

**CODE OF PRACTICE FOR  
MINISTERIAL APPOINTMENTS TO  
PUBLIC BODIES IN SCOTLAND**

31 March 2022

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## Code of Practice for Ministerial Appointments to Public Bodies in Scotland

### Foreword

I regulate appointments to the majority of the boards of public bodies in Scotland. They provide the governance oversight of vital services that affect us all. The bodies that these boards govern touch every aspect of our lives. From health to housing, the environment to education, the economy to enterprise, creativity to culture, policing to public transport and the reduction of poverty to social security. This list is not exhaustive; Scotland's public bodies reflect the diversity of devolved powers and the ambitions of the Scottish Ministers to do things differently.

Merit is defined by the Scottish Ministers when they decide how a board's needs will best be met. The Scottish Ministers are then responsible for making fair and open appointment decisions based on the merit of the people who apply. I am required to publish a Code of Practice to guide them in doing so. This is the Code in question. It applies to appointments made by the Scottish Ministers to non-executive and similar positions on the boards of Scotland's regulated public bodies. A full list of these bodies may be viewed on my website: [www.ethicalstandards.org.uk](http://www.ethicalstandards.org.uk).

The Code is designed for use by:

- the Scottish Ministers
- officials who implement the public appointments process on behalf of the Scottish Ministers
- members of selection panels who plan appointment activity and assess applicants for positions on the boards of Scotland's regulated public bodies
- selection panel chairs, designated by the Scottish Ministers to make all key decisions on their behalf
- boards themselves, whose role in community engagement and succession planning is integral to the successful implementation of the Code's provisions.

The Code is supported by a handbook of statutory guidance which is intended to facilitate both implementation and understanding of the Code. Additionally, my office is always happy to provide guidance to anyone involved in the appointments process on how the Code's provisions are to be interpreted and applied.

The appointments made by the Scottish Ministers contribute significantly to high performing public body boards which in turn drive forward improvement in our public services. The Scottish Ministers are committed to ensuring that the public appointments process is fair and transparent and that appointments are made on merit. They also share my commitment to the making of appointments that reflect Scotland's diverse population.

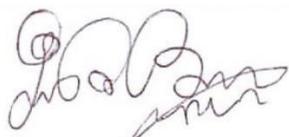
The Code sets out the requirements of the process used to appoint board members to bodies with a wide range of functions; bodies ranging from nationalised industries to health care providers. It offers flexibility, so that the most appropriate approach may be taken to publicity, application and assessment on every occasion. It is vital that the framework provided by the Code is used wisely by the Scottish Ministers and that the practices

employed during each appointment round are those most likely to generate a diverse range of suitably skilled and able people for the public body concerned.

To confirm that the Scottish Ministers comply with the requirements of the Code I will scrutinise the approach planned and processes used to make public appointments that I consider merit such oversight. When the requirements of the Code are not met I will intervene. Depending on the circumstances, I may advise the appointing minister so that action can be taken to address the issue, or I may be required to report the appointing minister to the Scottish Parliament. The fact that the Scottish Parliament has given me and my successors the powers to do so indicates the importance placed on a fair, open and merit-based public appointments process that is conducted in accordance with this Code.

I am grateful to the many individuals and organisations whose comments and suggestions have led to the publication of this revised Code. It is my sincere hope that implementation of the revised Code will bring about the positive changes to board diversity, governance and effectiveness that we collectively want to see.

The Code comes into effect on 3 October 2022.

A handwritten signature in black ink, appearing to read 'John B. ...', written over a light blue grid background.

Acting Ethical Standards Commissioner

## The Code in Context

Each board within its different sector and particular remit provides strategic direction, scrutiny of performance and of course, stewardship of significant amounts of public money. It is in everyone's interests that these important public bodies are led by people who have a diverse mix of the most appropriate skills, knowledge, experience and other relevant attributes, who act with integrity and commitment and who are reflective of Scotland's geography, demography and breadth of backgrounds and insights.

This is the fifth Code of Practice for the regulation of these appointments in Scotland. Its contents have drawn on the experience of this office since it was established in 2003. Just as importantly, it has drawn on the experience of the many stakeholders who value regulation of the appointments process and recognise the difference that it has made to our boards over this period. This Code offers considerably more flexibility than the prior versions. In that respect, it should reduce bureaucracy and the time taken for appointments to be made.

