

## **WALES REFERENDUM PROJECT**

### **Wales Office Project Initiation Document**

#### **Context**

On 9 February 2010, the National Assembly for Wales voted, by a majority of 53 – 0, in favour of calling for a referendum under Part 4 of the Government of Wales Act 2006. This would be a referendum on whether the Assembly should be given primary law-making powers – powers to pass Acts in accordance with the provisions of Part 4 of GOWA 2006.

On 17 February 2010, the Secretary of State received the First Minister's letter enclosing a notice informing him of the outcome of the Assembly vote. This triggered a statutory 120 day period, starting from the day after receipt of the notice, at the end of which the Secretary of State must have laid a draft Order in Council providing for a referendum before the Assembly and Parliament, or else refuse to lay a draft Order in Council and give reasons for his/ her refusal. The 120 day period comes to an end on 17 June.



Therefore, Wales Office officials, in liaison with Welsh Assembly Government officials and the Electoral Commission, have established a Project Board to oversee the administrative and legal work required for staging a referendum.

#### **Desired Outcomes/ High level Objectives**

##### **Desired Outcome/ Objective 1**

A referendum on the National Assembly for Wales' law-making powers is held on a date yet to be agreed.

##### **Desired Outcome/ Objective 2**

All statutory requirements relating to the holding of the referendum, particularly the Government of Wales Act 2006 and the Political Parties Elections and Referendums Act 2000, are complied with; and amendments to Schedule 7 to GOWA 2006 are agreed to take account of any competence included in Schedule 5 but not in Schedule 7.

##### **Desired Outcome/ Objective 3**

The referendum process, and the poll itself, is managed and conducted in a way which is, and is seen to be, efficient, transparent and fair.

### Deliverables/ outputs

**Re both Objective 1:** referendum on Assembly's law-making powers is held on date yet to be agreed.

**And Objective 2:** All statutory requirements relating to the holding of the referendum, particularly the Government of Wales Act 2006 and the Political Parties Elections and Referendums Act 2000, are complied with

#### **Associated deliverables:**

- **Draft referendum order (Order in Council)** – containing referendum question and date of referendum poll, in addition to other legal requirements; may also contain schedule dealing with Counting Officers' fees and charges, and provisions relating to conduct of the referendum
- **Other required legal instruments** – may only be one (Secretary of State order on Spending Limits)
- **Appropriate consultation** by the Secretary of State before the referendum order is laid before Assembly and Houses of Parliament
- **Clear, easily understandable and accurate question** contained in referendum order – a question needs to be devised and submitted to the Electoral Commission for testing, and the Commission's report on intelligibility of the question must be laid before Parliament at the same time as the referendum order is laid, and must also be laid before the Assembly on or before the date it is laid before Parliament.
- **Schedule 7 revised**, to make sure that it covers all areas of competence included in Schedule 5, in addition to the areas of competence already outlined in Schedule 7
- **Public has access to source of clear, accurate and objective information** about what the referendum question means – what happens if the majority vote no, and what happens if the majority vote yes.

**Re Objective 3:** the referendum process, and the poll itself, is managed in a way which is, and is seen to be, efficient, open, transparent and fair

#### **Associated deliverables:**

- Clear delineation of responsibilities in relation to the running of, and securing and monitoring budget for, the referendum process
- Electoral Commission carries out its responsibilities under PPERA 2000 without interference which could be seen as jeopardising its objectivity and integrity
- Clear framework (Counting Officers' Fees and Charges and Accounts provisions) under which reasonable expenses and fees of counting officers are paid, proportionate to the work carried out

- Arrangements put in place to administer the payment of counting officers, ensuring that this is done efficiently with a view to securing value for money and ensuring the integrity of the charges made. (Ideally, the administration of these payments will be handled by the Democracy team in WAG Local Government Division, who have experience of carrying out this work for Assembly elections and therefore have the necessary skills to carry out the work efficiently and thoroughly.)

