



OFFICIAL REPORT
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Standards, Procedures and Public Appointments Committee

Thursday 11 February 2021

Session 5



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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
3rd Meeting 2021, Session 5

CONVENER

*Bill Kidd (Glasgow Anniesland) (SNP)

DEPUTY CONVENER

*Patrick Harvie (Glasgow) (Green)

COMMITTEE MEMBERS

*Neil Findlay (Lothian) (Lab)

*Oliver Mundell (Dumfriesshire) (Con)

*Gil Paterson (Clydebank and Milngavie) (SNP)

*John Scott (Ayr) (Con)

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Kate Forbes (Cabinet Secretary for Finance)

Helen Miller (Scottish Government)

CLERK TO THE COMMITTEE

Katy Orr

LOCATION

Virtual Meeting

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 11 February 2021

[The Convener opened the meeting at 09:30]

Interests

The Convener (Bill Kidd): Hello, everybody, and welcome to the third meeting in 2021 of the Standards, Procedures and Public Appointments Committee.

Agenda item 1 is a declaration of interests. Oliver Mundell has joined the committee, to replace Jamie Halcro Johnston. I place on record my thanks, and that of the committee, to Jamie for his work on the committee. I invite Oliver Mundell to declare any relevant interests.

Oliver Mundell (Dumfriesshire) (Con): I have no relevant interests to declare.

The Convener: Thank you very much. Welcome to the committee.

Decisions on Taking Business in Private

09:31

The Convener: Item 2 is to decide whether to take item 6 in private, which is consideration of the evidence that we will hear today on public appointments. Do members agree to take that item in private?

As no member has indicated otherwise, we agree to take item 6 in private.

Item 3 is to decide whether our consideration of the guidance on the code of conduct for MSPs and our legacy report should be taken in private at future meetings. Do members agree to take those items in private at future meetings?

As no member has indicated otherwise, we agree to take those items in private at future meetings.

Public Appointments

09:32

The Convener: Item 4 is to take evidence on public appointments. I am pleased to say that joining us are Kate Forbes MSP, the Cabinet Secretary for Finance; and Helen Miller, the acting head of public appointments at the Scottish Government. It is nice to see both of you.

I invite the cabinet secretary to make a short opening statement.

The Cabinet Secretary for Finance (Kate Forbes): Thank you very much, convener. I thank the committee for having me. Ministerial appointments are a unique and essential part of public life. Currently, there are 717 ministerial public appointments across 90 public body boards. They are vital roles. I record my thanks to those who serve on those bodies, because their commitment, skills and expertise are hugely appreciated.

Most appointments are made for three or four years, and reappointments can be made for a maximum term of eight years. On average, there are 50 recruitment rounds a year, resulting in the appointment of between 120 and 150 people. Reappointments and extensions of appointments are also made annually.

The Commissioner for Ethical Standards in Public Life in Scotland plays an important role in that process. As the committee knows, the commissioner is required to publish a code of practice on how appointments to bodies are made by ministers, as well as on the methods and practices that are used in making them. The code is to include guidelines on how vacancies are to be publicised and how to encourage applications for vacancies. The commissioner is required to keep the code under review and promote compliance with it.

There are 11 people in the Scottish Government's central public appointments team. They act as a centre of expertise to guide and support sponsor teams across the Government to deliver the public appointments process on behalf of the Scottish ministers. The team has almost daily contact with the commissioner's office, and they act to secure compliance and promote good practice across the organisation and public bodies.

I am pleased that the process is delivered to a high standard. There have been few breaches of the code and no reports of material non-compliance have been made to the Parliament in recent years.

The current code provides a clear framework for officials to deliver the appointments process and

give ministers assurance that people who have been recommended for appointments have been through a recruitment process that is fair, transparent and based on merit. The commissioner and I share a commitment to see that the ministerial public appointments process is efficient and delivers a diverse range of candidates for appointments.

When the commissioner gave evidence to the committee last December, she suggested that the Government's response to the consultation on revisions to the code of practice was an "outlier" and that it showed

"a preference for the avoidance of scrutiny".—[*Official Report, Standards, Procedures and Public Appointments Committee*, 10 December 2020; c 4.]

That is not the case, and I will be happy to give evidence that will demonstrate that.

We absolutely respect the independent role of the commissioner, which we value, and we welcome proportionate regulation of the appointments process, which is important. Officials aim to work with the commissioner's team in an open and transparent way.

