

Good Practice Example – Planning and Assessment

Judicial Appointments Board for Scotland: Appointment Round to Find a New Chair (2016-17)

Background

This round was originally allocated in July 2016 and was the third attempt to find a new Chair for the Judicial Appointments Board for Scotland (JABS) – the previous two rounds in late 2015 and spring 2016 having not identified candidates suitable for appointment.

The panel was unusual in that it wasn't chaired by a senior civil servant. A range of people are stipulated in the body's founding legislation as being unable to chair an appointment panel for JABS and employees of the Scottish Government are listed therein. This is because the body is responsible for appointing people to all the key judicial roles in Scotland's legal system and underlines the separation between the Scottish Ministers, the Scottish Parliament and the judiciary. As such, an independent person was identified to chair the panel. Other panel members included the Director of Justice, an existing member of the board and a Public Appointments Adviser (PAA). The PAA was allocated by the Commissioner to act as a full panel member on the appointment round to provide oversight, guidance and support at every stage. Both the Scottish Government and the Commissioner's office allocated new representatives to serve on the panel with a view to getting a fresh perspective on this occasion. The panel did of course benefit from advice from the previous panel and PAA on approaches that had been tried and how these might helpfully be amended to achieve a successful outcome.

JABS is one of a relatively low number of public bodies in Scotland for which the members have quasi-executive functions alongside the more usual corporate governance functions of a non-executive public body board member. The members are responsible for running a significant number of appointment rounds per year and making subsequent recommendations, on the basis of merit, for appointments to all the main judicial offices within Scotland. This includes a variety of tribunal presidents, sheriffs, judges and so on right up to senators of the court of justice and judges in the European courts. As these rounds require an intensive time input it means the role of Chair has a fairly high time commitment that can be condensed into very short periods. This makes the role challenging to fill in comparison with some other more traditional public body chair roles.

Planning

Based on lessons learned from the previous rounds the panel concluded that it needed to start again with a fresh approach to the round as simply further refining previous approaches was felt unlikely to deliver the required outcome.

The panel reviewed the fundamental nature of the role and the specific responsibilities associated with it as reflected in JABS' founding legislation. The panel concluded that at its heart it the role required someone capable of:

Representation and relationships

- building and maintaining relationships with the Lord President, Judicial Institute, Scottish Government and others with a stake in the work of the body. This would

require someone who is grounded, persuasive and respectful in order to be able to have robust interactions on potentially sensitive issues.

Leadership

- Shaping the culture, approach and performance of the organisation internally

Ability to effectively chair the Board's processes

- in relation both to the appointment deliberations and conclusions and the Board's operation as a governance body

Ability to demonstrate excellent assessment/appointments practice

- including a strong focus on strategic equality and diversity factors as these are also priorities for the judicial appointments system

The panel considered at length the lessons learned from previous rounds and decided that on the basis of those and the points above, it needed to;

- fundamentally change the criteria for selection – making them more bespoke to the role of the Lay Chairing Member with fewer of them
- de-clutter the information that had built up around this role and the application pack that advertised it and re-frame it in a more streamlined and compelling way
- change the approach to assessment – deploying a simpler initial application approach and more in-depth interview process.
- position it differently and seek to directly target a more appropriate pool.

The panel also sought to revise the role description itself – pitching it in a way that although equally accurate made it sound less dull and legalese and more like a role in which the right person could really make a difference. The revised description was incorporated into a much more attractive welcoming letter to potential applicants included at the start of the application pack.

The panel also spent a long time considering how to frame the rather complex and (possibly) onerous time commitment – particularly given the variable nature of how the workload is distributed during the year. It was possible that if it was misunderstood it could put off credible candidates from applying. The panel drew on good practice that a PAA had shared from another round where rather than trying to shoe-horn this complex information into the standard format, a separate and fuller appendix was drafted that gave clear examples and sample diary requirements from the previous year so potential applicants had a clear understanding from the outset.

It was also agreed that the remuneration would change from a set annual amount for 50 days work to a daily rate for an 'expected' 50 days' work that could then offer the flexibility to increase if workload exceeded expectations. This seemed clearer and was well received by applicants.

Having had an extensive list of criteria in previous rounds for this role, the panel ended up this time with just four simple criteria, reflecting its fundamental requirements discussion (see above), which were framed and publicised in line with the [core skills framework](#). These were:

1. Ability to credibly represent a board at a senior level.
2. Ability to Chair a diverse group to reach decisions and make balanced judgements.
3. Ability to lead a Board or organisation in developing and delivering its strategic direction.
4. Ability to conduct people assessments at senior level.

Application and assessment

By way of application, knowing that people can be put off by complex processes, the panel asked prospective applicants to simply submit an overarching statement with examples - of no more than 1500 words - demonstrating how they believed they met the specification.

All applications and shortlisting were handled anonymously.

There were 24 applicants for the Chair role; double that of previous rounds.

The interviews were timed at up to 90 minutes each and were structured as follows:

- Arrive 40 minutes early and complete two pre-interview tasks
 - an appointment assessment exercise considering the merits of two applicants for shrieval appointments and preparing 5 minutes feedback to panel
 - familiarisation with an ethical dilemma that you will be expected to comment on during the interview

The panel then considered the results of the "appointment" assessment exercise and conducted a structured competency based interview including questions on diversity in the context of making senior appointments.

Candidates were also asked to provide a pre-prepared response of up to 7 mins on the question:

"What do you see are the two to three key challenges facing JABS over the next four years and what would you personally bring, as Chair, in leading the organisation through them?"

The panel then conducted structured questioning on remaining criteria.

Finally, the panel considered candidate responses to the 'ethical dilemma' question with the results of that analysis linked to its consideration of the fit and proper person tests that form part of every appointment round and interview.

The panel's view was that all of the applicants interviewed were of a high standard.

The significantly shortened and simplified skill set gave rise to a good range of quality candidates for this significant role. The panel did not believe that shortlisted candidates were in any way 'less rounded' from having been tested on far fewer criteria than had been used for this body in the past. The practical exercises provided realistic insight into how the candidates would address similar challenges in the real-world role. Such simulated exercises are shown to have high levels of predictive, face and content validity. Coupled with structured questioning this gave a good rounded picture of their skills.

Conclusion

The enhanced processes used for planning and design of this competition, the use of the adapted competency framework and the arrangements for assessment all contributed to a successful outcome.

More detailed information on any of the materials referred to in this brief report can be obtained from Ian Bruce, the Public Appointments Manager in the CESPLS office:

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Neil Rennick, Director of Justice, is also happy to discuss the round with any panel chair who would like to find out more about how the round was planned and how the assessment activity worked in practice:

T: 0131 244 3537 E: DirectorofJustice@gov.scot

Find out who was appointed by following this link to the press release:

<http://www.appointed-for-scotland.org/media/32238/jabs-news-release-chair-appt-28-april-2017.docx>