The Code is an important tool in securing the appointments of the right people for the right roles. It is rooted in good practice in recruitment and selection and intended to help selection panels design appointment rounds that deliver the skills, knowledge and experience needed as well as being welcoming and accessible to people from all backgrounds. It is therefore more prescriptive in some areas than the prior versions. It requires a greater level of respect for applicants. It requires officials to plan and to design appointment processes based on evidence of what works well to secure diversity. It is more focused on outcomes than on processes.

Diverse boards benefit from fresh perspectives, new ideas, vigorous challenge and breadth of experience. A more diverse membership and skillset enables the board of a public body to keep better pace with often changing contexts. While the current global pandemic is an extreme example of a world-wide system shock, Scotland's public bodies are already having to adapt flexibly to changes in services, resources, public needs and expectations and approaches to delivery. Organisations that understand and reflect the people and communities that they serve are more likely to have credibility with them and deliver better services; this in turn promotes wider engagement and public trust in board decision-making.

I am strongly supportive of diversity of thought and contribution resulting in better corporate governance and decision-making, and, in turn, supporting the continuous improvement of our public services in Scotland. For this reason, the revised Code is unashamedly focused on enabling more creative and ambitious approaches to attracting and appointing the best new board members from the widest possible pool of applicants.

As well as providing oversight of a selection of appointment rounds, either partially or end-to-end, I intend to review whether this revised Code is meeting its objectives. I will do so by conducting thematic reviews on topics that I will consult the Scottish Parliament and other stakeholders on. These may include, for example, whether the process is taking less time, whether applicants feel respected and whether boards are becoming more diverse as a consequence of the changes that have been made.

I also intend to refresh "Diversity Delivers". That strategy was published in 2008 and requires to be updated. This Code concerns the appointments process but in order for ministerial and parliamentary ambitions to be met, I believe the Scottish Ministers must have plans in place for national, regional and characteristic-specific activities in order to raise the overall level of awareness and provide the pipeline of applicants that will enable our boards to be truly reflective of society.

## The Principles of the Code

**Merit** - All public appointments must be made on merit. Merit is defined by the Scottish Ministers for each board position to be filled, based on that board's specific needs at the time of, and anticipated period for, that appointment. Only persons judged most able to meet the requirements of the post will be appointed.

**Accountability** – The Scottish Ministers are ultimately responsible for making appointments in accordance with this Code and all other applicable legislation. The Commissioner is responsible for encouraging compliance with the Code and overseeing and reporting publicly on the practices employed by the Scottish Ministers and the people to whom they delegate responsibility.

**Openness, Transparency and Integrity** – The appointments process must be open, fair and impartial. The integrity of the process must be transparent and earn the trust and have the confidence of the public.

**Equality, Diversity and Inclusion** – The boards of Scotland's public bodies should be reflective of the communities that they serve and the Scottish Ministers will take substantive steps to achieve that aim. 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 and the practices employed must be inclusive for people from all walks of life and backgrounds.

**Respect** – Applicants and ultimately the people appointed to boards are integral to the good governance of Scotland's public bodies. Applicants will be accorded the respect that they are due for their interest and their efforts and appointees for their contribution to public life.

### **Focus on outcomes**

The appointments process must be focused on successful outcomes. In simple terms, this means a good appointment that meets the needs of a board and increases diversity. The Commissioner is willing to vary the Code's provisions – in response to any reasonable requests from the Scottish Ministers and as long as the principles set out above are not compromised – in order to secure a successful outcome.

## A The responsibilities of the people who uphold the principles

### The Scottish Ministers

**A1** Fair, open and merit-based appointments are the responsibility of the Scottish Ministers who will:

- i. ensure that the requirements of relevant legislation and this Code are reflected in all appointment activity
- ii. be satisfied that the practices applied at each stage of an appointment round are appropriate for the role to be filled
- iii. ensure a record is made of key decisions and actions taken during every appointment round. The record will be sufficient to demonstrate that decisions are appropriate
- iv. have in place an effective system for handling, and recording details of, all complaints about the appointment process
- v. provide the Commissioner timeously with those plans and reports relating to board diversity that they are required to produce in accordance with applicable legislation and any self-imposed commitments to improve in this area
- vi. provide the Commissioner timeously with whatever information the Commissioner reasonably requires to perform the statutory functions set out in the Act.

