

Call for Evidence on the Gender Representation on Public Boards (Scotland) Bill

Colleges Scotland welcomes the opportunity to provide evidence to the Equalities and Human Rights Committee on the general principles of the Gender Representation on Public Boards (Scotland) Bill.

Colleges Scotland is the membership body for Scotland's 26 colleges, cited in our local communities across 13 regions in Scotland, who each service the education, skills and training needs for over 227,000 students each year and employ around 11,000 staff. Our colleges are committed to inclusive growth and tackling inequality through the provision of high quality skills and education within the communities they serve.

Our responses to the key issues are explored below from the perspective of Colleges Scotland.

Introduction

College governance has been high on the agenda since the enactment of the Post-16 Education (Scotland) Act 2013. The college sector has not only undergone significant legal changes to how its boards operate but also experienced cultural change. The establishment of the Good Governance Steering Group (GGSG) in October 2013 sought to achieve a sector-wide ownership of what constitutes the '*principles of good governance*' and this was accomplished through the publishing of the *Code of Good Governance for Scotland's Colleges* (the Code) in December 2014 which was later updated in August 2016.

Following the implementation of the Code, the GGSG has spent the last three years continuing its work by developing various good practice guidance, frameworks and models, considering other recommendations and areas of best practice. It has also focused its efforts on ensuring existing college board members and board secretaries across Scotland are appropriately trained in good college governance.

The GGSG has now taken ownership of the workplan from the Scottish Government's Good Governance Task Group and is putting better arrangements in place to improve board member recruitment, including how college boards recruit more members from under-represented groups which has become a key focus. Mindful of their societal role in tackling inequalities, the sector has sought to focus on the diversity of their boards however, external factors such as rurality and culture have inevitably had an impact on progress in this area.

The 50:50 Gender Balance Pledge has been a recent positive step forward in terms of organisations demonstrating their commitment to gender balance and colleges are showing their own commitment – so far, nine assigned/regional colleges and regional strategic bodies have signed up to the pledge.

Current College Sector Boards

It should be recognised that college sector boards are regulated by the Post-16 Education (Scotland) Act 2013 and Ministerial Guidance which states that Scottish Ministers will approve members of boards for regional colleges and regional strategic bodies.

Since 2014, Colleges Scotland has collated data on the gender split on college boards annually as at a position of 1st October. Our research shows that there has been an improvement in the number of female non-executive board members within the sector which is a positive step forward. A breakdown of the last three years is shown below:

Non-Executive Board Members	2014*		2015		2016	
	Male	Female	Male	Female	Male	Female
	68%	32%	68%	32%	61%	39%

* does not include figures from regional strategic bodies

From the 2016 data, ten out of 26 college boards have a 50:50 gender split for their non-executive members – give or take one place – and at least two college boards have more females than males.

Over the past six months, colleges have been recruiting for board members, including non-executive members, who are usually appointed for a four-year period. Colleges Scotland will be shortly collating new data on college board members as at 1st October 2017 and will share this data with the committee once available.

From the 2016 data, male college chairs have remained significantly over-represented. A breakdown is shown below:

All College Chairs	Male	Female	Vacant
	21	4	1
	81%	15%	4%

Ministerial Appointed Regional Chairs*	Male	Female
	9	3
	75%	25%

* figures do not include the chair of the Highlands and Islands Further Education Regional Board as this post is appointed by the UHI Court.

It should be noted that due to the Public Appointments cycle, no opportunity has arisen for the sector or Scottish Government to address the gender balance for college chairs.

Key Issues

Colleges Scotland's response to the key issues is set out below:

1. Application Barriers

The impact, if any, on people applying for an appointment as a non-executive member of a public board.

It is important that although boards of Scottish public authorities – through scenario planning and as part of their recruitment process – identify certain skills and experience as well the appropriate representation, it is also important that a focus on gender does not become discriminatory against other protected groups or characteristics, or that the best candidate is disregarded in order to meet a legislative requirement.

Colleges have also raised concerns around the potential risk of candidates being unfairly discriminated which is in conflict to the Equality Act 2010.

2. Recruitment Issues Facing Colleges

The impact, if any, for those public authorities responsible for encouraging and recruiting women to public boards as non-executive members.

The Equality Act 2010 has helped reinforce the practices undertaken by public sector authorities when exercising their functions, including having regard to ensuring equality of opportunity. However, focusing on one specific targeted group can obstruct autonomy and transparency around the board recruitment process and the requirement for boards to be allowed to recruit individuals by making best use of talents, skills and experience of people within the community regardless of protected characteristics such as age, race, gender or disability.

