

CONSULTATION ON THE CODE OF PRACTICE FOR MINISTERIAL APPOINTMENTS TO PUBLIC BODIES IN SCOTLAND

Respondent information

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1. Are you responding as (please tick appropriate box):	
1a. An individual (go to 2a/b, 3)?	
1b. On behalf of a group or organisation (go to 2c/d, 3)?	√
2. Individuals:	
2a. Do you agree to your response being made public (on the Commissioner's website or otherwise published) (please tick one box)?	
Yes (go to 2b below)	
No	
2b. Where confidentiality is not requested, we will make your response available to the public on the following basis (please tick one box):	
Yes, make my response and name available	
Yes, make my response available, but not my name	
On behalf of groups or organisations:	
2c. Do you agree to your response being made public (on the Commissioner's website or otherwise published) (please tick one box)?	
Yes (go to 2d below)	√
No	
2d. Your organisation's name as a respondent will be made available to the public (on the Commissioner's website or otherwise published) unless you request otherwise. Are you content for your response to be made available (please tick one box)?	
Yes, make my response and organisation's name available	√
Yes, make my response available, but not my organisation's name	

Further contact	
3a. We may wish to contact you again in the future to clarify comments you make.	
Are you content for us to do so (please tick one box)?	
Yes	√
No	
3b. We may wish to contact you again in the future for consultation or research purposes. Are you content for us to do so (please tick one box)?	
Yes	√
No	

Response to the Consultation on Potential Revisions to the Code of Practice for Ministerial Appointments of Public Bodies in Scotland

Introduction

The Good Governance Steering Group (GGSG) is the college sector's advisory body on all matters relating to college governance in Scotland. The GGSG prepares and publishes the sector's Code of Good Governance as well as advising and recommending any areas for improvement. Its membership (outlined in Annex 1) includes key college sector representatives (chairs, principals, board secretaries, finance directors), Scottish Government, Scottish Funding Council, NUS Scotland, Colleges Scotland, College Development Network, Scottish Trades Union Congress (UNISON/EIS) and OSCR.

The GGSG welcomes the opportunity to comment on the revisions to the public appointments process being considered and is pleased to respond to this consultation on behalf of the college sector.

Whilst the GGSG has chosen not to respond to each individual question set out in the consultation paper within the response, the following comments are offered as possible areas for improvement to the Code.

Ministerial Appointments in Scotland's Colleges

Every college in Scotland is governed by a Board of Management which is responsible for the planning and delivery of learning, and for ensuring value for money. There are 10 single college regions in Scotland (one college, one board of management) as well as three multi-college regions which are governed by a regional strategic body. Colleges within the multi-college regions are classed as 'assigned colleges' and also have their own boards of management.

Currently, 12 Regional Chairs are Ministerial appointments. The University of the Highlands and Islands appoint a member of the University Court to lead on further education interests across the region. 10 Regional Chairs are for single college regions and a further two are Chairs of multi-college regions (regional strategic bodies).

All lay board members are directly attracted and appointed by regional colleges/regional strategic bodies and then approved by Ministers. There is currently no requirement for Chairs of assigned colleges to be appointed by Ministers as they, alongside the lay board members, are approved by the regional strategic body.

Response

Governing bodies of our public services, including colleges, are a critical part of ensuring responsiveness, quality, relevance, and value for money. Striving for diversity in the thinking and makeup of governing bodies has been a key feature of legislative changes, as well as the periodic advice and guidance issued to governing bodies, over the last number of years, including the period when the Ministerial Code was last updated. The definition of 'diversity' in this context should certainly be broadened to include both protected characteristics and factors such as socio-economic background and experience. Any revisions to the Code need to reflect these changes and the multiculturalism of Scotland's communities. The Code should support a diversity mindset that promotes inclusion from across our communities in terms of race, gender, sexual orientation, religion, and socioeconomic status, alongside the skills, experience and knowledge sought.

As well as attracting and appointing individuals of the right calibres, the Code should encourage actions to address any barriers – personal, social, cultural, institutional, or structural – to enable individuals to apply for public appointed positions. This is not just about changing the way individuals are recruited or appointed but also promoting a culture that encourages participation in community and society; nurturing, empowering, and providing opportunities for individuals throughout their whole lives. This will not, however, be something that can be changed overnight or by immediate legislation.