**A2** The Scottish Ministers are responsible for succession planning to ensure boards have the skills, knowledge, experience, including lived experience, values and other attributes 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 board concerned. Where appropriate, the Scottish Ministers must consult the boards concerned to ensure that plans for succession are well-informed and will, where appropriate, require boards to develop and maintain succession plans for this purpose. Succession plans will take account of the current board's composition, its purpose, its strategic objectives, where applicable, and its operational context.

**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, experience, including lived experience, values and other attributes on a board by making a new appointment through open competition.

**A4** The Scottish Ministers should ensure that all appointment rounds are dealt with as efficiently and effectively as possible. Indicative targets for timescales will be set by the Commissioner in statutory guidance to track the progress of all new appointment activity. A target will be set in the statutory guidance for the amount of notice board members should receive about reappointment or term extension.

**A5** The Scottish Ministers are responsible for specifying members of the selection panel. They will consider whether to appoint an independent person. That person must not be a member or official of the Scottish Government or of the public body. They must not hold or have recently held a position that would call into question their ability to fulfil their role in a truly independent and impartial manner. In appropriate cases, the Scottish Ministers will appoint the public body chair to the panel. Selection panel members will:

- i. be knowledgeable about the public body and the appointment to be made
- ii. understand the skills, knowledge, experience, including lived experience, values and other relevant attributes required of the person to be appointed
- iii. have demonstrated sound judgment and decision-making
- iv. be competent to fulfil a role on the panel.

The Scottish Ministers will specify who will chair the panel. The chair of the panel must have been trained on the appointments process and on diversity, equality and inclusion in the context of making public appointments. The independent panel member must be similarly trained and provided with appropriate terms of reference and support to fulfil their role. Other panel members will be provided with the same training at their request.

**A6** The Scottish Ministers are required to define merit at the outset of the appointments process and to decide whether to appoint candidates at its conclusion. All other practices required by this Code may be delegated to officials or others as appropriate. Whether to delegate such responsibility will be a matter of choice for each appointing minister.

### **The Selection Panel Chair**

**A7** The implementation and outcome of an appointment round are the responsibility of the selection panel chair. This includes responsibility for:

- i. fulfilling the role of a panel member
- ii. making key decisions on behalf of the Scottish Ministers
- iii. complying with the requirements of this Code
- iv. taking action when it appears the requirements may not be met
- v. providing the Scottish Ministers with assurance that the requirements of the Code have been met.

### **The Selection Panel Members**

**A8** The role of the selection panel is to assist in the design of the appointments process and to assist in the assessment of the suitability of candidates for appointment.

**A9** Members of the selection panel will:

- i. be competent to fulfil their role on the panel
- ii. understand and comply with the requirements of the Code
- iii. understand the purpose of and participate fully in planning the appointment process
- iv. declare to their fellow panel members any conflicts of interest they may have that are relevant to their participation as a panel member. Where the conflict is considered significant enough to have an impact on either the outcome of the round or public perception of the outcome of the round, the matter will be referred to the Commissioner for consideration before the round can proceed.

**A10** Membership of the selection panel will remain the same throughout the appointment round, unless a change of membership is required through unavoidable circumstances such as ill health or moving to other responsibilities. Changes to panel membership during a stage of assessment must be avoided where possible.

**A11** If a member of the selection panel knows, or knows of, one or more of the applicants, they will inform their fellow panel members and explain the nature of the relationship or knowledge.

**A12** Applicants will be asked to inform the selection panel chair if they know one or more of the selection panel members.

**A13** If the nature of any relationship between a selection panel member and an applicant means it may be inappropriate for the panel member to assess the applicant, the panel chair will consult the Commissioner and agree appropriate action.