The consultation indicated that the commissioner has a preference for further prescription to be added to the code. As the committee might be aware, the recruitment process for ministerial public appointments currently takes about 20 weeks from ministerial agreement to proceed until the offer is made. I am concerned—as are other ministers—that adding additional steps to an already robust process could create unnecessary delay and impact on the ability of public bodies' boards to function efficiently and respond effectively to unexpected vacancies. I know that the timescales involved were also of concern to the committee. There is also a risk that making an already rigorous process overly onerous might put off potential applicants.

As we look ahead and respond to both the current and long-lasting impacts of Covid and exit from the European Union, we have an opportunity to facilitate and encourage flexibility in a revised code. We are keen to work with the commissioner to identify appointment approaches that will help to deliver greater efficiency in the round, maximise the number of quality candidates, improve diversity and deliver value for money.

It is important that any code of practice is proportionate to the task at hand, and clarifies the role of all parties and the expectations of everyone involved. I certainly welcome the opportunity for further discussion of any revisions to the code and the commissioner's plans for a regulatory strategy. I strongly encourage such engagement.

I recognise that our range of on-going initiatives and activities to improve the diversity of public appointees has been affected by the unprecedented challenges of the pandemic. Throughout this enormously challenging period, we have seen significant improvements in diversity, but there is always further to go. I will be interested to hear the committee's views in that regard.

One of the most significant achievements is that 50 per cent of public appointees are women. However, we have also seen incremental improvements to the appointment rate of ethnic minority and disabled people. We are determined to maintain and build on that progress. We recognise the support that the Commissioner for Ethical Standards in Public Life in Scotland has provided in the past and will, I am sure, continue to provide in the future.

I hope that my remarks will help to sketch out the Government's view. I am keen to hear the views of the committee on how we might best secure a fair and efficient process that will deliver diverse and effective candidates to serve on our public boards, which could be only to the benefit of the people of Scotland.

The Convener: Thank you very much, cabinet secretary. We have a number of questions for you. I point out that, because we are operating through the remote access system, I will be taking questions in a previously circulated order. Patrick Harvie is the first member I invite to ask a question.

Patrick Harvie (Glasgow) (Green): I will start on the point on which you ended your remarks: the impacts of Covid. The commissioner reported that, as a result of the pandemic, over the past year,

"a significant proportion of new public appointment activity was put on hold"—[*Official Report, Standards, Procedures and Public Appointments Committee*, 10 December 2020; c 3.]

and that it was necessary for her to grant variations to the code of practice. Will you provide the committee with an update on the extent to which such activity was paused? Has it resumed? Are we now catching up on the backlog? Are there areas in which we are still falling behind?

Kate Forbes: Helen Miller may wish to add some comments on the more practical and technical elements of the processes and how they have changed as a result of Covid. We had to delay a number of planned actions because of the impact of Covid, and we are still considering how to pursue some actions in different ways as a result.

On appointments activity, much of that has been suspended since March 2020, with one exception being for the Scottish National Investment Bank.

As regards our approach to appointments overall and some of our action plans to improve diversity, there has been some delays, although we are continuing to progress those aspects. I would distinguish between the core appointments, which, indeed, had to be suspended due to Covid, and the changes that we would like to make to the process, which are continuing, although there have been delays to them.

Helen Miller may wish to comment on some of the technical elements of the process.

Helen Miller (Scottish Government): Appointments were postponed between March and August 2020 as we were responding to Covid. The team is back at full capacity, and appointment runs that had been delayed over that period were prioritised, along with boards for new members to fill vacancies, to make sure that organisations were quorate.

We have prioritised which appointments we fill first, but we are back on track. Working remotely has helped us to catch up quite quickly, as we have been able to facilitate meetings and interviews online. We are almost on top of our backlog, although the situation is effecting how we plan for the year ahead.

Patrick Harvie: Is a residual part of the appointments backlog still being worked through, or have the appointments that were put on hold all been completed now?

Helen Miller: I would say that, by the end of March, we will be back to where we were.

Patrick Harvie: The commissioner expressed some concern about the Government's response to the consultation on the code of practice, which suggested removing from the code the methods and practices that are used by the Scottish ministers in making appointments, because the "code is stifling innovation". Can you explain your reasoning for putting across those arguments and other views that you may have about the regulatory arrangements?