### **Roles and Responsibilities**

It is the Secretary of State's responsibility to recommend the holding of a referendum on the Assembly's law-making powers to Her Majesty in Council, therefore the project will be led by the Wales Office. However, the project will require close liaison with both the Welsh Assembly Government and the Electoral Commission. It will also be necessary to work closely with Ministry of Justice officials and lawyers, to tap into their expertise in relation to electoral and referendum law.

The project will be set up in the following way:

#### **Project Board**

The Project Board will be chaired by the Director of the Wales Office, Fiona Adams-Jones. Its membership will include Glynne Jones, Deputy Director, Wales Office, Project Director, [REDACTED] Project Manager, [REDACTED] and also representation from the Welsh Assembly Government ([REDACTED]), [REDACTED], Electoral Commission ([REDACTED]), and Ministry of Justice ([REDACTED]).

The remit of the Project Board will be to oversee the detailed preparatory work and keep the Secretary of State informed of progress. Other representatives maybe invited subject to the agreement of the Secretary of State.

#### **Sub-committee**

The sub-committee is a working group set up to support the Project Board. It will be chaired by Glynne Jones, Wales Office Deputy Director and Head of Legislation Division, and its membership will include officials and lawyers from Wales Office and Welsh Assembly Government, and also representatives of the Electoral Commission and Ministry of Justice. Other representatives maybe invited subject to the agreement of the project board.

The remit of the sub-committee is to produce all legal instruments required to provide for a referendum, taking into account all relevant legislation governing the referendum and its conduct.

### **Project management and co-ordination**

The project will be managed and co-ordinated by the project team, which will report to Glynne Jones. The project team comprises the project director, [REDACTED] the project manager, [REDACTED] and additional resource as and if required.

### **Project phases/ key milestones**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

- [REDACTED]
- [REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

### Scope of the project

Included in the scope of the project are:

- Preparation of all legal instruments required to enable the referendum to be held
- Complying with the statutory requirements relating to the holding of the referendum, under the Government of Wales Act 2006 and Political Parties, Elections and Referendums Act 2000, and putting in place arrangements for the conduct of the referendum
- Securing adequate budget for the running of the poll itself, and administering payment of fees and expenses to counting officers
- Managing interface between the Secretary of State's, Welsh Assembly Government's and Electoral Commission's roles, powers, duties and responsibilities in relation to the referendum
- Revising Schedule 7 so that it takes account of any wider competence included in Schedule 5 to GOWA 2006

Not included in the scope of the project are:

- The exercise of the Electoral Commission's specific powers, duties and responsibilities under PPERA 2000 – the project needs to take account of time required by the EC to undertake its duties in assessing the intelligibility of the referendum question, and in relation to the referendum period, but will not be directly involved in the planning of the EC's work in this respect.

- Welsh Ministers' specific powers, duties and responsibilities under GOWA 2006, to bring Part 4 into force by order in the event of Yes vote in the referendum.

### **Other Stakeholders**

**Assembly Commission in relation to the production of information for the public about the choice in a referendum**

**HMT on funding of the referendum**

**Elections Planning Group** (which includes representation from MoJ, WO, Welsh Assembly Government, Electoral Commission, Returning Officers, political parties and the Association of Election Administrators (AEA)) in relation to checking the technical and practical aspects of the provisions on the conduct of the referendum, the role of counting officers and the fees and charges arrangements.