**A14** If at any point from the beginning of a round information about an applicant, relating to whether they may not be a fit and proper person, becomes known to a member or members of the selection panel and that:

- i. calls into question an applicant's suitability for appointment
- ii. may affect the credibility of the appointment process
- iii. may affect the credibility of the public body concerned

they have a responsibility to share this with their colleagues on the selection panel. The panel will consider the potential impact of the information if the applicant were to be appointed.

**A15** The consideration of such matters will take place openly and involve transparent investigation to establish the facts. The applicant will be given an opportunity to respond before any final decision on their suitability for appointment is made.

### **The Commissioner and the Commissioner's Representatives**

**A16** The Commissioner will provide independent scrutiny of the methods and practices employed by the Scottish Ministers for making appointments.

**A17** The Commissioner will do so by allocating a representative to oversee all or part of any appointments process. The representative will not be excluded from any stage of a process that the Commissioner considers they should be involved in. This will include any early engagement meeting held to discuss the needs of the board. If the representative is overseeing an appointment process from end-to-end, they will be designated as a panel member. The Commissioner may also designate their representative as a panel member for the planning phase of an appointment process only.

**A18** The role of the representative will be to promote compliance with the Code by providing advice and guidance on applying the Code's provisions and on good practice in recruitment and selection. The Commissioner's representative will contribute to panel deliberations but all key decisions are ultimately for the chair of the panel to make. The Commissioner's representative will produce a report at the conclusion of their involvement in an appointments process, setting out the methods and practices that they have observed and the extent to which their guidance on code compliance and good practice has been followed. The Commissioner will periodically publish such reports in full or in summary.

**A19** Where clarity on the interpretation of the Code is required at any point by an appointing minister (or panel chair representing the minister), a panel member and/or the Commissioner's representative, they should approach the Commissioner for definitive guidance.

**A20** The Commissioner will also issue statutory and non-statutory guidance from time to time on how the requirements of the Code may be translated into practice.

**A21** The Commissioner will take such action as deemed appropriate when potential or actual material non-compliance with the Code is identified.

**A22** The Commissioner will, if considered appropriate, refer complaints about the appointment process to the Scottish Government for resolution. The Commissioner will investigate all relevant and competent complaints that complainers believe have not been resolved within a reasonable time following initial investigation by the Scottish Government.

## B The appointing minister's priorities for the board

**B1** When considering any appointment activity, the Scottish Ministers will take into account the effectiveness of the board and how well it is functioning. They should consider the current composition of the board in terms of the attributes and the diversity of its membership. Attributes may include skills, knowledge, experience – including lived experience – values, perspectives, backgrounds – including socio-economic background and sector worked in – and geographical location. Diversity will be considered in relation to the protected characteristics of the current members, to the extent that that is known, in comparison with the protected characteristics of the population of Scotland or the region served by the board as appropriate. The Scottish Ministers will then determine what skills, knowledge, experience and other attributes are needed by the board for it to perform its statutory functions and to do so economically, efficiently and effectively.

**B2** When the Scottish Ministers decide the effective functioning of the board requires a new appointment sections C to E and I apply.

**B3** When the Scottish Ministers decide the board requires a reappointment, term extension or the promotion of member to a deputy chair role, section F applies.

**B4** When planning a new appointment, the Scottish Ministers will communicate to the selection panel their desired outcome for the appointment exercise. The skills, knowledge, experience and related attributes represent “Merit” for the purposes of the appointment being made. The definition of “Merit” cannot include protected characteristics. Where the Scottish Ministers wish to see the under-reflection of protected characteristics on a board addressed, this will also be communicated to the panel.

## C Diversity by design - the appointment plan

**C1** The selection panel will design an appointment plan to deliver the appointing minister's preferred outcome. The plan will include:

- i. a clear and accurate description of the role to be performed (the role description). This must include an accurate assessment of the time commitment required to fulfil the role and of the remuneration and expenses paid, where applicable. If the role is being offered on a role share, or other flexible basis, details will be provided on what this will mean in practice for those who might wish to take up the role
- ii. a clear and accurate description of the attributes that the minister requires of the ideal appointee (the person specification). The attributes will be described in a way that is readily understandable, is capable of assessment and reflects the requirements of the role. They will not be unnecessarily restrictive. They will not include protected characteristics. The person specification will be clear about the extent to which criteria have to be met and whether some attributes take priority over others. The attributes set out in the person specification constitute “the criteria for selection”
- iii. the publicity, application and assessment methods to be used
- iv. any positive action measures intended to redress the under-reflection of protected characteristics on the board concerned
- v. a timetable specifying key prospective dates within the round.