Kate Forbes: I am aware that the commissioner had suggested that in her evidence. We did not suggest that the new code should not have methods and practices within it, but we highlighted the need for flexibility and suggested that a principles-based code might be one way to achieve that.

Our response to the consultation question, with suggestions about the removal or rewording of the current code to maintain an outcomes focus and clarity about the roles of officials and the commissioner, was not designed to remove methods and practices; it was designed to consider how we might be more flexible where operational demand requires it.

As we indicated in our consultation response, it would be advantageous to move closer to accountability and to considering outcomes, rather than having an overly prescriptive approach. Those concerns were echoed in other consultation responses, too. I will cite just two of those submissions. The Community Justice Scotland response said:

"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."

The Scottish Public Services Ombudsman also mentioned the need to ensure that there is flexibility.

This is all about trying to deliver on the outcomes, which are to ensure that there are more diverse appointments, that the process makes sense, that it does not take to 20 weeks, and that, ultimately, it delivers value for money. That was our intention in relation to the comments about the methods and practices; it is not about avoiding scrutiny or regulation. However, clearly, there must be ways to improve the process—I am sure that the committee will have looked at that, as the commissioner has done—and therefore the code needs to allow for flexibility. Our suggestion is that a principles-based code might be one way to achieve that.

09:45

Patrick Harvie: It is interesting that you say that your position is driven by a desire to improve diversity. My final question is about the commissioner's annual report, which says that ministers

"are not accessing the ... pool of talent that exists."

It also said that activity to improve diversity has

"continued to be diffuse"

and that there is a lack of

"clear and convincing plans for achieving parity".

Do you accept that conclusion? Would you contest it? Why do you think that the commissioner drew that conclusion?

Kate Forbes: I will answer that in two ways. I will first talk about diversity and then about the conclusion. I do not think that any of us is content with the level of diversity on our public boards. I maintain, as I did in my opening comments, that there have been moves in the right direction, and the figures attest to that. However, in many regards, those are incremental moves. Therefore, the more that we can do to boost the recruitment process to make it more diverse, the better.

The second part of my answer is about the process, because there is a distinction to be made with regard to roles. These are ministerial appointments, and it is for ministers to agree what is required in order for the board to be able to exercise discretion. We are provided with a range of evidence to support our decision making. We have access to management information, good practice information, anonymised diversity data and so on.

The commissioner already has significant oversight of the appointments activity, although the scale of the operation is relatively small. To give you some figures, the commissioner is sighted on the majority of the 50 recruitment rounds each year. For example, in 2019, the commissioner's advisers were assigned to 75 per cent of the recruitment rounds. Therefore, although there are legitimate points about diversity, the question is about how we ensure that there is sufficient flexibility, ambition and innovation in the processes to deal with that issue. Furthermore, it is not the Government's position that we want to reduce scrutiny or make the processes overly prescriptive, which would not allow for sufficient innovation. Right now, the commissioner's advisers are assigned to 75 per cent of the recruitment rounds, using 2019 as an example. I hope that that answers both parts of your question.

John Scott (Ayr) (Con): Good morning. Can the cabinet secretary explain to me, and possibly to others, what she means by a "principles-based code"? She has said it twice, and, if that is going to be the new theme, perhaps she could explain what the principles might be.

Kate Forbes: I might bring Helen Miller in on the technical side, but what I mean by that is a move away from a focus on compliance with technical issues and the operational work of Government to principles, outcomes and accountability. I will give an example of why a shift might be needed. The commissioner's advisers sit on selection panels and get involved in the fine detail of an appointment round. They will check and comment on paperwork, for example. I think that that is an operational responsibility of officials—of Scottish Government—[*Inaudible.*]
—in the rounds they are—[*Inaudible.*]
—using more search engines and seeking people with specialist skills, running more joint rounds, creating a pool of pre-qualified people to help to reduce the 20-week—[*Inaudible.*]

The Convener: We are having problems with Kate Forbes's connection. Helen Miller, as the cabinet secretary was going to bring you in, could you pick up that point?

