

2018 Report

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Commissioner's introduction and summary

In July 2015 I published a report following a thematic review of the operation of the 2013 Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code). My business plan for 2017/18 included commitments to review progress against the recommendations in that report, focussing on the effectiveness of the lessons learned process, board succession planning and the impact of diversity on board governance. This report covers the effectiveness of the lessons learned process and board succession planning.

Separate research is being conducted, in partnership with the Scottish Government, on the impact of diversity on board governance.

The relevant sections of the 2013 Code and statutory guidance, which refer to learning from appointment activity and to succession planning, are set out in the next part of this report.

It is important to place this review and its results in context. My own and the Scottish Ministers' commitment to the achievement of more diverse boards is unwavering. In my last thematic review report I noted that the Scottish Government had embarked on a change programme in 2013 intended to improve the appointments system. I and my team of staff and Public Appointments Advisers (PAAs) have both supported and contributed to the work since that time and we continue to be committed to working in partnership towards the achievement of shared aims. There has been very notable success in respect of redressing the underrepresentation of women. At the end of 2017, women filled 45.6% of all regulated board posts in Scotland. It is the highest that this percentage has been since records of it began. At the same time, my last two annual reports have noted increases, in particular, in the underrepresentation of disabled people on Scotland's boards.

I am pleased to note in this latest report that there continue to be improvements made to the way in which the Scottish Government approaches public appointments.

The Scottish Government has brought forward legislation and produced guidance in order to address some of the issues highlighted in the previous thematic review report and in my annual reports. By way of example:

- [The Equality Act 2010 \(Specific Duties\) \(Scotland\) Amendment Regulations 2016](#) came into force in March of 2016. Commonly referred to as "6A", the regulations amended the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#) such that the Scottish Ministers must from time to time take steps to gather information on the relevant protected characteristics of the board members of listed authorities and provide that information to the authorities in question. Authorities are then obliged to use that information to better perform the equality duty. Each must publish information on the steps



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they have taken towards there being diversity amongst their board members “so far as relevant protected characteristics are concerned”.

- The Scottish Government published [Succession planning for public body boards: guidance](#) and an accompanying [interactive toolkit](#) in January of 2017 to assist boards with their succession planning. A good proportion of the guidance is intended to assist boards towards the achievement of diversity of membership.
- In February 2018 the Scottish Government published [a model framework document for executive NDPBs](#). It sets out in broad terms what the relationship between public bodies and the Scottish Ministers should be. Specific obligations placed on the chairs of public bodies in that document include ensuring that:
 - the board, in accordance with recognised good practice in corporate governance, is diverse both in terms of relevant skills, experience and knowledge appropriate to directing the NDPB business, and in terms of protected characteristics under the Equality Act
 - succession planning takes place to ensure that the board is diverse and effective, and the Scottish Ministers are advised of the NDPB needs when board vacancies arise.
- [The Gender Representation on Public Boards \(Scotland\) Act 2018](#) received royal assent in March of this year. It places new obligations on appointing ministers and boards themselves to secure gender balanced boards.

All of these measures should contribute to the achievement of boards that are effective and reflective of society. It is nevertheless my continuing view that there is scope for improvement of the approaches to learning lessons and succession planning and that securing those improvements and consistency in their implementation are fundamental to maintaining momentum in respect of women’s representation and to redressing the underrepresentation of others in society on our boards. It is for this reason that I continue to monitor and report on the Scottish Government’s activities in these areas.

As with my previous thematic review report, my intention is to identify and provide evidence of those factors which enable and inhibit improvement. The recommendations that I make are compatible with Scottish Government policy and are intended to:

- embed learning and
- foster improvement over time.

The thematic reviews which I commission, and the changes made as a result of them, reflect my shared commitment with the Scottish Government to continuous improvement in the public appointments system and of the process used to attract and identify new board members.



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Lessons learned

A 'structural architecture' for lessons learned has been introduced in the public appointments system. This means that selection panels and others engaged in appointment activity *potentially* have access to a repository of learning, management information and board demographic information to inform their approaches to publicity, application and assessment methods. Whilst this is very positive, there is scope for that structural architecture to be accessed more frequently by participants in appointment rounds and in particular by selection panels. There is also scope for more and better analysis to be done so that what is accessed on an ongoing basis provides clear and unequivocal evidence of the most effective approaches to take for a given appointment round. The Scottish Government has adopted a preferred improvement methodology to inform its lessons learned activity and I am happy to endorse this and its use. My findings following this review are that there are gaps in the way in which that methodology is being applied to lessons learned activity. The recommendations that I make in this report are intended to address those gaps so that good practice continues to be fostered and so that continuous learning becomes more embedded.

Succession planning

The Scottish Government's approach to succession planning is more strategic in nature than evidenced in previous reviews. The central Public Appointments Team (PAT) has become more adept at forward planning and this is driving much earlier consideration of how board needs will best be met, be that through open competition, reappointment or extension to appointment terms. This has concomitant benefits. People currently serving on boards are given considerably more notice than previously about ministerial intentions for their reappointment. Where sponsors for public bodies are properly engaged alongside boards in considering their needs for the future, appropriate decisions are made about how best to plan for succession. It is apparent too that, at its best, PAT is fulfilling more of a gatekeeper and quality control function than observed in previous reviews. Although this is the case for one Director General area, I consider that it is one model of very good practice that could be emulated. I also note from the review that where there are more robust sponsorship arrangements, including one instance in which the activity was supported by a sponsorship hub, succession planning is done better.

It also appears that the assessment of board member performance, as well as records of that, are improving and in most cases the review found evidence that gave assurance on the quality of individual member performance appraisals. I did identify four cases amongst the 49 reappointments reviewed in which it was apparent that no board member appraisals were conducted and one of these was for a chair role. These were not on the boards of particularly significant public bodies and this failure to assess performance was an apparent rarity. It is nevertheless incompatible with the Code's requirements and with the Scottish Government's own guidance.



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The review also highlights instances of good practice in Scotland, particularly those in which boards have established succession planning committees, or equivalent, so that they in turn can provide valuable intelligence to Ministers and selection panels about their appointment needs for the future. I would encourage this good practice to be adopted more widely, having observed the positive impact that it can have both from this review and from other evidence provided to me by Public Appointments Advisers (PAAs).

There is room for improvement in other areas which are detailed later in this report. I would simply observe that the extent to which succession planning is conducted as a strategic activity appears to rely heavily on the individuals involved rather than on a well understood and structured methodology for making such decisions. Lessons learned and succession planning activity go hand in hand. My oversight and recommendations encourage the adoption of improvements that are more strategic, more systematic and more sustainable.

Next steps

I agreed with the Scottish Government that the primary purpose and output of this latest review should simply be a set of broad findings and accompanying recommendations and so the report does not go into too much detail. It is important to me to ensure that review participants feel able to share their perceptions with me freely, frankly and openly on the basis that these will be anonymised and used to encourage the sharing of good practice and ongoing improvement. Review participants included selection panel members, such as senior civil servants and chairs of public bodies, as well as PAT managers and PAAs. All have a stake in seeing a more effective system and all of their contributions to the review have been valuable. I anticipate all of the recommendations being included in the Scottish Government's public appointments action plan.

I place on record my thanks to all of the Scottish Government officials and chairs of public bodies who cooperated so fully with my team on this follow up review.

For those with an interest, an annex to this report sets out the methodology employed at all stages of the review.

I look forward to seeing the recommendations in the review being implemented.

Bill Thomson, Commissioner



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Code and Statutory Guidance Requirements Relevant to Review

LESSONS LEARNED

Code

"Diversity and Equality

Public appointments must be advertised publicly in a way that will attract a strong and diverse field of suitable candidates. The process itself must provide equality of opportunity."

"C2 Selection panel members will agree an appointment plan containing i. the publicity, application and assessment methods to be used. The agreed methods will be those the panel considers most likely to attract a diverse range of able applicants, taking account of relevant information held by or available to the Scottish Government."

Guidance

"4.1 The Scottish Government is establishing a mechanism for capturing lessons learned such that a repository of information on good practice in inclusive attraction, application and assessment methods is instituted and added to over time. This will be informed by the experiences of selection panels and the views and demographic data of applicants and appointees.