The panel chair is responsible for finalising the appointment plan and will take the views of the panel members into account in doing so.

**C2** The application and assessment methods and any positive action measures selected will be based on evidence of what works well to attract and lead to the appointment of a diverse range of able applicants, taking account of relevant information held by, maintained and regularly updated by the Scottish Government for this purpose.

**C3** All materials to be made available to prospective applicants such as publicity or advertisements about posts, details about posts, the assessment criteria to be applied, and the application forms (or equivalent) should be clearly and plainly drafted using simple, easy to understand, language. The objective should be to encourage the optimum number of people to apply for positions and for people to find it a comparatively easy exercise to submit applications.

**C4** Publicity content, appropriate, resource-efficient publicity methods and information to be made available to potential applicants will be designed by the selection panel. The panel chair will make the final decision on these matters on behalf of the appointing minister, and will take the views of the panel members into account when doing so. Matters relating to publicity and information which must be considered by the selection panel are listed in Annex Two. Publicity will explain that the appointment is regulated by the Commissioner.

**C5** When an appointment requires parliamentary approval, the selection panel will consult the relevant subject committee with a view to agreeing that the plan will deliver against parliamentary and ministerial requirements.

**C6** Whether or not to approve the appointment plan is up to the appointing minister. Once the plan has been finalised the appointing minister may be kept informed about the progress of the appointment round. They will not be actively involved in the deliberations of the selection panel but may be approached for a view if any issues arise during the course of the round.

**C7** At the conclusion of the appointment exercise, the panel chair must set out in a report the extent to which it delivered or failed to deliver the desired outcome set by the appointing minister. Reasons for success or failure must be included in that report. A copy of the report will be provided to the appointing minister and to the Commissioner. The information contained in these reports will be used to contribute to continuous improvement of the appointments process (see C2).

## **D** Assessment is appropriate

**D1** The methods used to assess applicants will:

- i. be capable of assessing whether applicants have the skills, knowledge, experience and other relevant attributes specified by the appointing minister (the criteria for selection)
- ii. be open and transparent
- iii. accommodate the needs of and not present a barrier for people from different groups; reasonable adjustments will be proactively offered in the applicant information pack so that applicants do not feel compelled to or awkward about requesting them
- iv. provide applicants with fair and equal opportunities to demonstrate their merit
- v. remove as far as reasonably possible the impact of personal bias on selection decisions
- vi. enable panels to explore whether each applicant is a fit and proper person for the position for which they have applied and accepts the Principles of Public Life in Scotland (Annex One) and the public body's Members' Code of Conduct.

**D2** Application and assessment methods will not present a barrier to people currently under-reflected on boards and will have appropriate predictive, content and face validity. They will enable and encourage people to describe how they meet the requirements of the role. Where a class of new application and/or assessment methods are to be introduced, the Scottish Ministers, or panel

chair if this is delegated, will consider whether an equality impact assessment is required to ensure that they meet these requirements.

**D3** Selection panel members will assess the merits of applicants against the attributes specified by the appointing minister, and published in the applicant information pack, using the methods they have agreed. New requirements will not be introduced during any stage of the appointments process.

**D4** The selection panel may delegate any or all of the stages of assessment, other than the final stage, to appropriately qualified individuals or organisations. This includes sifting, shortlisting, the running of assessment centres and the application of practical tests at any stage of the appointment process. This allows for assessment to be conducted for multiple posts for multiple bodies at the same time and is intended to make best use of resources. The panel chair is responsible for ensuring Code compliance when assessment activity is delegated.

**D5** Assessment will be undertaken by individuals who will be:

- i. competent to assess using the methods chosen
- ii. consistent in their assessment of applicants
- iii. knowledgeable about equality and diversity issues and the impact the chosen methods may have on different groups of applicants.

Where specialist knowledge is to be assessed by an expert panel member, individual or organisation, that member, individual or organisation may not be required to demonstrate iii. above.