Helen Miller: Yes, that is fine. I think that the cabinet secretary was alluding to a focus in the

code on the principles of how we work with the commissioner and her team. Some of those principles could be around flexibility and using different methods to attract different sorts of people. For example, we are interested in more joint recruitment rounds and in creating a pool of pre-qualified people to put forward, to reduce the 20-week wait, as well as the possibility of being able to use an executive search consultancy to find people who have the specialist skills. It is about working with the commissioner to understand and set some principles for how we work together and go forward in relation to things that are already part of the process, such as transparency, accountability and a focus on outcomes. It may involve a discussion of, and agreement about, merit and how that plays out in public appointments.

The Convener: Thank you very much, Helen. Is that okay, John?

John Scott: I would have to say no—I am not clear about that. I could not hear Kate Forbes, and I regret to say that it was not clear what was meant in the response from her assistant, whose name I do not have in front of me—I am sorry.

The Convener: It was Helen Miller who was speaking there. Kate Forbes is back with us, so I will ask her to come back in.

Kate Forbes: My sincere apologies for those connection issues. In a nutshell, either you can focus primarily on technical compliance in a process, making sure that every element of the process is delivered in an appropriate way, or you can focus on outcomes. If the outcomes that we are seeking to achieve are, for example, increased diversity, value for money and an efficient process, I see those as the principles that we are trying to deliver on. If you are trying to focus on outcomes, you can have a bit more flexibility with the process, so you get less caught up in what search engine you are using—I am using that as a silly example—because you are aiming for the principled outcomes rather than technical compliance with the process. I do not know whether that helps to make that clearer.

John Scott: I am not sure that it does, Kate. We are talking about budgets of £17 billion, and I think that it really needs to be very clearly defined. I am sure that there is some work to be done on how you are going to change the system for the better, because I am not sure that what you have told me is sufficient.

Kate Forbes: I could refer you to some of the other responses to the consultation that talked about the issue of prescription. There needs to be a code of practice that is absolutely clear. Either you can be overly prescriptive and focus on compliance with the details of the technical

process, which is important, but lose sight of the outcomes that you are trying to achieve or you can focus on the outcomes and allow a little bit more flexibility than the technical process allows.

The Convener: Neil Findlay has a question on the same area.

Neil Findlay (Lothian) (Lab): It is a very fundamental question. Can somebody explain why the process takes 20 weeks?

Kate Forbes: Yes, I can, and I can bring in Helen Miller on that as well. Twenty weeks is far too long, which perhaps demonstrates the point that I just made about technical processes that are overly onerous. There are some personal reasons why it can take a long time but, to me, a 20-week wait is not acceptable. We should be trying to reduce the time by making sure that the process works.

Helen, do you want to comment on any of the detail?

Helen Miller: Yes. It takes a long time because we have to start another round for every vacancy. We would like to look at ways of changing that and creating a pool of pre-qualified people whom we can put forward for interviews for vacancies that come up.

At the moment, we have to get permission from the minister, to start with, and then the minister advises a selection panel, which has to be gathered together. A fresh selection panel is needed for each round. The panel is made up of senior people, and a range of operational issues are involved to get diaries in order and set out the timetable for the round.

We have to advertise roles for a certain period, and we need time to do sifts of applications, get panels in order, do the interviews and make recommendations to the minister, and the minister needs time to make their choice. Sometimes, the minister will choose to meet the candidates. All of that takes a long time, and it involves a lot of operational organisation behind the scenes. We think that the process needs to be better, and we are keen to work with the commissioner to see how we can make it better.

Neil Findlay: The process sounds no different from the process of recruiting an employee to fill any vacancy. You have a role, you advertise the job, you get applications, you put together an interview panel, you interview the candidates and you appoint somebody. It may be a public appointment, but so be it. The fact that it takes six months is incredible. It is completely unacceptable.

I understand that the people who come together to make up panels are busy people and are all high flyers, but it is unacceptable that the process

takes 20 weeks. If a business worked to a 20-week recruitment schedule, it would close down. To me, that is completely unacceptable. There can be no excuses for having a 20-week waiting period.

Kate Forbes: Neil Findlay has hit the nail on the head. That is precisely the substance of our argument. The commissioner requires all those steps. We are saying that, in our submission, the 20-week wait is completely unacceptable and the process that dictates it needs to be more flexible. An example of the flexibility that we are looking for is the ability to have a pool of pre-qualified people, as Helen Miller mentioned.

