternoon {23 March} to agree the limits and a response would be eminent. **KJ** also asked if there were objections to making the EC response made public **{Action: SG/GJ to consider further and inform KJ}**.

Workload Capacity

KC outlined that David Williams had already made preparatory work on the draft referendum order and it would be shared with Wales Office and MoJ for detailed input. **GJ** said he appreciated that work had already been carried out and it was essential that the draft was shared quickly to ensure that there was no duplication of work. **MS** said that MoJ had a heavy workload at present, but he would speak to his colleagues about capacity to assist with this Order **{Action: KC to arrange for draft to be sent to WO in the first instance. MS: to clarify the level of assistance available from MoJ legal}**.

KJ said that she valued MoJ input in the Order, in particular in relation to the canvass period. **MS** confirmed that there was an anomaly in the Representation of the People Act in that it allowed for the deletion but not registration of electors. However, advice was being sought by Ministers this week seeking to amend the relevant regulations.

Schedule 7

GJ said that it was important that Schedule 7 was updated to ensure that it was aligned with Schedule 5. **KC** confirmed that Jeff Godfrey was due to discuss how that might be achieved with Stephen Laws **{Action: KC to report at the sub group with an update}**.

Referendum Expenses

KJ confirmed that the EC had been successful in their bid to the Speaker's Committee for a supplemental budget for 2010/11 for £2.7m to cover referendum costs for which they have statutory responsibility. The Board acknowledged that the wider question of whether the main costs of the referendum, including the fees and charges of the deputy and local counting officers, would be met from the Welsh Consolidated Fund was currently under discussion. **MS** said there were effectively three approaches that could be taken in the Fees and Charges Order:

made by Wales Office with expenditure dispersed by them
made by the Wales Office with expenditure dispersed by the EC; or
made by the EC with expenditure dispersed by them.

It was proposed for the AV Order that MoJ would make the Fees and Charges Order but that the EC would disperse the funds and would then be accountable. **GJ** explained that it had always been conceived that the Wales Office would make the Fees and Charges Order in respect our referendum and that the Welsh Assembly Government (probably its Local Government Finance team) would administer the referendum and disperse the funds, as they did for Assembly elections. **KC** said that further discussion with lawyers would be needed because it could be that this element would form part of a schedule of the main Referendum Order rather than an Order in its own right. **{Action: WO to meet HMT to discuss who should be responsible for funding the referendum, particularly the EC's costs, before reporting at the sub committee on progress. KC to confirm with WAG lawyers, and SG with WO lawyers, whether Fees and Charges should be a Schedule or an individual Order}**.

Sub Committee

GJ outlined that the Sub Committee would undertake the detailed oversight of the development of the referendum order and associated work. The Committee would be chaired by him, supported by SC, SG, Wales Office lawyers, KC, WAG lawyers, **MoJ official** and KJ. It was agreed that relevant expert officials would be invited on a case by case basis, depending on agenda items.

Any other Business

KC said that consideration on what the Assembly Commission were doing in relation to the referendum would need to be discussed **{Action: SG to add to next agenda}**.

Next meeting

The Sub Committee is scheduled to meet on Tuesday 13 April at 12pm via V/C link. The main Project Board will meet on Wednesday 21 April at 3.30pm via V/C link.

Key Action points arising from the meeting

Wales Office

- **SG/GJ to consider whether there were any objections to the EC publishing their response on spending limits.**
- **SG to confirm with WO lawyers what the EC were and were not able to do in terms of publishing information.**
- **SG/SC to liaise with Wales Office lawyers and Frank Cuthbert on dispersing funds under the fees and charges order.**
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Ministry of Justice

- **MoJ official to circulate draft UK Government response to EC on key principles.**
- **MS to ascertain workload capacity of MoJ lawyers.**

Welsh Assembly Government

- **KC to share the first draft of the Referendum Order with WO at the earliest opportunity.**
- **KC to clarify with WAG lawyers whether Fees and Charges should be a Schedule or an individual Order.**
- **KC to update at the Sub Committee the discussion with Jeff Godfrey and Stephen Laws on the drafting of the Schedule 7.**
- **KC to provide an update on Assembly Commission activity.**

Electoral Commission

- **KJ to share with WO the EC's letter to Western Mail.**

- **KJ to update the Sub-Committee on the pros and cons of EC undertaking a public awareness role.**
- **KJ to clarify how much beyond 28 days the period of restriction of promotional material would be if it started on the dispatch of ballot papers.**

**Sandie Green
24 March 2010**

Note of Meeting of the Referendum Project Board- Tuesday 21 April 2010

Wales Office: Fiona Adam Jones, Glynne Jones, Sarah Canning and Sandie Green

Welsh Assembly Government

Kate Cassidy

Ministry of Justice

 MoJ official
 MoJ official

Electoral Commission

Kay Jenkins

Adrian Fryer

Minutes of the last meeting

Minutes of the last meeting were amended to reflect that the Local Government Policy team would not administer the referendum per se, they would administer the payments of fees etc to returning officers.