4.2 The purpose of the lessons learned process is to capture and share what does and doesn't work in recruiting candidates for effective, diverse boards, and to support the continuous improvement of the public appointments process. The Public Appointments Development Manager is the officer with responsibility for the upkeep and operation of the lessons learned framework and records. There are a number of officers responsible for the input of lessons and sharing learning. Lessons are drawn from a variety of sources including applicant surveys, end of round panel surveys, management information for rounds and best practice examples from other organisations. There is a standard set of mechanisms for sharing learning and any stakeholder may request an additional report/summary at any time by writing to the Development Manager who will agree content and timescales with the requester.

4.3 The good practice information should be available to panels to enable them to select methods for publicity and application and assessment that they know will not represent barriers for people from particular under-represented groups and that can be used to address underrepresentation on boards."

"5.2 The Code anticipates that the selection panel will meet at the outset of each appointment round to agree an appointment plan that will generate a successful outcome. A successful outcome is one that identifies one or more appointable applicants who meet the needs of the board as defined by the minister and adheres to the principles of the Code. It should contribute to board effectiveness



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and also to the ministerial aim of redressing imbalances of representation among protected characteristics."

"5.5 The panel should decide what information they require to inform their decision-making on advertising and the process to be used to select the most able candidates. The panel should review lessons learned from previous rounds and generate such information itself at the conclusion of the appointment round so that it can be added to the store of lessons learned to aid with continuous improvement."

"5.8 The Scottish Government should review and keep under review current practices with a view to facilitating 4.1 to 5.7 above."

SUCCESSION PLANNING

Code

"Merit

All public appointments must be made on merit. Only persons judged best able to meet the requirements of the post will be appointed."

"Diversity and Equality

Public appointments must be advertised publicly in a way that will attract a strong and diverse field of suitable candidates. The process itself must provide equality of opportunity."

"A2. The Scottish Ministers are responsible for succession planning to ensure boards have the skills, knowledge and experience necessary to fulfil their role economically, efficiently and effectively. They will determine the period for which an appointment, reappointment or extension to an appointment term is to be made based on the needs of the body concerned."

"A3. The Scottish Ministers will consider whether the needs of a board will most effectively be met by an appointment, reappointment or extension to an appointment term. They will balance the continuity provided by reappointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge and experience on a board by making a new appointment through open competition."

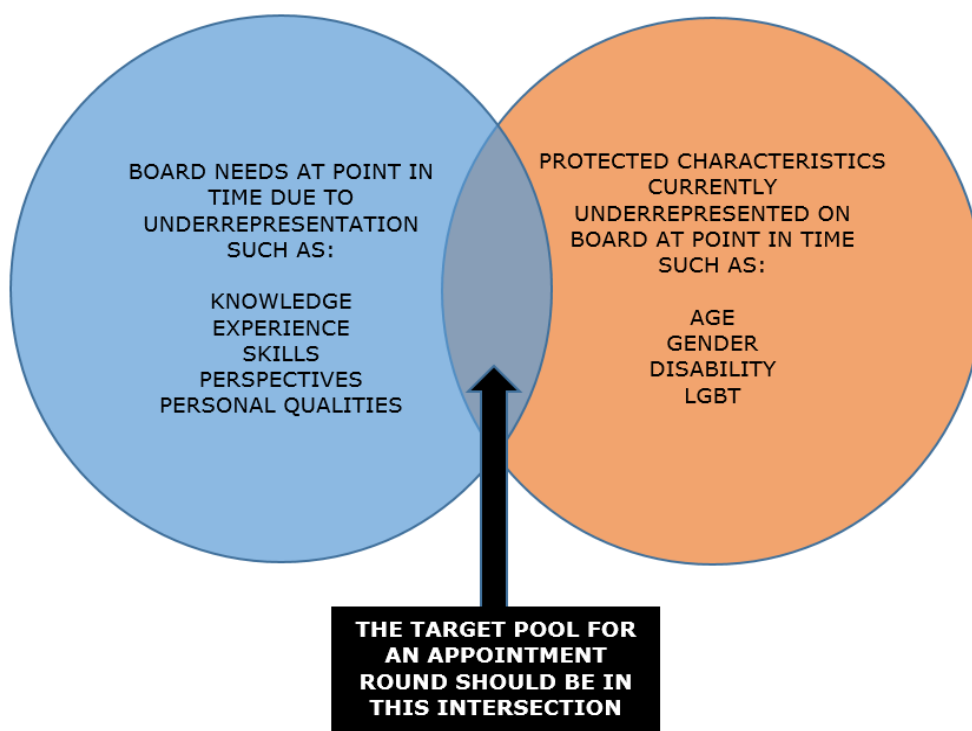
Guidance

"3.2 The Scottish Ministers are encouraged to consult the chair of the public body concerned as the body chair will have in-depth knowledge of the developing needs of the board and how these might be most effectively met through succession planning. The body chair will usually be a member of the selection panel for new board member appointments."

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Understanding 'lessons learned' and its place in the appointments process

It continues to be the case that both the Commissioner and the Scottish Ministers are committed to board diversity. The last review found that despite such commitment the concept of diversity was not always well understood in practice as opposed to in its broadest principle. The skills, knowledge, experience and perspectives that boards need to be effective appeared to be being confused or conflated with protected characteristics such as gender or age. If selection panels and other participants do not have a clear idea of the desired outcome of an appointment round then time and resources expended on both planning for and the implementation of appointment activity will not be targeted effectively. A diagram was produced to illustrate the different components of board diversity and to make it clear what the outcome for a given appointment round should look like:



The review report recommended that selection panel members should be helped to understand the diversity outcome aimed for and how to achieve it. As should be clear from the Code and guidance on its application, the selection panel is required to:

- understand the current make-up of the board in terms of skills, knowledge, experience and personal qualities



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- understand where there is currently underrepresentation of protected characteristics on the board (information on protected characteristics is supplied by applicants when they complete diversity monitoring forms at the point of application)
- following direction by the appointing minister and, ideally informed by a board's own work on succession planning, agree and articulate what the board's needs are in terms of skills, knowledge, experience and personal qualities
- use appropriate, relevant and evidence-based information to design an appointment plan that will deliver the right outcome: redressing underrepresentation and attracting and seeing the appointment of suitable candidates.

The Commissioner's last review also made specific recommendations about how lessons should be learned so that panels engaged in these activities were appropriately well informed on an ongoing basis about the best approaches to take. This follow up review has, broadly, identified the measures put in place to achieve all of these aims.

What has changed since the last review?

The latest review has identified a new structural architecture that underpins the process of learning lessons. It consists of different types of information held centrally or by individual PAT managers. Some information is statistical, such as the diversity monitoring information provided by applicants and board members. Some takes the form of narrative description, such as examples of approaches used on previous appointment rounds, instances of specific good practice and anecdotal information.

The guidance anticipated that this information would be brought together and analysed in such a way as to establish a causal link between a given course of action and an outcome; this is what evidence of 'lessons learned' should look like. Such lessons learned should be part of the documentation provided to panels to inform discussion during the planning phase for a given appointment round. Also according to the guidance on application of the Code, it should be available to any stakeholder on request from a central repository.

During the research we analysed what information was provided to selection panels on each appointment round reviewed, including demographic information, how it was used, and what difference it appeared to make to panel decision making.

The review identified two broad levels of approach. At the first and more basic level a range of information was provided such as detail on where vacancies were publicised and where applicants with different protected characteristics first heard about those vacancies. At the more advanced second level, such basic information was enhanced by clear analysis and evidence of the causal links



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between actions and outcomes and it prompted discussions and actions that directly influenced the planning of the round. This latter approach to lessons learned is more systematic, strategic and sustainable and as such is what the code and its guidance envisages. It is apparent that PAT provides a range of information to most selection panels on most rounds as a matter of course rather than panels requesting information pertinent to their plans from a central repository. Lessons learned information is not provided as a matter of course and is provided much less frequently. Much of the information provided to panels, whilst potentially of interest, does not constitute lessons learned information per se. This is because the analysis to identify cause and effect and to inform evidence-based decision making has not been done.

