



## A SCOTTISH GOVERNMENT CONSULTATION ON THE DRAFT GENDER REPRESENTATION ON PUBLIC BOARDS (SCOTLAND) BILL

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Colleges Scotland

Phone number

01786 892100

Address

Argyll Court  
Castle Business Park  
STIRLING

Postcode

FK9 4TY

Email

[shona.struthers@collegesscotland.ac.uk](mailto:shona.struthers@collegesscotland.ac.uk)

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes  
 No

# Consultation on the Draft Gender Representation on Public Boards (Scotland) Bill

## 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* 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 are appropriately trained in good college governance.

As the GGSG takes ownership of the workplan from the Good Governance Task Group, putting better arrangements in place to improve board member recruitment, including how college boards recruit more members from under-represented groups will become a key focus. Colleges in Scotland have separately tried to tackle board diversity in terms of gender split however, external factors continue to have an impact e.g. a small rural college located in a region which has a strong agricultural focus may have an impact on the number of females that apply for board membership.

The 50:50 Gender Balance Pledge has been a positive step forward in terms of organisations demonstrating their commitment for gender balance on their boards of 50/50 by 2020. However, the pledge and the Draft Gender Representation on Public Boards (Scotland) Bill does not address the wider issue of overcoming barriers to equality and diversity representation on public, private and third sector boards in Scotland.

## Current College Sector Boards

The Post-16 Education (Scotland) Act 2013 and Ministerial Guidance states that Scottish Ministers will approve members of boards for regional colleges and regional strategic bodies but not assigned colleges, except for the chair.

Since 2014, Colleges Scotland has been collating data on the gender split on college boards. The split for non-executive board members as a sector is improving. A breakdown of the past 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

Out of 26 colleges, ten colleges have a 50:50 gender split for their non-executive members – give or take one place – and at least two colleges have more females than males.

As of 1 October 2016, college chairs remain significantly under-represented in terms of gender. A breakdown is shown below:

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

Over the last few years, the change in representation of college chairs has been minimal; the opportunity has not arisen for the college sector or the Scottish Government to readdress this balance due to the Publics Appointments cycle.

There is currently no published data for the college sector to understand the position in terms of non-executive board members which are defined by other protected characteristic. This information might be useful in terms of understanding the bigger picture.

## Recommendations

### 1. Alternatives to Legislation

The 'glass ceiling' phenomenon not only applies to women, it is a discriminatory barrier that prevents minority groups from rising to positions of power or responsibility. Colleges Scotland calls for the Scottish Government not to treat gender in isolation to other protected characteristics.

Being a board member of a public board can be extremely daunting. Not only are board members responsible and accountable for millions of pounds of taxpayers' money, they are also an employer of hundreds of staff and they are then expected to sign a lengthy contract which contains legal jargon that may influence their final decision.

The main barriers which prevent women and other protected characteristics groups from applying for board positions is:

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

By influencing cultures from a young age (from pre-school upwards) and by nurturing, empowering and providing opportunities throughout an individuals' life, the Scottish Government and society could break through the 'glass ceiling'.

This won't however be something that can be changed overnight or by immediate legislation. The Equality Act 2010 already stipulates duties which institutions should have regard to in terms of protected characteristic, including recruiting for board positions. Instead of legislating for further regulations, the Scottish Government could look to work alongside its public sector bodies to:

- Refresh existing ([Diversity Delivers: Published 2008](#)) and relaunch or develop a new diversity strategy for the public sector through consulting widely.
- Work with educational institutions 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.
- Co-opt members – if an institution finds it difficult to recruit members from protected characteristics groups, consideration could be made to co-opting members on an interim basis.

## **2. Soft Quotas**

Colleges Scotland calls for the Scottish Government not simply to impose quotas when it comes to gender and/or minority group representation as non-executive board members.

Focusing on targets 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 age, race, gender or disability. The Equality Act 2010 already stipulates duties which institutions should have regard to in terms of protected characteristic, including recruiting for board positions and that is the process that continues to be adhered to within the college sector. 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 unacceptably long periods of time.

The 50:50 gender pledge already demonstrates a willingness by public sector bodies to honour the Scottish Government's expectations around women on boards without the need for further legalisation.

## **3. Points for Further Consideration**

It would be useful if the Scottish Government provides clarity or considers the following points as part of the consultation:

- What happens if public boards do not or are not able to comply to the new Act?
- Who is accountable for the duties? The appointing person i.e. the chair and/or fellow board members?
- Who is will check that the processes outlined in the Act have been followed?

Colleges Scotland  
March 2017