Update from Sub- Committee

Work on the draft Order

SC confirmed that WAG lawyers had prepared parts of the Order which Wales Office lawyers were considering before sharing with MoJ for their input. The target aim was to have a draft ready by the end of May.

The Committee had agreed that a list of outstanding policy issues table should be collated for consideration. The Board noted that the table would be circulated for consideration by the sub-committee by the end of the week.

Promotion of public awareness

The Board acknowledged that there was a need for sufficient guidance to be made available to the public, and that the First Minister and the Electoral Commission were due to meet on 5 May further so that the Commission could outline the pros and cons of such publication being prepared by them. The Sub-Committee had considered whether the Assembly Commission should be invited to meetings of the Project Board or Sub-Committee when the issue of providing information about the referendum to the public was being discussed. It was felt that it was legitimate to involve the Assembly Commission in meetings of the Sub-committee on the issue of providing public information, as they have a specific power to promote public awareness of the electoral system and devolved government, and a specific power to provide financial assistance to the Electoral Commission for the same purpose. The Project Board agreed that, following the General Election, the Secretary of State's views would need to be sought on the production of explanatory material for the public, and on the potential involvement of the Assembly Commission both on the Sub-Committee and the Project Board. **{Action: Sandie to note for inclusion in the sub for incoming Ministers}.**

Referendum Expenses

[REDACTED]

The Statement of Funding Policy made clear that *“the devolved administrations will meet all the operational and capital costs associated with devolution from within their allocated budgets.”*

[REDACTED]

Drafting of Schedule 7 amendment order

GJ said that it would be important to align Schedule 7 to Schedule 5, to account for any additional competence in Schedule 5 over and above the competence in Schedule 7, and recognised that the WAG wished to undertake this task by making the necessary amendments in a Welsh Ministers' commencement order (GOWA 2006, s. 105), rather than an Order in Council (GOWA 2006, a. 109), however, we were waiting for the outcome of the planned conversation between Jeff Godfrey and First Parliamentary Counsel, and we would also need to consult the incoming Secretary of State following the General Election. KC said that whilst the timetable for the Referendum Order was critical and it must take precedent, amendments to Schedule 7, which were technical and minor changes, would only be needed in the event of a yes vote. WAG had submitted additional evidence to the Assembly Constitutional Affairs Committee setting out areas of legislative competence currently contained in Schedule 5 which are not contained in Schedule 7. GoWA enabled Welsh Ministers to make a commencement order and WAG were monitoring the extent of competence under Part 3 of the Act compared with Part 4. If a commencement order was drafted, WAG would agree the proposed changes to Schedule 7 with the Wales Office. The Counsel General had submitted a paper to the Assembly Constitution Committee, and KC would forward this to members of the Project Board for information. **{Action: KC to forward paper submitted to ACC}.**

FAJ said that time was ticking and that whilst agreement from the incoming Secretary of State was required, she would be asking Wales Office lawyer, James George to start considering the contents of Schedule 7, working closely with WAG Legal Services. KC emphasised that the referendum order was priority and that she would not wish Legal Services to be distracted, and that the WAG Legislative Counsel, Thomas Watkins should be closely involved in any discussions relating to Schedule 7 **{Action: James George to liaise with Thomas Watkins, and Phil Elkin}.**

Any other business

Project Initiation document

KJ said that the document was a helpful aide-memoir. **KC** said that she had a few comments which she would forward and the document would be revised and considered by the Sub Committee at their next meeting on 28 April
{Action: KC to track the document and send through to Sarah and Sandie}.

An overview of the project would also be circulated to the Board for information prior to the next meeting **{Action: Sarah/Sandie}**.

Media Handling

It was noted that with lead up to the General Election, all options for the referendum remained open and it was critical that only factual information was given to the media if approached.