The most proactive participants in their access to and use of information and the sharing of good practice appear to be the Scottish Government's Public Appointments Team and, on the rounds in which they are involved, the Public Appointments Advisers. This is not, however, an organised, centrally coordinated and systematic approach and it therefore differs from what the Code and the guidance, which was revised to establish such an approach, anticipated.

Additionally, the lessons learned approach that the Scottish Government has adopted appears not to be widely understood. Relevant lessons learned information is not used consistently and/or as a matter of course by selection panels. Selection panels have responsibility for delivering successful outcomes based on evidence of what works well. They, with the Public Appointments Managers, are also responsible for generating evidence of the impact of their approaches in accordance with the Scottish Government's preferred improvement methodology, which is explained later in the report. Neither of these activities appear to be happening in a structured and consistent way.

We found that in a number of instances there was greater reliance on information that was more anecdotal in nature rather than on a structured analysis of previous rounds. The improvement methodology approach, which the Scottish Government has chosen to adopt for this activity, would suggest more rigour is required in the generation and assessment of information.

As a consequence of the above, the repository of lessons learned is not being accessed or augmented in the way originally envisioned. With the structural architecture in place and the Public Appointments Managers and the Public Appointments Advisers now making regular use of available information, the next steps in this improvement journey need to be taken so that:

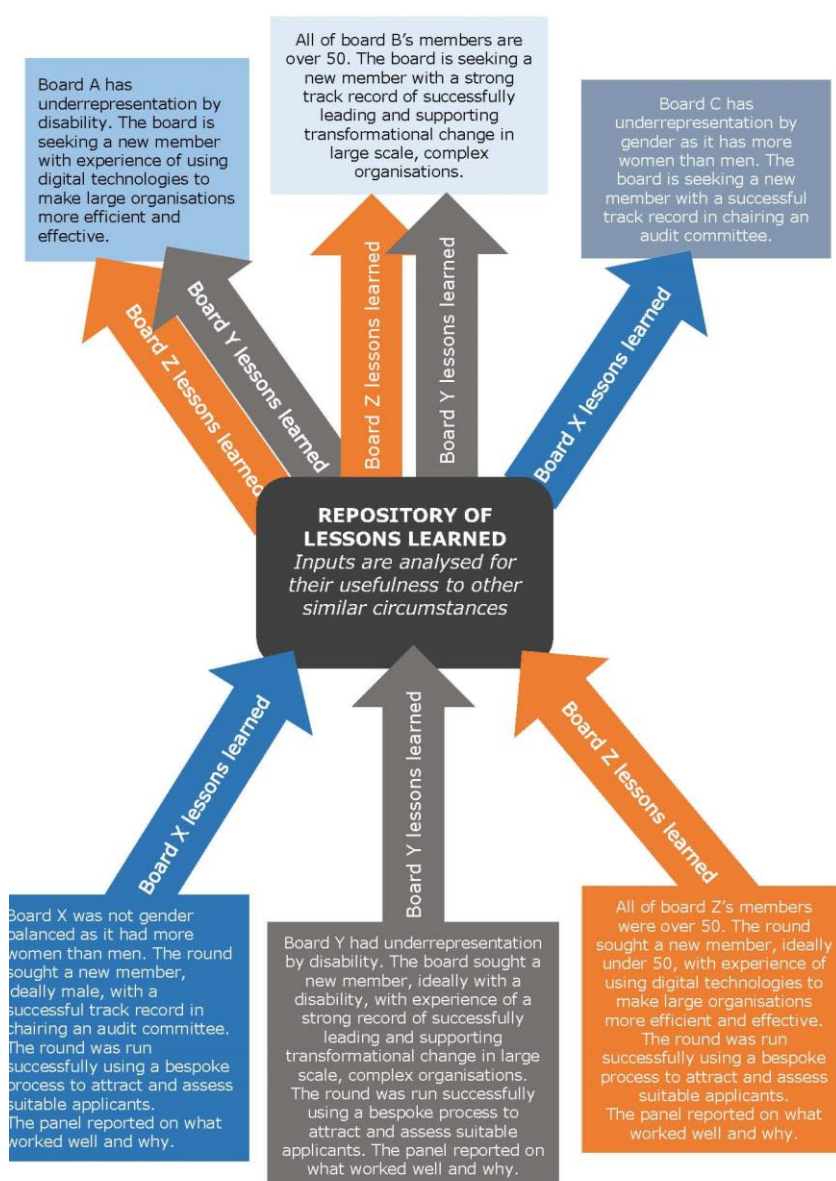
- valuable learning is not lost or diluted
- resources are expended effectively
- progress on the Scottish Government's equality outcome for public appointments is achieved.

Findings and recommendations intended to facilitate these ends follow.

Lessons Learned - Findings and Recommendations

Overarching Finding and Recommendation – adherence to the improvement methodology will deliver results

We found that: Progress has been made since the 2015 thematic review report was published but there is scope for further improvement. The guidance on the Code anticipates a model for lessons learned as illustrated in the diagram below. The diagram is illustrative as opposed to complete as there will usually be underrepresentation in respect of more than one protected characteristic for each appointment round. Over time, iterations of this process would lead to continuous improvement in practices.



The Scottish Government's PAT has established a repository of lessons learned material since the 2015 thematic review report. It has drawn on material from a range of sources including applicant and participant views on the appointment process.

PAT managers have also produced a number of models/templates which they use to collate diverse information and information drawn from the repository in order to deliver it to people involved in deciding appropriate methods for publicity, application and assessment in an appointment round.

The Scottish Government adopted its preferred improvement methodology for the introduction and augmentation of its lessons learned system.

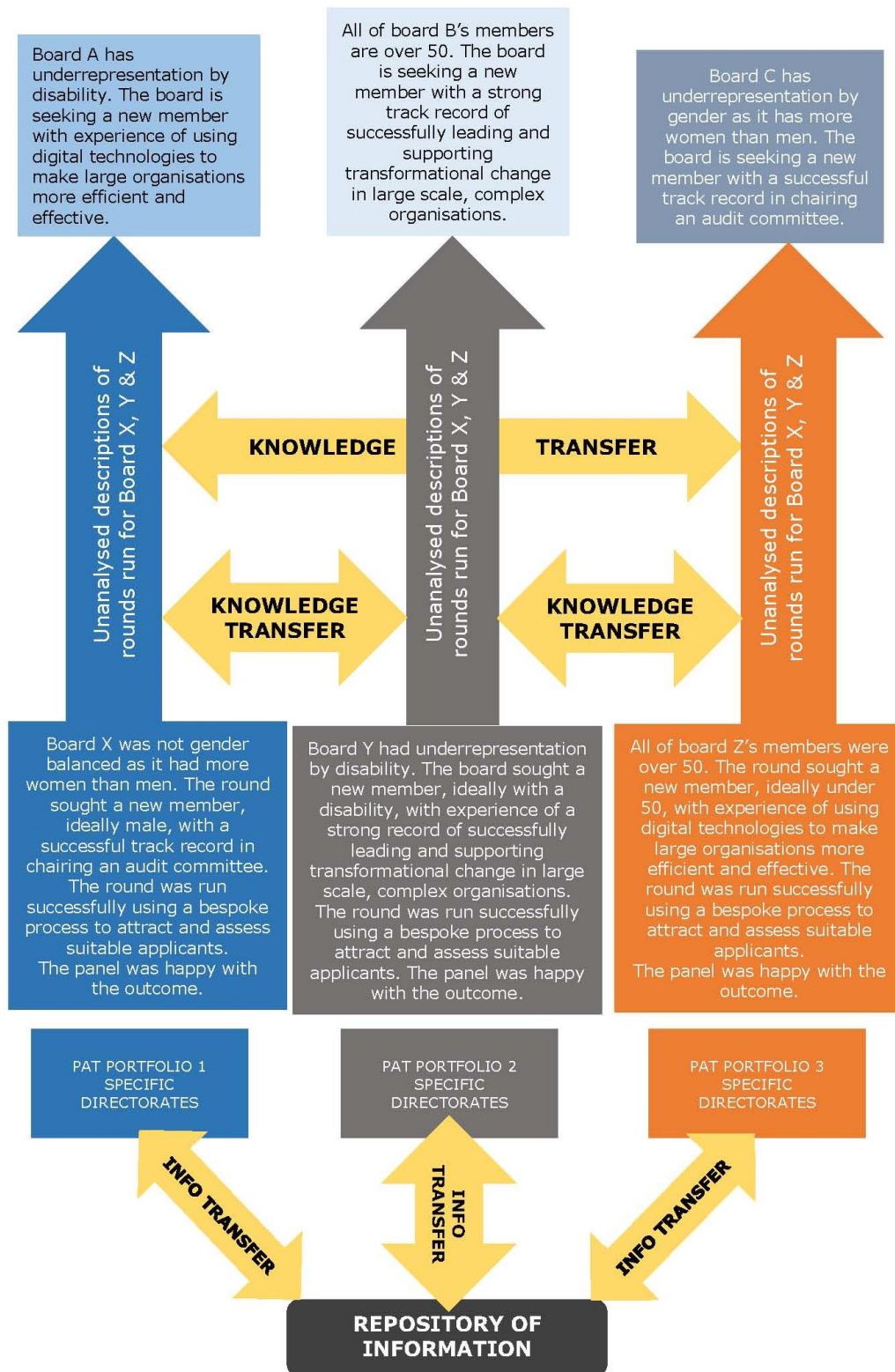
In tandem with this, PAT has also set up an over-arching structure for assessing how best the needs of boards should be met. This involves annual discussions with Directors General about the boards within their sponsorship remits. It is also characterised in each appointment round by earlier engagement with Ministers, public bodies and sponsor directorates as well as with the Commissioner's office to ensure that more thought, time and effort is expended at a stage at which it is likely to deliver the most value. This longer term planning system also includes consideration of the extent to which public body boards individually and collectively reflect society in terms of demographics.