We are looking for a principles-based approach rather than the current technical, prescriptive, step-by-step process that takes 20 weeks. I welcome this discussion with the committee because it illustrates the problem and allows me to make a plea that the process be changed. Let us make it innovative and more flexible, so that we get the best person at the end of the day, instead of just following every step that is required, which makes the process last 20 weeks.

Maureen Watt (Aberdeen South and North Kincardine) (SNP): Good morning. Cabinet secretary, I realise that the subject is not at the top of your agenda, but I think that you are being ill advised by your officials here. I speak as a human resources specialist but also as a former assessor of public appointments.

At 20 weeks, the length of the interview process is ridiculous. However, ministers do not need to get the whole application form and everything else to go through and sign off at the beginning. As you know, ministers do not always meet the three or four recommended candidates before making a choice, unless the appointment is a very senior and important one. Yes, it is difficult to get chairs of health boards, civil servants and whoever else is on the panel together, and that process could be streamlined, but I do not think that you can blame the process. The civil service does not give the issue due recognition, given its importance.

10:00

One reason for the lack of diversity among the people who come forward is the fact that job descriptions are often not as robust as they could be. On 5 February, the commissioner published a report that contained findings from a survey of recent appointees to public boards. She found that 62 per cent of respondents stated that the time commitment that is needed for the role is more than had been advertised. Having been a health minister, I know that that is the case for health board appointments—particularly the chair of a board, which is more or less a full-time job but is

advertised as three days a week or less. Is it not time that job descriptions more accurately reflected the time commitment, so that people are aware up front of the time commitment that would be needed if they were to take on the public role?

Kate Forbes: I am aware of those survey results. My officials are reviewing the figures and findings, and they will provide a formal response to the commissioner in due course. You are right to say that job descriptions need to be accurate. I am very open to considering changes that can be made.

Such roles do not represent employment; they are a form of public service. The people in the roles contribute to the governance structures of our most important public bodies. I recognise their contributions, and I am grateful to everyone who serves. Most appointees are remunerated for their time, but it is important to recognise that that is not a salary replacement. People are able to claim expenses for travel and childcare, they are able to access statutory maternity pay and sick leave and they are able to claim for extra time that they give to board duties.

Information on remuneration and time commitments is clearly set out in the application packs, so people are aware of the expectations of the role from the outset. If more information, less information or different information needs to be included in the application packs, so be it. People are given full inductions, which include arrangements for expenses and a discussion with the board chair about time commitments and time management, so there is a formal element to that information. There is also an informal element through overall conversations.

National health service board chairs and non-executive members receive an annual sum of remuneration that is based on a time commitment of three days per week for chairs and eight hours per week for members.

Maureen Watt: The system that was devised does not reflect the modern-day society in which most people work. People want to provide public service, but that has to fit in with their other jobs, otherwise we will never get diversity among appointees, with more women, more people with disabilities and more people from black, Asian and ethnic minority communities.

It is important that the true amount of commitment that is needed is reflected at the beginning, otherwise the people who are appointed will not be able to fulfil their appointments and the workload will be increased by having to replace them. It is important that people with caring responsibilities, for example, know up front what the job entails. If that does not happen, my perception—I do not know whether it

is shared by other members; I think that it perhaps is—is that middle-class retirees and a bunch of retired civil servants will take the jobs, which will in no way contribute to the diversity that we want on boards.

Kate Forbes: I agree with that. I will take away Maureen Watt's point about having clarity up front. I think that that exists, but, if we can do more on that, I would be all for making improvements and changes. That is particularly relevant to her point about attracting those who can work only in a more flexible fashion, around other jobs or caring responsibilities. I take her point about the need to ensure that there is as much robust information at the outset as possible.

In the past two years, I have spoken at induction events—I am not sure how many, but there have been quite a number—and I have heard directly from those who have recently been appointed. It is helpful to get feedback on their experiences of the process directly from individuals in those rooms, some of whom are re-appointees who have done their jobs for a while. We must add such information to future recruitment packs.

As members will know, all such jobs are currently challenging. Any of us who has had engagement with our local health board or other local boards that are publicly accountable will know that there is intense scrutiny of their roles. Those are tough jobs, so the more that we can do to support those who are appointed to them, and the more information that we can provide up front, the better.

Maureen Watt: I will leave my questioning there for the moment, to let other members in.

The Convener: Thank you very much, Maureen.