Date of Next meeting

5 May at 3pm.

Sandie Green
22 April 2010

Note of Meeting of the Referendum Project Board- Wednesday 12 May 2010

Wales Office: Sarah Canning and Sandie Green

Welsh Assembly Government
Kate Cassidy

Ministry of Justice

 *MoJ official*

Electoral Commission
Kay Jenkins
Tony Stafford

Apologises from Fiona Adam-Jones and Glynne Jones.

Minutes of the last meeting

Minutes of the last meeting were agreed.

Update by Project Director

Work on the draft Order

SC confirmed that WO/WAG lawyers had made progress on the drafting of the legal instruments and that the 1st tranche of draft provisions agreed between WO and WAG lawyers, in relation to absent voters, would most likely be shared with MoJ lawyers early next week. These would be followed by draft conduct provisions, and all draft provisions should have been agreed between WO and WAG and shared with MOJ before the end of May. Completing the drafting would, of course, be subject to agreeing outstanding policy points. It was recognised that the timeline was 17 June, and that whilst it was recognised that MoJ workload had increased, we would be looking for rapid turnaround from MOJ if at all possible, and it was imperative that MoJ kept in touch with WO on progress.

List of Policy Issues

It was noted that the latest version of the list of policy issues would be discussed in detail at the sub-committee on 18 May, and where there were issues where agreement could not be reached, they would be referred to the Project Board.

KC suggested that some of the policy issues should be considered by the Elections Planning Group on 28 May, and agreed to draw up a list of the key issues. **KJ** agreed that this was a sensible approach and would start focussing the returning officer.

{Action: KC- to draw up list of policy issues to be agreed by WO before going to the Elections Planning Group}.

SC said as soon as it was feasible, WO officials would be meeting the Secretary of State to discuss next steps and seek their views on the Referendum Order, prior to any meeting taking place with the First Minister.

KJ confirmed that the Electoral Commission would be writing to the Secretary of State shortly about the timing of the Question and offering to meet.

Funding of Referendum

There are three elements to the funding – budget for EC functions, cost of free mailout for “yes” and “no” campaigns, and counting officers’ fees and charges.

These issues relate to quantifying the likely cost of each of these elements, working out funding streams, [REDACTED]

[REDACTED]

KC said that WAG officials recognised that there was a need to quantify the cost of free mailout for “Yes” and “No” campaigns, and counting officers’ fees and charges, and there were internal discussions currently taking place about the process of top slicing the funding for this through the supplementary budget in June. In terms of funding flows, there were still some issues to work out, such as which budget would pay for the costs of the deputy counting officer, if it was agreed that there was a vires to include such a provision within the Order. [REDACTED]

[REDACTED]

KJ said that the Electoral Commission had been in discussion with HMT as they had to commit to spending some of the funds allocated from the Speakers Conference before the Referendum Order had passed through its Parliamentary stages. Given that there was scope for a possible October Referendum, it was essential for the Electoral Commission to undertake a procurement for an agency to set up a new website/advertising for voter information. If the Referendum did not take place in October but at a later stage, the funding spent now would not be shelved, the work in place would be carried over.

SC said that a separate discussion on funding was required involving the interested parties. **{Action: SG to arrange with appropriate stakeholders}**.

Explanatory material to raise public awareness

KC said that the First Minister and the Electoral Commission had met on 28 April and agreed to consider if there was a need to include a power within the Referendum Order for the Electoral Commission to include a couple of paragraphs in their leaflet to raise public awareness about how to go about voting **{To be discussed in detail at the Sub-Committee}**.

Restriction on publication of promotional material

KC confirmed that the First Minister would make a statement at the beginning of the referendum period that WAG would not be doing a public information campaign during that period. The Board also acknowledged that the Electoral Commission were content, that given the First Minister would make such a statement then the statutory duty of 28 days did not need to be extended any further. There was discussion as to how this impacted on the Assembly Commission and their proposals for producing material for the public. It was agreed that there was a need for further discussion with the Assembly Commission. **{Action: SG to set up meeting with Adrian Crompton and KJ to also set up a separate meeting}**.

Drafting of Schedule 7 amendment order

SC said there was a need to discuss next steps with the new Secretary of State, relating to timing of the order amending Schedule 7, and the type of legislative instrument used to amend it (Order in Council, or Welsh Ministers’ commencement order in the event of a “Yes” vote in the referendum). SC asked for an update

following the telephone discussion between First Parliamentary Counsel and WAG Director of Legal Services. **KC** confirmed, that in their view there were two options of thought on how Schedule 7 could be amended, either the Order in Council route or the other alternative position was that the commencement order provisions could be used too. Until a decision was made on the type of order, following a meeting of the Secretary of State and First Minister, it was agreed that WAG policy officials and lawyers would consider the proposals sent by WO lawyers.