In addition, although there are a number of employers who are committed and understand the benefits in allowing employees time off work to undertake volunteering programmes or public duties, this still remains a significant barrier for individuals in applying for public appointments. Consideration should be given as to how this might be incentivised, with public bodies, employers and trades unions working together to support wider participation.

Ministerial appointments are unlike any other appointment. The responsibility for the management and conduct of the individuals appointed rest with Ministers. There needs to be more transparency and demystification around the relationship between the Scottish Government and the Ethical Standards Commissioner to ensure appointments attract sufficient successful applications and are scrutinised.

The current appointments process is a 'top down' and government-led approach. We would advocate closer working between the Scottish Government and the public body to which an appointment is being made, to take greater account of the body/institution's values and purpose, as well as complement the skills and experience of existing members. Promoting a more collaborative approach, or by taking a stepped approach, might also support improved succession planning or attainment through a pipeline of a diverse pool of candidates for board membership.

The Code properly cites the principles of public life in Scotland and, in particular, to support public confidence. The Code should embody, as far as possible, the principles of objectivity, accountability, and openness by setting out procedures which promote and protect these principles. The Code also sets the standard and should be a touchstone for all public bodies in making appointments. The Ministerial appointments guidance in place for the college sector (including lay board member appointments which are not regulated by the Code), refers to the Code as a 'helpful reference tool' and requires colleges/regional strategic bodies to advertise vacancies on the Public Appointments website. It would be helpful to review the Code alongside the college sector's guidance, and other guidance that may be in place, to ensure a high degree of consistency in language, approach and emphasis on priorities such as diversity succession planning (with reference, for example, to the Scottish Government's Guidance on Succession Planning for Public Body Boards).

The Code should also encourage public bodies or, where relevant, the sponsoring government department or non-departmental public body to regularly review and disseminate lessons learned to improve the public appointments process itself and ensure that it continues to reflect best practice, to provide a basis for dialogue and sharing best practice recommendations across the public sector, and to strengthen accountability by ensuring adequate and well-documented monitoring and reporting.

As part of the review of the Code, it would be appropriate for the Scottish Government to work alongside its public sector bodies to:

- Refresh existing and relaunch or develop a new diversity strategy for the public sector (*Diversity Delivers*: Published 2008).
- Work with employers and trade unions to support and encourage individuals in employment to apply for public appointed positions.
- Introduce national mentoring programmes and board-ready training.
- Develop and share best practice around board member appointments.
- Develop policies around succession planning to identify and develop new leaders.
- Establish professional networks within local communities.

Membership of the Good Governance Steering Group

1. Ken Milroy MBE, Regional Chair, North East Scotland College (Chair)
2. David Newall, Chair, Glasgow Clyde College
3. Janie McCusker, Chair, Glasgow Colleges' Regional Board
4. Michael Foxley, Chair, Highlands and Islands Further Education Regional Board
5. Joanna Campbell, Principal and Chief Executive, Dumfries & Galloway College
6. Margaret Cook, Principal and Chief Executive, Perth College UHI
7. Douglas Wilson, Clerk to the Board, Glasgow Kelvin College
8. Marianne Philp, Director: Governance and Compliance, Fife College
9. Penny Davis, Consultant/Secretary, Glasgow Colleges' Regional Board
10. Hazel Robertson, Vice Principal – Finance and Corporate Services, Borders College
11. Susan Gallacher, Head of College Policy, The Scottish Government
12. Martin Fairbairn, Chief Operating Officer and Deputy Chief Executive, Scottish Funding Council
13. Dougie Smith, Development Manager (Scotland), NUS Scotland
14. Shona Struthers, Chief Executive, Colleges Scotland
15. Victoria Underwood, Head of Leadership and Governance, College Development Network
16. Deborah Shepherd, National Officer – Further and Higher Education, EIS
17. John Gallacher, Scottish Organisation (Further Education Lead), UNISON Scotland
18. Martin Tyson, Head of Casework, OSCR.