The 2010 Act already stipulates duties which institutions should have regard to in terms of protected characteristics, including recruiting for board positions and these duties continue to be adhered to within the college sector. However, colleges can only appoint from candidates who have shown an interest in applying and consideration should be given as to how best to nationally improve the diversity of a talent pool for recruitment onto public boards.

Unlike some public authorities where their head office may well be city-based and have a larger pool to draw from when recruiting board members, some colleges are located in less urban settings. Senior leaders of smaller colleges have advised that they find the regions they are situated in, as well as rurality factors, have a significant adverse impact on the number of females that apply for board membership. In some cases, the small number of appointable candidates currently applying to college board vacancies may lead to a situation where vacancies are not filled for long periods of time.

3. Reporting Requirements

The Bill requires public boards to report on the operation of the Act, although Scottish Ministers can regulate how this should happen; what should any reporting requirements cover and why.

Through the Post-16 Education (Scotland) Act 2013, Scottish Ministers already approve the appointment of members of boards for regional colleges and regional strategic bodies. As per the [College Sector Board Appointments: 2014 Ministerial Guidance](#), the chair/board secretary of a regional college/regional strategic body are required to provide the following information when submitting the name of a person to Scottish Ministers for their approval:

- a) *confirm that the chair and the board are requesting Ministers to approve the appointment or extension;*
- b) *advise of any timing issues (e.g. does the appointment have to be made by a certain date?);*
- c) *advise whether the lack of approval would mean that the board would have fewer than 15 members;*
- d) *briefly outline the process;*
- e) *explain what was done to improve board diversity, including the gender balance on the board;*
- f) *outline what impact the prospective appointment/extension would have on the board's gender balance; and*
- g) *in particular for extensions, confirm that the existing board member has performed satisfactorily and there are annual assessments of performance to evidence this.*

In addition, this information should be accompanied by a statement from the independent person which:

- a) *outlines their involvement in the process; and*
- b) *confirms whether they are satisfied an open recruitment process was followed in accordance with this guidance.*

As the majority of colleges are already reporting on the gender balance on their boards through existing Ministerial guidance, Colleges Scotland believes it would be appropriate to build reporting lines into these arrangements if they currently exist for public sector authorities.

In addition, the binary definition of 'gender' requires urgent update going forward in terms of reporting accurate gender splits in order to be truly inclusive and mindful of individuals' identities.

4. Non-Compliance

Whether there should be penalties for non-compliance with the Bill and what these should be and why.

If public authorities follow relevant guidance and provide an evidence-base to support their efforts to comply with the legislation, then there should be no requirement for penalties. However, if there is deliberate evasion by a public authority to comply with the guidance, then the administration of penalties may be appropriate.

Further consideration would be required regarding what these penalties should be.

Additional Comments

Please tell us about any other comments you feel are relevant to the Bill.

The college sector is committed to supporting gender equality on its boards and the GGSG will ensure its focus is supporting the sector over the next four years to achieve the desired outcome. However, the enactment of this Bill is unlikely to address the wider societal issue of overcoming barriers to equality and diversity representation on public, private and third sector boards in Scotland. The 'glass ceiling' phenomenon not only applies to women, it is a discriminatory barrier that prevents other groups with protected characteristics from rising to positions of power or responsibility.

Being a member of a public board is a rigorous task. Not only are some board members responsible and accountable for millions of pounds of taxpayers' money, they can also be an employer to hundreds of staff and they are expected to sign a lengthy legal contract which may influence their final decision to join the board.

The main barriers which are often cited as preventing groups of individuals with protected characteristics from applying for board positions are:

1. personal
2. social and cultural
3. institutional
4. structural/location.

By influencing from a young age (from pre-school upwards) and by nurturing, empowering and providing opportunities throughout an individuals' life, the Scottish Government working in conjunction with the wider society has the potential to break through the 'glass ceiling' and achieve cultural change.

It is Colleges Scotland's view that improving diversity on boards of Scottish public authorities is something that can only be changed through a national, partnership approach to tackling the structural barriers which discourage talented and competent individuals from considering a board position. The Scottish Government and public sector authorities should work together to:

- shape and deliver cultural change to create diversity
- develop and share best practice around board recruitment
- develop policies around succession planning to identify and develop new leaders and board members
- introduce national mentoring programmes and board-ready training
- establish regional professional networks in conjunction with the private sector.

Colleges Scotland
August 2017