These two approaches have a measure of overlap and are collectively intended to achieve the Scottish Government's public appointments equality outcome:

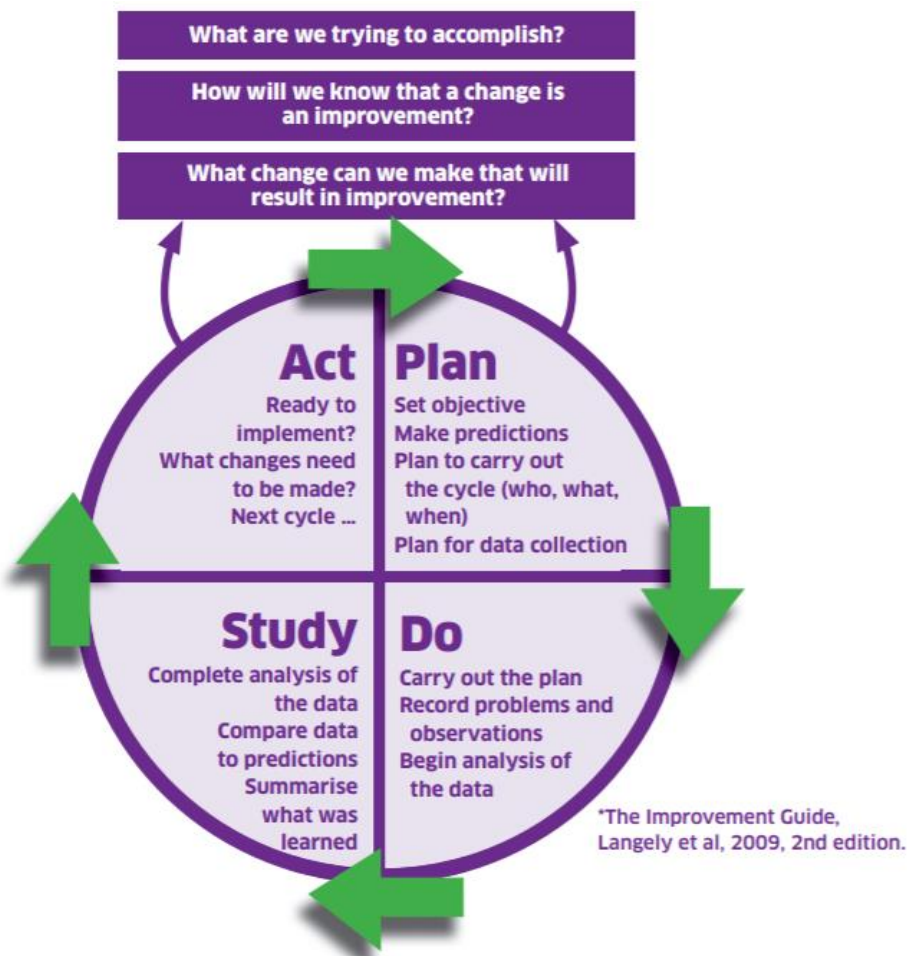
Ministerial public appointments are more diverse reflecting broadly the general population by 2021.

Since the Commissioner made his recommendations about lessons learned in 2015 we have found evidence of what might be termed a 'structural architecture' for this activity embedded in the public appointments system. This means that selection panels and others engaged in making appointments *potentially* have access to a repository of learning, management information (MI) and board demographic data to inform their approaches to publicity, application and assessment methods. However, the current practices observed as part of the thematic review differ in some key ways from what is anticipated by the guidance. There is no clear evidence of central analysis, evidence generation and targeted distribution of lessons.

The diagram overleaf gives a visual representation of the practices observed. Over time, iterations of this process are leading to improvement but it is not systematic and not as efficient as the model agreed in 2016. It is also over-reliant on people in PAT, in directorates and on selection panel members building up expertise over time.



As indicated above, the development of the lessons learned framework has been informed by the Scottish Government's preferred [improvement methodology model](#). The model provides a clear and structured approach to change and improvement "whether applied to deep rooted societal issues or to improving organisational processes and systems; it exists to help the right change happen". The following diagram summarises how this should work in practice:



There are diverse issues that have prevented best use being made of the information that the Scottish Government has generated and gathered. These issues in turn are precluding the positive changes being made to the appointment process that will be required for both the Commissioner and the Scottish Government to achieve their respective ambitions for diverse and effective boards. The main issues identified can be mapped to gaps in the way in which the improvement methodology is being implemented.

These touch on each of the quadrants in the diagram (above) with perhaps the “study” quadrant being the primary missing link in the improvement cycle.

In the context of public appointments, the “plan” phase should be about the selection panel having clarity on the ideal outcome for the board appointment in terms of diversity. The prediction for how that outcome should be achieved should be evidence-based and the panel should be clear about what data gathered during the round will demonstrate that it has achieved its desired objective. The study phase is lessons learned in action; what worked and what didn’t on the basis of the analysis of the round that was run. This in turn informs planning for future activity.

We recommend that: Further work on lessons learned activity should be fully informed by and follow the Scottish Government’s preferred methodology. More

detailed recommendations to facilitate this overarching recommendation are set out below.

Detailed Findings and Recommendations

Finding and Recommendation One – Lessons Learned Templates

We found that: PAT managers and PAAs engage in informal knowledge transfer from round to round and across appointment rounds. It is apparent and understandable that PAT managers and PAAs are the subject experts and that their expertise is increasing over time. Selection panels do not as a matter of course request evidence pertinent to the specific outcomes sought on their appointment rounds. Instead they rely on PAT and PAAs to provide advice on approaches to be taken. PAT provides a range of information to panels in most cases but that rarely includes evidence-based round-specific recommendations. Instead it requires interpretation and prior knowledge. Selection panels reported that PAT managers “bring to life” the information that they provide to panels. It is in such discussions with panels that knowledge is passed on.

Whilst these activities lead to incremental improvements in the appointments process they are not contributing in a systematic way to the central repository of lessons learned and they do not draw in a systematic way on its content.

What we heard from participants in the review:

[The selection panel chair] thought the whole round experience was ‘very well thought out’ and ‘support was there throughout’. He thought they got very good quality of information at the beginning of the round and then to ‘have people to talk through it at the well-structured meetings and to be able to ask questions of PAT as we worked through the round was well laid out and easy to find what you needed.’ He compared this recruitment process to other non-public appointment ones in SG. He wasn’t aware of getting any lessons learnt from other rounds.