Outcome	Key milestones	Status	Lead
<b>Schedules containing draft Conduct Rules, schedule of modifications of enactments and Appendix of forms in Welsh and English)</b>	<p>Wales Office to instruct WAG LS on matters to be included.</p> <p>LS to provide first draft of conduct rules</p> <p>LS to provide first draft of schedule of modifications</p> <p>LS to provide first draft of forms appendix</p> <p>Final versions</p>	<p>By x date</p> <p>By x date</p> <p>By x date</p> <p>By x date</p> <p>By end May</p>	<p>WAG</p>
<b>Draft body of Order: See separate sheet for list of provisions in main order</b>	<p><b><u>Date of ref</u></b></p> <p>To be confirmed post-election</p> <p><b><u>Ref question</u></b></p> <p>To be confirmed post-election</p> <p>Electoral Commission consultation</p> <p><b><u>Spending limits</u></b></p> <p>Seek advice from EC</p> <p>EC advice</p> <p><b><u>Remainder of Order</u></b></p> <p>Agree matters to be included with WAG and MoJ</p> <p>Wales Office to produce first draft, liaising with MoJ</p> <p>Seek comments from WAG</p> <p>Seek comments</p>	<p>12 weeks</p> <p>By x date</p> <p>By x date</p> <p>By x date</p>	<p>Wales Office, with assistance from MoJ</p>

	<p>from Electoral Commission</p> <p>Final version</p>	<p>To be completed by end of May (including JCSI informal scrutiny?- will need to ensure Cabinet Clearance is sought at the appropriate times)</p>	
<p><b>Schedule of matters relevant to Referendum expenses.</b></p>	<p>WO to prepare first draft, on advice from EC</p> <p>Seek comments from WAG</p> <p>Final version</p>	<p>By <i>x date</i></p> <p>By end April</p>	<p>Wales Office</p>

## Contents of the Referendum Order

It is anticipated that the Order will be 15 clauses approx referring to 3 Schedules and 1 Appendix (for forms in English and Welsh).

The Schedules will deal with the rules for the conduct of the referendum (similar to the Representation of the People Rules for elections); modifications of enactments necessary to make the corpus of election law apply to the referendum and Referendum Expenses. The forms to be used in the referendum (ballot papers etc) will be an appendix to the schedule prescribing the conduct rules.

### *The Order itself must contain the following provisions:*

1. **Question and preceding statement**- must be bilingual
2. **Date.**
3. **Referendum Period.**
4. **Funding of costs of holding referendum and accounts.** -

fees + charges  
order  
who is doing

### *Should also contain the:*

5. **Commencement, application and extent.** Wales only.
6. **Interpretation:** terms used in the rest of the order.
7. **Conduct:** including reference to the schedule containing the conduct rules, the forms appendix and the schedule of modifications of enactments, and referendum expenses.
8. **Appointment of a deputy Chief Counting Officer.** PPERA states that the Chair of the EC is appointed as a Chief Counting Officer but that s/he can appoint another person to carry out this role.
9. **Power of [Deputy] Chief Counting Officer to issue directions to local counting officers,** modelled on provision in European Parliamentary Elections Order.
10. **Polling districts:** the Referendum count will be organised on a local authority area basis.
11. **Suspension of the canvas for the electoral register** if the Referendum date falls during the period from 1<sup>st</sup> September to 1<sup>st</sup> December in any year and the substitution of rolling registration of voters till the 11<sup>th</sup> day before polling day.
12. **Appointment of Referendum agents** by registered participants.
13. **Restrictions on publicity in referendum period:** applies to publicity issued by Welsh Assembly or UK Government.
14. **Advertisements:** enabling publicity by referendum participants to be treated as publicity for elections.

15. **Use of premises for referendum purposes:** concession in relation to non-domestic rates in relation to premises used for public meetings and polling stations.

**Additional matters which may need to be included:**

1. **Timetable for registration of participants** by reference to the Referendum date and period. Will need to determine whether any days such as weekends and bank holidays should be disregarded.
2. **Publication of notice of holding of a referendum:** by whom, contents of notice etc.
3. **Procedures for questioning Referendum result and effect of any such petition**
4. **Forms** will need to be drafted bi-lingually but Order need not for Parliament. WAG will need to determine if the Order needs to be drafted bi-lingually when it is laid before the Assembly?
5. **Reflection of amendments made to CRaG Bill:** clauses 88 and 89 limitations on responsible persons being such for more than one registered participant and expenses incurred by persons acting in concert.