Any other business

Wales Office Project Initiation document and Project Overview

Both documents were agreed by the Project Board without comment.

TS said that whilst Electoral Commission had previously requested that the provisions in relation to aggregation on spending limits which were to be inserted in the CRAG Bill be included in the Referendum Order, further discussions with MoJ had led them to conclude that whilst the provisions do the job required in terms of dissuading the use of multiple registered campaigns to evade the spending limits, they are also likely to make things more difficult than necessary for non-designated permitted participants who want to co-operate in campaigning with a designated organisation after designation. Discussions are still ongoing with MoJ to work out a solution, but if there is an early referendum in Wales {autumn} those discussions will not have been concluded, therefore it would be best to drop the CRAG provisions on aggregated funding altogether. However, if the referendum is held later on, MoJ's thinking may have progressed and there may be proposals regarding UK referendums generally, in which case it may be possible to include provisions on aggregated funding for a later referendum in Wales.

Date of Next meeting

26 May at 3pm.

Sandie Green

12 May 2010

Note of Meeting of the Referendum Project Board- Wednesday 26 May 2010

Wales Office: Sarah Canning and Sandie Green

Welsh Assembly Government

Kate Cassidy

Ministry of Justice

 MoJ official

Electoral Commission

Kay Jenkins

Adrian Fryer

Apologises from Fiona Adams Jones and Glynne Jones.

Minutes of the last meeting

Minutes of the last meeting were agreed.

Update by Project Director

Project overview

SC provided the Board members with a copy of the latest overview and explained that it only covered the period up to end of June and future timelines would be subject to Ministerial decision. The Secretary of State had written to the First Minister and said that an early discussion was needed to discuss timetabling of the Order.

Budget

SC confirmed that we were still awaiting confirmation of the estimate of cost for fees and charges of counting officers and for mailout of postal communications for "Yes" and "No" campaigns. There was likely to be public interest in the costs and we needed to agree lines. **SG** said that the SoS had received a letter from John Bufton MEP about the cost of the Referendum which had been published in the Western Mail on 25 May. **KC** confirmed that WAG officials leading on the budget for the referendum had provided her with estimates and she was in the process of submitting a draft letter for the FM to send to the SoS on funding.

Legislative instruments

SC confirmed that WO/WAG lawyers had made progress on the drafting of the legal instruments and that 85% of the drafting had been completed. Given that we needed to make time for agreeing the question, referring it to the EC for assessment and seeking MoJ and JCSI clearance of the draft referendum order, it was self evident that it would not be possible to lay a properly reviewed order, containing a properly tested referendum question, by the 17 June. **KJ** confirmed that the EC position had not changed and that their preference was to have 10 weeks to assess the intelligibility of the question, and that without this time they would not be able to provide a proper assessment.

KC said that it was important when agreeing the question that was referred to the EC that consideration was given to the Welsh translation, a question in English was not necessarily one that would fit when it was translated; for instance "should" wouldn't necessarily work in Welsh. **SC** said that it would be useful to have discussions at official level to understand the background to the question proposed by the First Minister. Wales Office had a number of options which the Board agreed to consider. **KJ** confirmed that her input would be to ensure that the EC guidelines were met, but

that she would not be in a position to give any opinions on the drafting, she needed to remain impartial.

MOJ official

● confirmed that no decisions had been taken on the date of the Alternative Voting referendum, but that it was important that MoJ were kept abreast of progress on agreeing the date of the Welsh Referendum. **KC** said that the FM's clear preference was to not have the Welsh Referendum on the same day as the Assembly Elections. Though Welsh Ministers had not taken a decision, their preference would be to ensure that Welsh Referendum took place no later than March 2011, as Welsh Assembly Government officials would wish to avoid the referendum being too close to the National Assembly Elections. **KJ** supported the idea of deciding on the date well in advance, so that there was certainty in terms of planning for those administering the referendum. **KJ** also said that if the Welsh Referendum Order didn't include provisions for a possible combination polls, would it be possible to include such a provision within the Alternative Voting Bill, if it became clear that combining polls would be necessary. ● confirmed that he would need to consider and discuss with Ministers if no provision about combination of polls was to be included in the Welsh Referendum Order.