[The panel chair] also praises the role of PAT (and later PAA) for bringing a strength of experience of how to design the round to suit their needs. ‘PAT Team were a real strength for the administration and for the attraction strategy’. ‘They helped me think very carefully at every stage. They made it much more straightforward.’

All the lessons learnt [the panel chair] said influenced and helped were learnt from people directly, [PAT and PAA]. [He] confirmed that ‘the lessons learnt came in from experience during the discussions rather than via paperwork examples, and they were all helpful.’ ‘I would caution against putting it down on paper in comparison to putting the right people in the room who can advise and share lessons.’

[The panel chair] strongly believes there is considerable merit in getting people to think through the information to date and use that as a way of defining objectives and assessing success. However, he acknowledges that this is not yet consistently working in practice;

he recognises that currently much of the reality is that information doesn't transfer swiftly and readily between rounds (within [this] or in other sectors) other than via [the PAT manager] who is "essentially the corporate memory and the conduit for good/new practice"

"transfer of information and learning gets lost in volume of business"

"there is a risk that we get information and just skim it without really changing how we think or what we do" – "so much in the end depends on who's round the table at what point in the process"

[the PAT manager] articulated clearly the relationship between lessons learned and diversity but acknowledged that not all participants (panel chairs/body chairs) find it easy to identify clear 'targets' for the difference they want to make nor know how to adapt/modify approaches in the light of information to get a different result.

The PAT manager seeks to support SG colleagues and body chairs through four steps:

- Expressing their aspirations for the type of appointment wanted (diversity of characteristic, skills, experience, approach)
- Articulating that into a clear set of role and person spec descriptors
- Translating that into changed practice and approaches that deliver a different outcome
- Measuring impact, sharing learning and replicating success

[The PAT manager] recognises that some panels are 'better than others' at completing all four steps and that often the final steps are less well completed. A variety of factors affect this including; time pressures, experience, risk appetite, cost.

We recommend that: A more structured process should be established to ensure that the repository of lessons learned works in the way anticipated by the guidance on application of the Code. Ensuring that all of the PAT managers and in turn panels have access to the best advice from across all portfolios can only benefit participants and applicants alike. It also means better use of the intellectual capital that is being built up over time.

We recommend that the Scottish Government adopts a simple template that sets out the type of information to be provided to assist selection panels to meet their obligations during the planning stage for an appointment round. An example of a simple model, inclusive of instructions for PAT and panels, is provided as appendix one. The success of the model will rely on ongoing analysis (see the key finding and recommendation and finding and recommendation two). The model will continue to capitalise on the expertise of PAT managers and PAAs and it is anticipated that it will also be less resource intensive than the current practices observed.

Finding and Recommendation Two – Lessons Learned Repository

We found that: A lack of thorough analysis on either a round-by-round or centralised basis means that the causal links between courses of action and outcomes are not well established. Good evidence of what works well is therefore not being systematically generated. By way of example, although

demographic data is gathered on appointment rounds, such that it may be clear that applicants with a disability were unsuccessful in comparison with others at the shortlisting stage, neither PAT nor panels are yet analysing the reasons behind that and whether alternative approaches may have precluded it. The data from the previous round for the same body is provided to panels in most cases but without analysis it is not informing evidence-based courses of action.

What we heard from participants in the review:

[The panel chair] thinks the benefits of having more information at the beginning of the process about options and methods of assessment and attraction would be that this would *"help take the time for considering the choices"*.

When asking about evidence introduced for what works, how to target, he said he didn't see any evidence and took what was being said (which was based on other rounds in this [portfolio]) all in good faith.

"This is something that I'm going to be involved in throughout my professional career, and so I'd be keen to do it well. I'd see it as worthwhile use of my time to participate in seminars about what works."... "there would be good value to not just learn from CESPLS and PAT but also working with my peers who are involved in public appointments. There could be a network of people who are involved in panels to learn from each other about what's been tried and what works."

[The panel chair] understood lessons learned and use of evidence and data to be about *"ensuring transparency and widening diversity of public appointments"*...

The fieldworker's assessment from this interview was that, despite a general awareness, he felt that little or no concrete action had been taken to ask for, analyse or incorporate data/evidence from elsewhere in the design, planning and delivery of this round even though this is a panel responsibility. The panel chair indicated that:

"It would be good to use different application and assessment methods that don't favour people who are simply used to completing these exercises"..."we thought we knew what we were doing and were limited to those approaches"..."we weren't aware there were other options or other ways of doing it".

[The panel chair] is clearly giving a lot of thought to how this can move forward – concrete suggestions for ways of improving things. His suggestions included:

o Develop a cohort of 'super users' within SG (people who regularly chair or sit on panels) and invest in their development [common understanding of objectives, impact, improvement opportunities etc]. These could then provide peer-to-peer support and become much better at sharing lessons-learned in a more structured way. He said:

"We have an 'honours champions group' why shouldn't we have an 'appointments champions group'?"

"Probably 6-8 core panel chairs could form a standing group to support the replication of good practice and better systemise learning"

We recommend that: As was agreed with the Scottish Government in 2016, analysis of appointment rounds should be conducted on an ongoing basis by the Public Appointments Team. In the agreed guidance on application of the Code, that task is allocated to a named post. The analysis should be sufficiently robust to identify which approaches work best to attract and see the appointment of people from currently underrepresented groups who at the same time meet the needs of the board. The results of the analysis should be maintained in a central repository. They should be appropriately indexed so that appointment round participants can be provided with sound, evidence-based recommendations about the tailored approaches that they should take according to the specific needs of the boards that they are appointing to. The Scottish Government should also consider establishing a cohort of public appointments “super users” who can contribute learning to the repository and act as a sounding board for PAT, particularly in respect of the trial of new approaches.

Finding and Recommendation Three – Smarter Sponsorship

We found that: Most panels tend to be very clear about the ideal outcome for an appointment round in terms of the skills, knowledge, experience and other relevant attributes sought when the appointment plan is finalised. There is however variation in the amount of time taken to reach conclusions about that outcome. Greater levels of clarity are achieved and achieved earlier when boards have given thorough consideration to their future needs by aligning those with their strategic objectives and operational context and then communicated those needs to the minister/selection panel. Succession planning committees appear to be very effective at this. Other than in the case of gender, panels rarely agree an ideal outcome related to redressing underrepresentation of other protected characteristics.

New methods for attracting and assessing people for public appointments continue to be used. These do appear to be generating more diversity on boards in terms of the attributes of people appointed as well as the demographic profile of boards overall. Underrepresentation by gender is being tackled relatively successfully. Underrepresentation by disability and ethnicity is increasing. We do not know why this is the case and the Commissioner has recommended in successive annual reports that further analysis must be undertaken.

What we heard from participants in the review:

"I'll be honest, it does look to me that the Person Spec from 2015 has been dusted down to be used again as it's almost identical. Now this might still be ok, but all Public Bodies should be looking at their succession planning to ensure they have the correct skills and experience around the table for the next 4/5 years or so".

The second example to be applauded is the use of prompting a succession planning committee, as this leads to clear gap analysis and descriptions for what is needed early on.

The [panel chair's] comments on diversity were solely limited to gender "it wasn't an issue for us as this is only a small board and it's already balanced".

We recommend that: All boards should be encouraged to adopt the [Scottish Government's guidance on succession planning](#). Sponsor teams should be encouraged to take a more proactive approach to their sponsorship relationship with boards, perhaps by forming sponsorship hubs, particularly in cases in which there is underrepresentation by protected characteristics. Sponsorship teams have a role to play also in highlighting with boards the ramifications of regulation 6A to the Equality Act 2010 and associated guidance when that is published.

Panels should be required to agree in writing the ideal outcome sought on each appointment round in terms of the skills, knowledge experience and other attributes required **and** in terms of redressing underrepresentation of protected characteristics. When this has been shared with PAT, PAT should refer to the indexed repository (see above) in order to provide targeted, relevant advice based on evidence of what has worked in previous similar circumstances. We believe that adoption of the approach suggested in recommendation one will assist with the implementation of this recommendation.

Finding and Recommendation Four – Reviewing the Round

We found that: Panel views on what worked or didn't are rarely gathered at the conclusion of rounds and, where they are, the panel member responses tend to be about how an approach "felt" rather than reasoned conclusions based on evidence generated as the round progressed. There is no formal or structured process in place for the information to be gathered.