No individual or organisation with a conflict of interest that might render the outcome unfair, or create the public perception of unfairness, may conduct assessments.

**D6** Assessment activity will identify the applicants who have met the criteria for selection specified by the appointing minister and those who have not.

**D7** The individuals who have most closely met the criteria for selection will be the 'most able' candidates recommended to the appointing Minister.

**D8** The selection panel will draft an applicant summary. The summary will set out the panel's view on how each applicant did or did not meet the criteria for selection. The content of the applicant summary is a matter for the selection panel chair, taking the views of the selection panel members into account.

The detail included in the applicant summary will be reasonable and proportionate to the stage of assessment reached by the applicant and the number of applications received.

The applicant summary will be based on the information provided by each applicant during each stage of the appointment round and will be sufficiently detailed to:

- i. identify to the appointing minister the most able applicants
- ii. provide evidence that the panel's decisions are valid
- iii. Include a summary of the fit and proper person test, where that has been delegated to the panel
- iv. provide feedback to applicants.

The appointing minister may choose to receive the entire summary or only that part which identifies the most able applicants.

**D9** The applicant summary will contain the selection panel and panel chair's recommendations for appointment. The panel and panel chair will recommend only the applicants they have identified as the most able.

## **E** The most able people are appointed

**E1** The applicant summary will be the basis of the appointing minister's appointment decision. The minister's decision will be based on the selection panel assessment of the applicants' merit and information from the fit and proper person test, where that has been delegated. In the event of a tie break, where there are equally qualified candidates, the appointing minister should be guided by the relevant legislation when making their decision. The minister must not introduce new requirements when making their decision.

**E2** The appointing minister may meet the recommended applicants before making their final decision.

**E3** The appointing minister will select the most able applicant(s) who has(have) most closely met the criteria for selection set out in the published applicant information pack. The appointing minister may choose not to appoint.

**E4** When the minister has made the decision whom to appoint and whom not to appoint, the reasons for these decisions will be recorded. This information will form the basis of additional feedback provided on request to applicants who are recommended to Ministers.

**E6** The appointing minister will take steps to confirm that the applicant is a fit and proper person for the position to which they are to be appointed. This will require:

- i. verification of relevant information provided by the applicant
- ii. confirmation that the applicant's conduct to date has been compatible with the public appointment
- iii. confirmation that the applicant has no inappropriate or unmanageable conflicts of interest incompatible with their appointment
- iv. determining that the applicant's appointment is not barred by reference to the constitution of the body concerned by way of, for example, criminal offences or other relevant matters
- v. ensuring that the applicant agrees to apply the Principles of Public Life in Scotland and be bound by the Members' Code of Conduct for the body concerned
- vi. establishing that the applicant is able to meet the time commitment required.

This activity may be delegated to selection panels and/or suitably qualified individuals or organisations. No applicant will be ruled out on the basis that they do not meet the fit and proper person test until the facts have been established and they have been given the opportunity to respond to that conclusion (see A14 and A15).

## **F** The board has continuity of skills, knowledge, experience and other relevant attributes

**F1** The Scottish Ministers may reappoint a board member to the same position or extend a member's appointment term provided that:

- i. the member's performance has been properly appraised as being effective during the current term and the member has been given the opportunity to demonstrate that they have the appropriate skills, knowledge and experience and other attributes required
- ii. the reappointment or extension will continue to meet the board's needs for the period concerned

- iii. the member's total period of appointment will not exceed 8 years.

**F2** The Scottish Ministers may promote a board member to the position of deputy chair. Decisions to promote will be based on

- i. evidence of effective performance during the current term
- ii. evidence that the member has the attributes needed for the position to which they are promoted.

An individual promoted in this way is still restricted to 8 years in post overall.

**F3** The Scottish Ministers will ensure through their administrative processes that boards have in place and regularly refresh plans for succession. Such plans should reflect the latest Scottish Government policy and guidance on succession planning. They should be based on the board's composition, operational context and, where applicable, strategic objectives. They should also include, where applicable, other measures such as community outreach and engagement to encourage applications and board apprenticeships, development and shadowing and mentoring schemes, particularly for those from currently under-reflected groups. The Scottish Ministers may in practice delegate some or all of these activities to boards themselves whilst ultimately remaining responsible for their successful implementation.

