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9 November 2020

Dear Caroline

Please find enclosed a copy of our response to the consultation on revisions to the Code of Practice. As you will know Scottish Ministers value appropriate and proportionate regulation for our public appointments process and we are committed to delivering a transparent process that is based on merit. I would welcome a commitment to light touch regulation which would be appropriate given the small number of appointees involved coupled with the oversight that you already employ via the Advisers. It would support delivery of the merit-based approach and minimise bureaucracy and other impediments to an open, inclusive and transparent process that is focussed on ensuring our public services remain effective and reflective of the communities they serve.

I am pleased that we share a desire for greater diversity within public appointments. I am proud that women now comprise 50% of regulated public appointees, a significant improvement from 42% in 2015. The figures from 2019 show other successes: we exceeded the 8% target for the percentage of applications from people from a visible ethnic minority. We also exceeded the target of 40% for applications from women. Further, we achieved improvements in the rate of applications across disability (increase from 9% in 2018 to 13% in 2019), sexual orientation (increase from 4% in 2018, 5% in 2019) and under 50s (increase from 28% in 2018 to 31% in 2019). We also achieved improvements in the diversity of appointments made: people from ethnic minority backgrounds made up 6% of new appointments and 12% of appointments were made to people who declared a disability. This is testament to the work of officials and panels, who have striven to deliver appointment rounds, improvement work and outreach to our communities. Going forward, I am confident that we have policy, practice and proposals in place to continue to improve the representation in public life of people from protected groups.

It is of course disappointing that we may see a slowing of progress in 2020 because so much work was put on hold but the demands of this world pandemic have necessitated such actions.

Tha Ministearan na h-Alba, an luchd-comhairleachaidh sònraichte agus an Rùnaire
Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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Your flexible response to that, and to granting term extensions to appointees, continues to be vital and is appreciated.

For now, the Scottish Government continues to respond to the current and anticipated pressures of COVID-19 and EU Exit. I believe now is an apt time to facilitate flexibility through minimising bureaucracy brought about by prescriptive regulation of the appointments process. Methods to maintain efficiency in our appointment rounds will be required. Using search consultants will be a necessity in some rounds for many parts of the process beyond outreach. An increase in joint-board rounds, multiple appointment rounds and a move away from bespoke rounds, and bulk processes to create a pre-qualified pool, for example, will all help to bring economies of scale and allow for methods used elsewhere in our recruitment processes to increase the diversity of successful applicants. I note that early indications from your office have not been warm to our exploration of such measures and I find that disappointing. I believe we must think and act boldly to build on the 2019 successes and tap into the wide pool of diverse talent which exists in order to support our aspirations for a diverse and inclusive public appointments landscape.

As you will see from the consultation response, I wish to ensure that there is a clear line of separation between the Scottish Government's operational processes and the regime provided for under your Code and Guidance. I have previously written to you with my views that the prescriptive nature of the Code of Practice and Guidance can have a negative effect on innovation and can inhibit responding efficiently to challenging circumstances as they arise. The indications in your consultation paper suggest that this issue will be exacerbated.

I am keen that the Code and any Guidance ensure an appointments process that is efficient, person-centred and outcome-focussed rather than process-focussed. To this end, further prescription within the Code of Practice and Guidance are undesirable and unnecessary and I urge you to adopt a principles-based approach.

I trust that you will find our response to your consultation helpful, I would welcome sight of any proposed changes you wish to make to the Code of Practice before it is finalised.



KATE FORBES

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