What we heard from participants in the review:

When asked what would encourage his own more active involvement in using and generating learning/good practice evidence, [the panel chair] answered Having a simple structured process in place to gather and collate any learning or data and feed it into the beginning of each round via the SG PA team
All panel members should have the opportunity to contribute to that
Someone (SG PA?) needs to 'own' that and to tailor the analysis to each round so that it is relevant and can be acted upon.

[the panel chair's] concrete suggestions for ways of improving things included;
= taking a much more systematic approach that can be analysed by a variety of different parameters
= greater responsibility from all involved in measuring the impact of appointment approaches and decisions – not just up to the point of ministerial decision but linked to appointee's effectiveness in role
= framing clearer questions to ask about the types of information and evidence that would be beneficial – not just getting what's available
= use of smart analytics that can give us better data analysis more quickly and flexibly
= *"Should be able to stratify the learning, poll by interest and have things properly tagged – currently too paper-heavy"*
= not creating additional work but having more smart thinking done from a central support team.

We recommend that: Panel members should be reminded prior to participating in appointment rounds of their specific responsibilities under the Code to:

- a. base their decisions on relevant information
- b. generate such information for future appointment activity.

The Scottish Government has set a national ambition for equality and diversity on boards and in society more generally. The panel chair as the minister's representative should be aware of his or her responsibility for meeting the diversity outcome for boards and it should be highlighted as early as possible in engagement between the panel chair, PAT and, where allocated, PAAs.

Meeting the strategic needs of the board are effectively what each round is about. Almost all will have a strategic plan, or equivalent, and all will have an operating context. The chair of the board should be aware of his or her responsibilities for giving the minister – and subsequently the panel – a clear steer on how plans for succession on the board will best be met. Where this awareness is lacking, the panel chair, PAT and PAA, where allocated, should signpost relevant legislative obligations and associated Scottish Government guidance. Use of the template in appendix 1, or a variation on it, should facilitate the achievement of point "a". Another template is provided in appendix 2, a variation on which should facilitate the achievement of point "b". We recommend that PAT manage the process of gathering this information for central analysis at the conclusion of each appointment round.

There is no obligation on the Scottish Government to adopt these templates but it is incumbent on them to establish an effective mechanism for complying with the Code and guidance. The Commissioner is happy to provide further guidance on any options brought forward for consideration.

Finding and Recommendation Five – Panel Responsibilities

We found that: In some cases, panels choose not to follow the good practice advice and information that they are provided with. The reasons for this are unclear although administrative expedience and a preference to repeat previous activities that are familiar may be contributory factors.

What we heard from participants in the review:

[The panel chair] apparently had no understanding of the role of 'lessons learned' – *"it was never an explicit part of any conversations had, not agenda'd and not a core part of the process"*... *"I hadn't had sight of any feedback from previous rounds – that may be about me being new to this but I think it's also a fault of the system"*. In this case it was clear from the audit trail that the PAT manager had actively provided both information and suggestions based on that information for the panel to consider, none of which made much headway.

Panel chair: *"although we had some information at the outset provide by SG PA team, it didn't form an integral part of our discussions"*.

When questioned on his perceptions of the barriers to doing it differently *"it's cause we all go with our own experience and that's the way the civil service does"*

recruitment through this kind of formal competency-based approach – I suppose you find what you expect to find”.

[The panel chair] recognised the challenges in those [appointment rounds] of effectively using the evidence base to set targets and take different approaches – much of what happens feels as though its driven by more ‘immediate’ pressures or decisions.

We recommend that: As with recommendation four, panel members should be reminded prior to participating in appointment rounds of their specific responsibilities under the Code. The recommendations made in response to finding four are applicable to this finding also. It should be noted that the model template provided obliges panels to record decisions for their reasons. In this way it will be straightforward to assess why panels choose to use a different approach to that recommended by PAT.

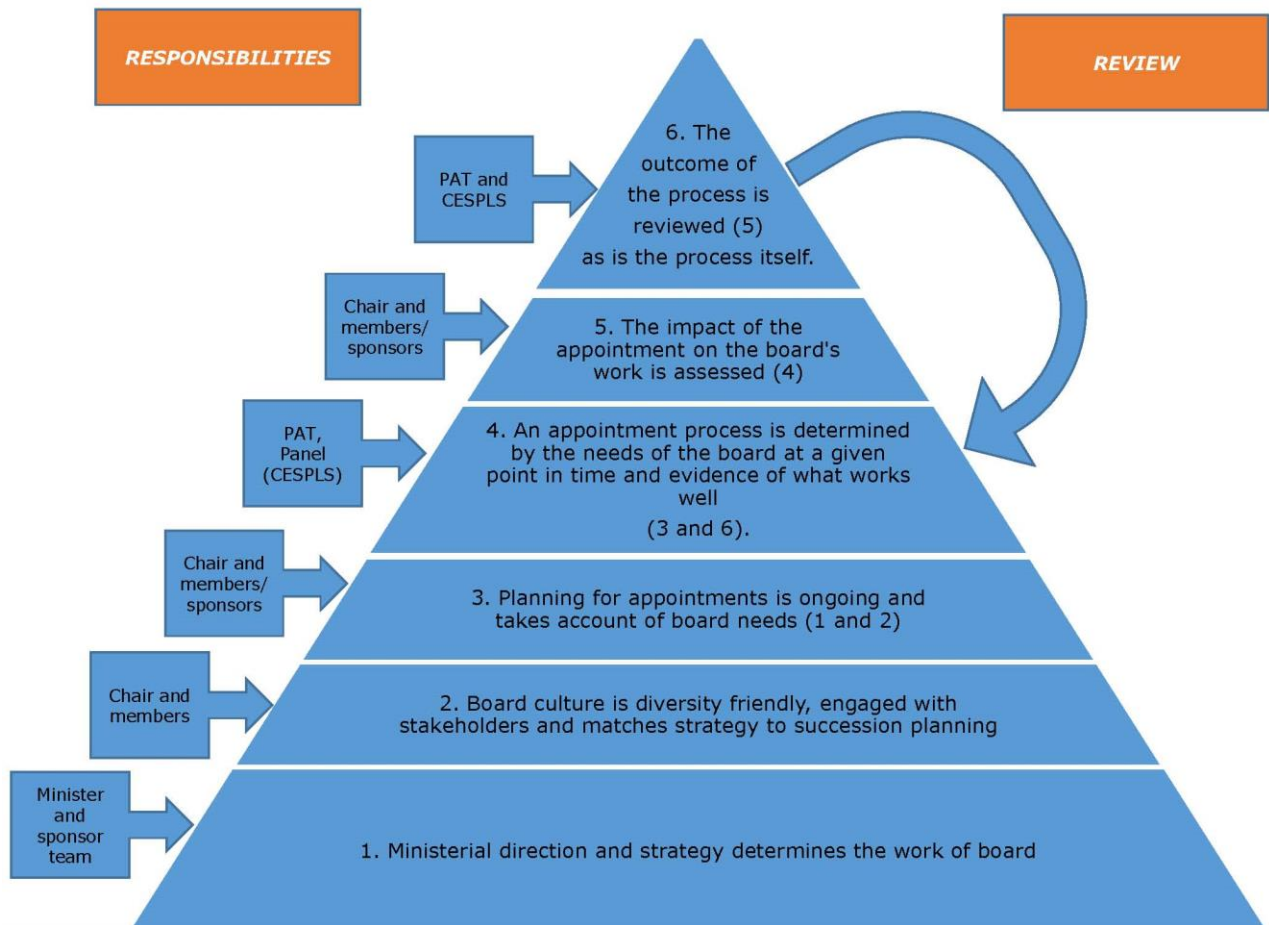
Conclusion

In summary, it is clear that there have been improvements in practices and the majority of these recommendations are an attempt to systematise the positive changes that have been made. It is hoped that the implementation of the recommendations will dovetail with the ongoing improvement work being carried out by the Scottish Government in partnership with the Commissioner’s office.