## **G** The appointments process is transparent

**G1** The Scottish Ministers will publicise all appointment decisions. Announcements will include:

- i. the name of the individual concerned
- ii. a short description of the body to which the appointment, promotion, reappointment or term extension has been made
- iii. a brief summary of the attributes the individual brings to the role. For new appointments these should be linked directly to those that were set out when the vacancy was publicised
- iv. the length of term of the appointment, promotion, reappointment or extension
- v. whether the appointment is remunerated and, if so, the remuneration amount
- vi. whether the individual holds other public appointments and, if so, what these are and the amount of remuneration for each
- vii. the activity noted in the political activity form completed by the individual appointed, promoted or reappointed or whose term has been extended.

The Scottish Ministers will maintain an online easily searchable archive of all such appointment announcements.

**G2** The Scottish Ministers will maintain a list of regulated public appointments made. The list will be in the public domain and will be made available in accessible formats in response to appropriate requests. It will set out:

- i. all regulated public bodies
- ii. the names of the board members whose board member positions are regulated
- iii. the date of their initial appointment
- iv. the date, where applicable, of their reappointment
- v. their term of appointment
- vi. the date on which their current appointment ends
- vii. the names of people who hold and have held more than one regulated public appointment made by Scottish Ministers. The details of current and prior appointments held (for the time being, within the limits of the Scottish Government's Records Retention Policy) must be

- shown so that the Scottish Ministers and others are able to monitor and evaluate the impact of this phenomenon on board diversity
- viii. the amount of remuneration received for their appointment(s).

## H Exceptional circumstances

**H1** The provisions of the Code may require to be varied to take account of exceptional circumstances. Without intending to be comprehensive, exceptional circumstances will include the following –

- i. significant local, national or international events that require a level of agility and flexibility in order to maintain board stability and resilience
- ii. where a chair, vice chair or member has died, is indisposed through ill health or is otherwise unable or unsuitable to hold office, or where a member has resigned unexpectedly
- iii. where a new appointment has to be made to fill the resulting vacancy as a matter of urgency
- iv. where the constitution of the public body or its board is under review and likely to be changed in the near future and, if necessary, existing members should have their period of office extended beyond the 8 year maximum for continuity purposes
- v. where a change to panel membership is required and the circumstances are avoidable but not covered by the provisions set out at A10 of this Code.

**H2** In exceptional circumstances, the Scottish Ministers may make appropriate appointments (including reappointments or extensions), with the agreement of the Commissioner, to ensure the effective continuing governance of boards. Other Code provisions may be varied with the agreement of the Commissioner, who will respond favourably to reasonable and evidence-based requests as long as the principles of the Code are not compromised.

## I Respect for applicants

**I1** Applicants will be made aware of the key dates for each appointments process by reference to the timetable published in the pack. Applicants will be advised timeously if any changes to these dates have to be made and consulted to ensure that they are available for prospective new dates for assessment or decision-making.

**I2** Applicants will be advised about what will happen to the information that they provide, including their initial application and monitoring data.

**I3** Applicants who reach the final stage of assessment will be asked to complete a political activity declaration form. The reasons for this will be explained, as will the fact that political activity is not necessarily a bar to appointment in the majority of cases.

**I4** Constructive, tailored and meaningful feedback will be provided to all unsuccessful applicants who make a reasonable request for it.

**I5** Applicants who apply for roles that are subject to parliamentary approval will be provided with full information on what will be shared with the parliament, what will be put into the public domain and what parliamentary involvement in their assessment and appointment will mean for them.

**I6** Applicants will be provided with information on the development and support that they will receive if they are successfully appointed.

**I7** Those who are appointed will be asked to provide feedback on their induction and training.

18 From time to time the Commissioner may provide recommendations to Ministers based on feedback from applicants. These will be considered in accordance with C2 of the Code.

