

Community Justice Scotland's response to the Consultation on Potential revisions to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland

Community Justice Scotland (CJS) welcomes the opportunity to comment on the consultation paper. In particular we very much support the general thrust of the need to achieve greater progress in increasing diversity and equality across the Boards of public bodies. We also recognise that this is not simple to achieve. In terms of changing the gender balance of Boards specific legislation was introduced and clearly this has been successful.

We think it important that the Scottish Ministers are held to account for achieving greater diversity. There should be clear targets set which reflect the significant range of public bodies in terms of their role and stakeholders. There may be merit in such targets being consulted upon. We consider that a key role of the Commissioner is to report to the Scottish Parliament and the public on the achievement or otherwise of achieving the targets and increased diversity and to be able to make recommendations where progress is not sufficient.

In terms of the code we think that there is real benefit in it providing Scottish Ministers sufficient flexibility in determining how they will achieve the targets and ensuring diversity in public appointments. There is a danger that being too prescriptive in the code will reduce that flexibility and limit the ambition to look at new and different ways of encouraging and achieving greater diversity. Judicious use of statutory guidance can help provide assistance to Scottish Ministers in areas where this might be useful. But again it is important not to remove the responsibility for doing things better from those who are charged with making the appointments. We think it important that the code focuses on the requirements which will ensure that processes are fair and transparent and are about increasing diversity.

More generally we consider there is a need for much greater support and investment to help encourage people from under-represented groups to see themselves as being effective members of public bodies. We have set out below some suggestions from our experience which, although not directly matters for the code, might help improve diversity if adopted.

There is a challenge for the Commissioner in her regulatory role in maintaining necessary separation from the detail of individual recruitment exercises so that her reports and recommendations are seen as independent and objective. The advice and expertise of the Commissioner's advisors is very helpful to those sitting on recruitment panels. However, where they are full members of the panel this might be seen by some as compromising the Commissioner's independence. The focus should be on 'outcomes' and ensuring that appointees can take the work of the organisations forward while also being representative of the diversity of Scotland. That does not necessarily mean that Advisors have to sit on appointment Panels.

We would also support greater auditing of a proportion of recruitment exercises to help provide assurance on the approaches taken. However, it is important that these audits are not viewed by those undertaking recruitment exercises as discouraging new and innovative approaches to improving diversity – the opposite should be the

case. This approach should also support greater emphasis on achieving outcomes and improvement.

Other matters raised in the consultation where CJS think it appropriate to comment are:

Para [3.6] - We would support the introduction of SMART Actions.

Para [5.3] - We would support the review of Diversity Delivers. This seems to be an obvious concomitant to increase the diversity of Boards.

Para [5.5] - We think there is a need to strengthen succession planning for the Boards of Public bodies. The current system can tend to focus on immediate needs rather than looking at the medium term. It is also not uncommon for up to half of Board members to end their terms at the same time. This can have a significant impact on the operation of Boards and organisations. Better phasing of appointments would be helpful.

Para [5.5] - We would support a requirement for diversity assessments to be made for each Board and for a more formal requirement for lessons to be learned to be introduced the sharing of lessons to be learned should be incorporated into guidance for recruitment panels.

Para [5.5] - We agree the Code and guidance should allow for additional appointments without the need for a Code variation.

Para [5.5] - There needs to be clear plans and assessments of needs for each Board and the positions being recruited. Clearly these assessments should involve the public bodies.

Para [5.9] - Other attributes - These should include other specified attributes as determined by the needs of the particular body and position. For example bodies such as CJS benefit greatly from lived experience and many other boards are likely to have similar needs. The Code may benefit from a requirement to match assessment methods to the attributes being sought. Greater emphasis could be given to Body's values.

Para [5.11] - We consider it important that panel chairs receive training to ensure they have the necessary understanding of the different needs and challenges of this type of recruitment, the challenges of increasing diversity etc. This will be helpful to give them the confidence to try new and different approaches to encouraging more people from different backgrounds to apply. They should take the lead and understand their responsibility for helping to design the appropriate attraction, application and assessment strategies. Training for other panel members would also be beneficial.

Some ideas and comments for improving and widening recruitment:

- CJS agrees that public appointments are made on merit and should be fair and open. Consideration on how and where these posts are advertised, including reflections on how to reach a wider audience should be undertaken,

specific focus should be on gaining the perspectives of groups that the Public Appointments would like to attract and how to achieve this.

- Lower applications from under-represented groups may be due to some individuals not seeing people like themselves being successfully appointed and are self-sifting out of the process. We consider that much more needs to be done to encourage people from under-represented groups. The reasons why under-represented groups are not applying or indeed successful in the public appointments process could be explored e.g. via targeted focus groups such as active community groups, third sector or business organisations who can provide support and training in the recruitment process.
- Consideration of how to achieve applications from a wider talent pool should be undertaken some ideas include; Media campaigns headed by up people from under-represented groups that have been successful in the process. A review of messaging and language used to promote opportunities, targeted advertising and recruitment, a review of current application process aligned with latest findings on barriers encountered and representative interview panels.
- Revision of the application pack material, competency based approach (which maybe a barrier for many people who have no experience of such approaches) and methods of assessment which may also be barriers for some applicants and should be investigated.
- For some bodies lived experience should be a factor as well as knowledge and experience. Applicants could be encouraged to providing a statement on their values and how they relate to the body's values and expectations could be included in the application process, with appropriate weighting given to values in the sifting process.
- Mock interviews should be offered for those interested in becoming a board member.
- We consider there needs to be greater support available for training new Board members both for the appointees but also public bodies. It should be made clear to those who might be tempted to apply that training and support will be provided over a period of time. The current 'On Board 'course is not sufficient help for new Board members.



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