Understanding succession planning

The purpose of succession planning, according to the Scottish Government’s guidance on the topic, is to deliver highly effective, diverse boards. Under the Code, the Scottish Ministers have the choice to reappoint members, extend members’ terms of appointment or make new appointments. Ministers are expected to balance the continuity provided by reappointment and term extensions with the opportunity to increase the diverse range of relevant skills, knowledge and experience on a board by making a new appointment through open competition. The right choice to make will involve a range of factors and will ideally be informed by advice from the board itself, which would be in accordance with the guidance on the Code, and by the body’s sponsor directorate.

The last thematic review report recognised that sponsor directorates and bodies themselves have a role to play in what should become the norm: effective, ongoing planning for succession. A diagram setting out a framework for good practice was included in the report to help everyone involved in appointments to understand where they fitted in to that ongoing planning activity (see below). The diagram was also relevant to the way in which lessons should be learned over time.



What has changed since the last review?

Since the last review report was published, the Scottish Government has issued both legislation and guidance to encourage better succession planning on the part of boards themselves.

[The Equality Act 2010 \(Specific Duties\) \(Scotland\) Amendment Regulations 2016](#) came into force in March of 2016. Commonly referred to as "6A", the regulations amended the [Equality Act 2010 \(Specific Duties\) \(Scotland\) Regulations 2012](#) such that the Scottish Ministers must from time to time gather information on the relevant protected characteristics of the board members of listed authorities and provide that information to the authorities in question. Authorities are then obliged to use that information to better perform the equality duty. Each must publish information on the steps they have taken towards there being diversity amongst their members "so far as relevant protected characteristics are concerned".

Although these regulations came into force in early 2016, the Scottish Ministers have not yet gathered the information on relevant board characteristics or provided it to boards. As a consequence, the changes in practice that the regulations were intended to give effect to have not yet come about.

The Scottish Government published [Succession planning for public body boards: guidance](#) and an accompanying [interactive toolkit](#) in January of 2017 to assist boards with their succession planning. A proportion of the guidance is intended to assist boards towards the achievement of diversity of membership. Board take up of the guidance, which is not obligatory, has been inconsistent and there is currently no mechanism in place to track how boards conduct this activity.

There appears to be a difference in approach between what the guidance says about whether boards should establish such committees and what is included in the Scottish Government publication, "[On Board a Guide for Members of Statutory Bodies](#)". This advises that *"public bodies are expected to take positive action to support and enable greater diversity of Ministerial appointments, through...succession planning, and providing advice to Ministers about the Board's membership needs, both for new and re-appointments;"* and *"establishing a succession planning committee."*

Another significant change that has occurred since the last review was run is the much more proactive approach to succession planning taken by the Public Appointments Team (PAT). The Scottish Government's approach to succession planning is more strategic in nature than evidenced in previous reviews. PAT has become more adept at forward planning and the practice now appears to be embedded in their ongoing activity. This is driving much earlier consideration of how board needs will best be met, be that through open competition, reappointment or extension to appointment terms. This has concomitant benefits. People currently serving on boards are given considerably more notice than previously about ministerial intentions for their reappointment. Directors General are provided with board snapshots on an annual basis and the current diversity levels of boards, albeit primarily gender-focused, are discussed alongside board needs for the future. This clearly facilitates more advanced and better-informed discussions about how those needs will best be met.

In the case of one Director General area, PAT is also fulfilling in many cases more of a gatekeeper and quality control function than observed in previous reviews. This is one model of very good practice that could and should be emulated. The latest review also found that where there are more robust sponsorship arrangements, particularly as in one case where boards are supported by a sponsorship hub, succession planning appears to be done better. It also appears that the assessment of board member performance, as well as records of that, are improving. The picture is not universally consistent and sponsor teams did share in some cases their improvement plans for the future. That level of self-reflection and willingness to see that there are areas for improvement is also considered a good sign.

The review also highlighted instances of good practice in Scotland, particularly in boards which have established succession planning committees, or equivalent, so that they in turn can provide valuable intelligence to Ministers and selection panels about their appointment needs for the future.

Succession Planning - Findings and Recommendations

Overarching Finding and Recommendation – boards and sponsors have to take their place in the chain of accountability

We found that: Although the Scottish Government has legislated on the issue and produced good practice guidance to follow, only a proportion of boards have established succession planning committees, or equivalent structures, to lead on this activity. Where they have been established, they appear to make a positive difference to this activity. Very few have any awareness of regulation 6A and its ramifications for the way in which they should plan for succession. The extent to which sponsors are proactive about their role in enabling good succession planning practice varies considerably.

We recommend that: The Scottish Government should clarify that the approach that is explicit in its “On Board” guidance is its preferred approach in respect of board responsibilities. Sponsor teams should have an expectation that boards will follow the succession planning guidance issued by the Scottish Government or have very good and relevant reasons for not doing so. Boards should be helped to understand that following the guidance will not only be representative of good practice but will also make it easier for them to comply with regulation 6A. The extent to which boards are following the guidance should be explored with the chairs of all public bodies as part of their annual performance reviews. All Director General areas should track and maintain a record of which of their boards have adopted the guidance and to what extent all of the recommendations in it have been adopted.

Finding and Recommendation One – An improving picture and a potential model for better practice.

We found that: Progress has been made since the 2015 thematic review report was published. Generally speaking, PAT is engaged in good practice in respect of succession planning. The managers have forward plans and are often the first to prompt boards and their sponsors to consider board needs well in advance of potential vacancies arising. A consistent pro-forma is used with the intention of encouraging sponsor teams and boards to think through how board needs will best be met. Although PAT prompts that thinking in many cases, the extent to which effective succession planning is taking place is variable. Factors that contribute to more effective succession planning include boards having their own plan for succession and proactive sponsorship including, in particular, sponsorship hubs. The absence of such mechanisms detracts from effective succession planning and, in the poorest of such cases, reappointment decisions appear to be made on the basis of individuals’ willingness to continue in roles rather than a clear linkage to and consideration of bodies’ needs for the future.

The most proactive and effective model reviewed included PAT and the Director General’s sponsorship area working in concert. Over time, this approach has led to:

- good working relationships with body chairs
- a clear and deep understanding of the needs of each board
- good evidence on the make-up of each board
- integration and understanding between PAT and the DG/sponsors with a high focus on improvement approaches and impact/effectiveness.

There is a clear protocol for action that is followed consistently. An initial email is issued by PAT to the chair of a body when a succession decision is on the horizon. A pro-forma is provided that lists all the key elements that should be incorporated when considering the most appropriate decision for the board's circumstances. When completed, the pro-forma forms the basis of a submission to the appointing minister making a case for the recommended course of action. This includes:

- clear ministerial desires and expectations
- the strategic elements of the decision and how they might impact upon the current and future skills mix of members, the board complement and balance in relation to diversity and behaviours, the strategic challenges and horizon-scanning for the body itself and the wider landscape for bodies operating under this DG
- performance expectations and the impact of board members.

There is direct follow up to Chairs to ensure that their recommendations in relation to succession/reappointments are carried out within this context.

The PAT manager also fulfils a robust quality control function. Where the pro forma that is returned completed by the body chair is not be considered to be of a suitable standard or sufficiently robust to stand up to external scrutiny, the PAT manager contacts the body chair to provide information on the improvements needed or to initiate further strategic discussions with the sponsors to consider whether the recommended course of action is the appropriate one. As a result the quality of analysis and the cases made in relation to succession planning are robust and, equally importantly, clear strategic decisions can be (and are) made where a new round would better serve a given board's needs.

This type of 'smart sponsorship' where there is a clear and consistent line of sight across and between bodies at a strategic level – does appear to have a positive impact on the type of analysis and decisions made in relation to succession planning.

We recommend that: This model should be considered by all DG areas as representative of very good practice. It should be followed unless an alternative, which is equally effective, is adopted. We endorse the use of the pro forma currently in use and would also recommend that an additional area for content is added to it so that sponsors are invited to include their own recommendations, alongside those of the body chair, in any submission to be made to the appointing minister.

Finding and Recommendation Two – There is a disproportionate focus on gender when diversity is considered as part of succession planning

We found that: There is little consideration given to the protected characteristics dimension of diversity, other than for gender, when succession planning is underway. This is understandable given the Scottish Government's commitment to gender diversity on boards. It being the primary or in some cases only protected characteristic considered is nevertheless incompatible with regulation 6A which requires consideration of all relevant protected characteristics.