SC confirmed that the SoS was considering the EC letter on spending limits. **KC** said that this issue would also be considered by the Elections Planning Group and she would provide feedback **{Action: KC}**.

Any other business

SG said that it was important that lines of communication remained open and that discussions with the media were handled sensitively.

Date of Next meeting

9 June at 12pm.

Sandie Green
June 2010

Note of Meeting of the Referendum Project Board- Wednesday 9 June 2010

Wales Office: Glynne Jones, Sarah Canning, Sandie Green and Sue Perry

Welsh Assembly Government
Kate Cassidy

Cabinet Office

 CO official

Electoral Commission
Kay Jenkins

Assembly Commission
Aled Eirug and Helen Birtwhistle

Welsh Language Board
Lowri Williams

Apologises from Fiona Adams Jones and Hugh Rawlings.

Minutes of the last meeting

Minutes of the last meeting were agreed.

Project overview

SC confirmed good progress had been made on the drafting of the referendum order and it was anticipated that the Parliamentary Counsel, Nigel Rendell would be reviewing it shortly. There were some policy issues remaining to be resolved, but progress was being made. **KJ** said that she had met officials from Cabinet Office to discuss the draft Conduct Order for the Alternative Vote and it was important to try and have consistency in the drafting of that draft Order and the draft referendum Order. **GJ** agreed and said that is why representation on the Board from Cabinet Office was important.

Question

GJ welcomed representatives from the Assembly Commission and the Welsh Language Board and said that their contribution to the question was important. He said that the Secretary of State and the First Minister had met and agreed that officials now needed to work together and reach agreement on the question before it is referred to the Electoral Commission. Board Members were given two options of questions drawn up by the Wales Office and the Welsh Assembly Government for consideration, together with a copy of a list of consideration on how the questions were drawn up.

KJ confirmed that whilst she would not comment on the wording of the question she would provide guidance drawing attention to the Electoral Commission guidelines.

SC confirmed that she had met **KC** to discuss the drafting of the question and agreed that there was a need to have a clear description of the consequences of yes or no vote; and the question should not be leading. **KC** commented that whilst it was helpful to have sight of the draft ballot paper, she wanted to register that agreement had not been reached on the design and she had identified a number of faults, which the Sub-Committee would need to consider in detail. **KJ** agreed and said that whilst the design of the ballot paper was not in the Electoral Commission guidelines, asking the electorate to put in a yes or no into the box should be avoided.

HB confirmed that the Assembly Commission had already given some thought to the following statement *"The National Assembly can make laws for Wales in many areas, including laws that affect our hospitals, schools and the environment. But it can only do that if the UK Parliament in Westminster has given it the power to do so. If people vote 'yes' in the referendum, in one fell swoop/in one go Westminster will give the Assembly the power to make laws in all those areas. If people vote 'no', the existing system, which transfers that lawmaking power bit by bit, will carry on."* This statement had been tested at the Urdd last week informally, and there had been positive feedback.

AE said that he preferred the question drafted by the Wales Office and said it was important that there was reference to the current system and an explanation on the consequence of yes or no. **KC** said she wasn't sure that there was a need to set out that level of detail and believed that it could lead to confusion. **LW** said that there were a number of words in the question which, when translated, could have ambiguous meaning in Welsh, or which were just difficult to translate, and consideration would need to be given to this. For example, both "subject" and "topic" translate as the same word, "pwnc", in Welsh; and "Parliament" translates as "Senedd", which is also the word for the National Assembly Building in Cardiff Bay.. She also mentioned that she had been working with the Office of the National Statistics on the next Census and had found their guidance useful. **KJ** confirmed that the Plain Language Unit would be involved as part of the Electoral Commission focus group when testing the intelligibility of the question.

Public Awareness

KJ said that whilst the Electoral Commission were considering what level of information was required for public awareness, they were also taking into account that too many leaflets were not necessarily the right approach and didn't always have the right impact.

Conclusion

GJ said that it was important to aim to have a draft of the question for the Secretary of State to consider in her weekend box and that those present should continue to discuss and agree a draft. He also said that the Project Board would convene again shortly to take stock. **KJ** asked if she could be given advance notice of when the Secretary of State was going to refer the question to the Electoral Commission.

Any other business

GJ said that it was important that lines of communication remained open and that discussions with the media were handled sensitively.

Date of Next meeting

23 June at 3pm.

Sandie Green
16 June 2010