## Annex 1 The Principles of Public Life in Scotland

The Principles of Public Life in Scotland apply to all who hold public office including members of public bodies. These principles are stated as follows:

### **Duty**

I have a duty to uphold the law and act in accordance with the law and the public trust placed in me. I have a duty to act in the interests of the public body of which I am a member and in accordance with the core functions and duties of that body.

### **Selflessness**

I have a duty to take decisions solely in terms of public interest. I must not act in order to gain financial or other material benefit for myself, family or friends.

### **Integrity**

I must not place myself under any financial, or other, obligation to any individual or organisation that might reasonably be thought to influence me in the performance of my duties.

### **Objectivity**

I must make decisions solely on merit and in a way that is consistent with the functions of my public body when carrying out public business including making appointments, awarding contracts or recommending individuals for rewards and benefits.

### **Accountability and Stewardship**

I am accountable to the public for my decisions and actions. I have a duty to consider issues on their merits, taking account of the views of others and I must ensure that my public body uses its resources prudently and in accordance with the law.

### **Openness**

I have a duty to be as open as possible about my decisions and actions, giving reasons for my decisions and restricting information only when the wider public interest clearly demands.

### **Honesty**

I have a duty to act honestly. I must declare any private interests relating to my public duties and take steps to resolve any conflicts arising in a way that protects the public interest.

### **Leadership**

I have a duty to promote and support these principles by leadership and example, and to maintain and strengthen the public's trust and confidence in the integrity of my public body and its members in conducting public business.

### **Respect**

I must respect all other board members and all employees of my public body and the role they play, treating them with courtesy at all times. Similarly, I must respect members of the public when performing my duties as a board member.

## Annex 2 Publicity and Information to be provided to applicants

### Publicity

1. Publicity will provide potential applicants with the contact details of the individuals whom they may approach to discuss
  - the board role
  - the application process.
2. Publicity will be designed to enable potential applicants to make an informed decision about whether they meet the requirements of the role. It will provide a clear and accurate description of the role to be performed and the attributes required to be effective in the role. Where role sharing (or other flexible option) is a possibility, full details of what that will entail will be included in the pack.
3. Publicity must give an accurate assessment of the necessary time commitment and will state whether the position is remunerated; if remunerated, the amount will be indicated. Publicity must also advise which out of pocket expenses will be reimbursed for people who are appointed.
4. Publicity will describe the application and assessment methods to be used and identify those who are involved in assessment, including where assessment is to be delegated, so that applicants are able to declare prior relationships with such individuals and organisations.
5. Information about the role, the appointment timetable and the application and assessment methods will be available to everyone who expresses interest in the position. It will be made available in accessible formats in response to appropriate requests.
6. Publicity will make clear the fact that applicants can request a reasonable adjustment at any stage of the appointment process. Illustrative examples should be included such as:
  - information being made available in alternative formats
  - support that can be provided to help people to apply.
7. Publicity will make clear the closing date for applications. Any change to the closing date will be agreed by the selection panel and will be fair to applicants and potential applicants.

### Information

8. The information and material to be provided or available to the candidates will be readily accessible, informative, encouraging, brief, plainly expressed and compliant with relevant statutory obligations.
9. The following material should normally be provided:
  - i. accessible contact details for named persons whom applicants may approach with any specific queries regarding the work of the board or the appointment process
  - ii. the appointment timetable, including an indication of circumstances in which the start date for the appointment may be delayed
  - iii. the role description
  - iv. the person specification
  - v. specific documentation relevant to the role and/or the public body including details of any disqualifications from membership and signposting the Code of Conduct, including the Principles of Public Life in Scotland, that the board members are bound by
  - vi. material appropriate to the chosen assessment method, such as an application form

- vii. a statement about any pre-appointment checks required e.g. Disclosure Scotland checks
- viii. information on what will happen to documentation generated during the appointment round, who will have access to it for what purposes, and advising that all information provided by the applicant will be provided to the Commissioner and/or the Commissioner's representatives on the request of the Commissioner and that in applying the applicant is deemed to have consented to this
- ix. the leaflet provided by the Commissioner describing what an applicant can do if he or she wishes to make a complaint
- x. information on how the appointment will be announced. This will include the requirement to publicise information about the individual appointed and their political activity within the past five years
- xi. details of reimbursement of expenses incurred if the applicant is invited for interview.