We recommend that: The Scottish Government includes information on all board protected characteristics in submissions to appointing ministers where these are concerned with succession planning decisions. This should dovetail with the obligations to be placed on boards when regulation 6A is implemented.

Conclusion

In summary, it is apparent that there have also been improvements in practices in respect of succession planning. The recommendations made in this part of the report are an attempt to identify the best of those and to promote their wider adoption.

APPENDIX ONE

A template for lessons learned to be provide to selection panels

Lessons Learned Briefing for Selection Panel

Public Body Name:

Position(s) to be filled:

OUTCOMES SOUGHT	
Summary description of skills, knowledge, experience and other attributes required (complete this list during early engagement):	This board has to redress underrepresentation of the following protected characteristics (populated from PAT records):

RECOMMENDED APPROACHES TO AGREE DURING PLANNING	
The following methods for publicity, application and assessment have proven to be successful for this target applicant pool and not to have an adverse impact on the groups currently underrepresented on this board:	The following positive action measures have been identified as most likely to generate successful applications from the groups currently underrepresented on this board:
Publicity:	Outreach and publicity:
Application:	Training and development:
Assessment:	Other:

Instructions for selection panel

Your Public Appointments Team Manager can provide more information on why these approaches have been recommended and how they work in practice. The panel is not obliged to adopt any or all of the recommended measures and can adopt other approaches by reference to other information made available by the PAT Manager or from sources of good practice external to the Scottish Government. The panel is also encouraged to try new approaches if it considers these to be likely to lead to a successful outcome. Reasons for panel decisions should be recorded.

PAT will gather the panel's view on the success or otherwise of the approaches adopted at the end of the appointment round with a view to informing and improving future appointment activity.

APPENDIX TWO

A template for gathering lessons learned from selection panels

Gathering Lessons Learned from Participants

Public Body Name:

Position(s) to be filled:

Your role on this appointment round:

HERE ARE THE DESIRED OUTCOMES THE PANEL AGREED:	
Summary description of skills, knowledge, experience and other attributes required (complete this list during early engagement):	This board has to redress underrepresentation of the following protected characteristics (populated from PAT records):
HERE ARE THE APPROACHES AGREED BY THE PANEL	
Publicity:	Positive action - outreach and publicity:
Application:	Positive action - Training and development:
Assessment:	Positive action - Other:

Questions

1. Were all the agreed outcomes achieved?
2. Why/why not?
3. Which approaches were most successful and should be repeated for similar outcomes to be achieved in future?
4. Why do you think this?
5. Which approaches were least successful and should not be repeated when similar outcomes are to be achieved in future?
6. Why do you think this?
7. Any other comments:

ANNEX

Methodology for the stages of the review

Lessons Learned

Review of appointment rounds – grounds for selection

The Commissioner anticipated fieldwork and desk research for this review commencing in October 2018. All appointment rounds reported to the Commissioner as starting between 1 January 2018 and 5 October 2018 were considered for inclusion. There were 63 in total. Of these, 33 were not suitable for inclusion because 28 were not properly underway when the review began and 5 had directly involved the fieldworkers in the capacity of Public Appointments Adviser.

Of the remaining 30, a decision was made to select one of each type of round (high, medium or low level oversight) per PAT manager giving a total of 12 rounds for review. In order to also include rounds on which different PAAs had been involved, two additional rounds were added to the review. Fourteen rounds were, therefore, examined for this thematic review.

Review scope and methodology

Fourteen appointment rounds were reviewed in total. One of these was a combined appointment round for two bodies run simultaneously. The review consisted of desk research (all appointment rounds) and follow up interviews when the audit trail had gaps or apparent inconsistencies that the fieldworker considered it appropriate to probe further.

Templates and questions/question areas were agreed by the Commissioner and the fieldworkers to ensure consistency in relation to both quantitative and qualitative findings (see over).

Template for desk review of lessons learned

Lessons Learned Review of Round Summary

<<Body Name>> – <<Oversight level>> – <<PAT Manager – <<PAA>>

<<Summary of round progress including start and end date>>

<<Summary conclusions from fieldworker>>

<<Summary conclusion about retrospective review of round>>

What was in the audit trail (x = evidenced)

Type of LL	introduced	Not used	Used a bit	Used well
Board snapshot report				
Example person specifications				
Lessons learned from other whole rounds				
MI from previous round (for this body)				
Using come on board events				
Succession planning committees				
How to do successful adverts				
Timetabling lessons				
Assessment processes examples				
How to alter the process for particular diversity characteristics				

Stakeholders - Who introduces lessons learnt to a round?

Type of Stakeholder	Introduced	Asked for LL
PAT Manager for round		
Other PAT Team Members		
PAA's.		
Other CESPLS staff		
Body Chairs		
Sponsor Team representatives		
Public Body representatives		
Minister		
Independent Panel members		

<<Fieldworker observations about what was in the audit trail>>

<<Fieldworker hypothesis based on audit trail about why lessons learned activity took place in accordance with the Code>>

Template for lessons learned follow up interviews

<<Interviewee name>>, <<Interview Role>>

Appointment Round – <<Body name>>, <<post to be filled>>

PAA summary analysis:

Questions	Y/N	Score*
Does this interviewee understand about 'lessons learned' and/or monitoring information?		
Does this interviewee expect to achieve results through its usage ('targets'/different outcomes etc.)		
Does this interviewee do anything differently as a result of reviewing information?		
Does this interviewee feel they are achieving differently on the basis of evidence/learning. If so, how do they measure this?		
Does this interviewee understand their role in adding to and augmentation of the existing lessons learned store?		

** The score was based on a sliding scale where 0 stood for not at all and 5 stood for strongly affirmative.*

PAA detailed analysis and quotes/participant views:

<<Content>>

Succession planning

Review of reappointments – grounds for selection

A note of all reappointments advised to the Commissioner in the 2016/17 financial year were considered as possible for inclusion. The Commissioner decided to include for review all reappointments that had been notified to him from August 2017 onwards. This meant that the review would be considering all of the most recent reappointment decisions on a non-selective basis.

Review scope and methodology

49 reappointments were reviewed in total. The review consisted of desk research (all reappointments) and follow up interviews, when the fieldworker considered it appropriate, to probe further.

A template and questions/question areas were agreed by the Commissioner and the fieldworkers to ensure consistency in relation to both quantitative and qualitative findings (see over).

Template for succession planning reviews

Public Body	<<Body name>>
Reappointments reviewed	<<Board member X>> <<Board member Y>> <<Board member Z>>
Consistent approach across all reappointments	<<Y or N>>

From review of Public Appointments Team materials held

How was the reappointments process initiated?	By PAT <input type="checkbox"/>	By sponsor team <input type="checkbox"/>	Jointly <input type="checkbox"/>
Evidence / observations	<ul style="list-style-type: none"> <<>> <<>> 		
Did the paperwork from the sponsor team include;		YES	NO
Assurance of appraisals and individual performance?			
Details on skillset of member?			
Context of the Board and its needs?			
Evidence/Observations			
<ul style="list-style-type: none"> <<>> <<>> <<>> 			

From Sponsor Teams/bodies <i>(from telephone and/or desk research)</i>		
	Yes	No
Did the approach follow the expected process?		
Was there evidence of consideration given to:		
Strategic linkages to the body's objectives?		
Direct connections to Ministerial aspirations / priorities?		
The current / future diversity of the Board? (skills/protected characteristics)		
Any alternatives to reappointment? (extension, new competition?)		
Shocks to the system or unanticipated need influencing the recommendation?		
Use of data or other information (lessons learned?) to inform decision?		
The board referring to the Scottish Government's succession planning guidance?		

From Sponsor Teams/bodies <i>(from telephone and/or desk research)</i>		
The board and/or sponsor team being aware of regulation 6A .		
Did the sponsor team seem clear on the respective responsibilities?		
Was there a formal process used by the board to assess its needs in relation to skills and/or protected characteristics such as a skills matrix or succession planning committee (detail below)?		
Formal process details:		
Observations / evidence relating to the above		
Are there any aspects of this round that could inform practice improvement?		



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