John Scott: My point is on socioeconomic diversity. The cabinet secretary will be familiar with the tables with which we have been provided in our committee papers. Table 5 shows that around 78 per cent of the Scottish population works in the private sector but that only around 27 per cent of people are appointed from there. In contrast, around 21 per cent of our population works in the public sector, but that results in 45 per cent of the appointments. Further, 4.1 per cent of our population works in the voluntary sector, which results in 14.1 per cent of appointments. Could you explain why such a low number of people from the private sector are applying and being appointed to public sector boards?

Kate Forbes: If the employment background information is broken down, we can see that far more people from the private sector apply for boards in some directorates general than in others. For example, in 2019, 84 per cent of applicants for board roles in the Scottish

exchequer had a private sector background. If we compare that figure with the one for roles in health and social care, we can see that only 29.5 per cent of applicants there had a private sector background; for the numbers to be meaningful ones that we can understand, we need to go beyond the headline, high-level figures. We need to focus on getting the best people into the right roles and on welcoming those from all backgrounds. We have set out what we need individuals on boards to deliver; officials on selection panels must then work to deliver people with the right skills, experience and knowledge.

The picture is not straightforward. People's motivations for serving on boards will vary hugely. They might be particularly passionate about an issue that a board deals with, or they might have a more general desire to contribute to public life or to develop themselves professionally. Going back to questions that I was asked earlier, we know from anecdotal evidence that people from private sector backgrounds can find the public appointments process daunting; we talked about the difference between that process and the process for other forms of employment. Our engagement teams therefore need to work hard to demystify the public sector recruitment process for people who might not be familiar with it, and to make it as simple as possible.

I go back to my comment about it being about outcomes rather than about being prescriptive. We should be striving to not overcomplicate the process so that when somebody applies, they do a good application, whether they are from the private sector or from voluntary sector organisations, for example.

John Scott: I note your use of the word “daunting” to describe how people from the private sector find the application process. I agree that we must focus on outcomes, but your principles-based approach seems to suggest that the process might be less rigorous than it has been hitherto. Neil Findlay's point, which was well made, was that the process should work more efficiently and be better rather than less efficient and less rigorous. You need to be careful about where you go with your principles-based approach.

I will go on to further questions, if I may. What is your understanding of the factors that mean that people from higher-income households are more likely to be appointed to boards? Why do you think that is?

Kate Forbes: I will say why I think that is and what we need to do to change it. It is largely because the skills and knowledge that those roles often require—for example, financial management—tend to come from experience in management and executive roles, which, as a

rule, have a higher salary reward. I hasten to add that that is not always the case, but it is a factor in recruitment to public appointments. I know that figures on household income were presented to the committee. That data is collected by the Scottish Government at the application stage. Almost a quarter of respondents ticked “Prefer not to say” in relation to the data on household income, so that data is not as robust as it could be.

I do not think that household income in and of itself is a good measure and it is not a good proxy for issues concerning socioeconomic background or status. We need to focus on improving the representation of people from protected groups and we will take steps to better identify ways to monitor and report on the socioeconomic status or background of public appointees. I hope that that answers the question in two parts: why I think that is the case right now and what we need to do to change it.

John Scott: That takes us on to the broader picture. Since you apparently do not want people with established managerial abilities, what role does the definition of merit have to play here? How will you judge people who are meritorious and suitable for appointment? We are talking about £17 billion being administered by those groups, which is, give or take, half of the Scottish budget, so presumably you want some people with managerial expertise in that cohort of people.

Kate Forbes: Absolutely; there has been no suggestion that we do not want people based on merit. We want a process that is fair, transparent and based on merit. We need to make sure that the process allows for as diverse a range of candidates as possible to apply and then be appointed on the basis of merit. That is where taking narrow views of things—for example, you talked about socioeconomic background—such as using household income as a way of quantifying those coming from different socioeconomic backgrounds, does not do the issue justice. The point that I just made is that many of those roles require particular experience—based on merit—that would often come from managerial roles, which often means a higher salary or reward, so it is a very narrow way of determining socioeconomic background. Merit is essential; we cannot have public boards without people with experience who are appointed on merit.

John Scott: Hmm—well, I will move on to my final question. The commissioner published a good-practice case study on the Poverty and Inequality Commission board recruitment round. What features of that round made it a success, and what is the Government doing to roll out and embed that approach?

10:15

Kate Forbes: I will bring in Helen Miller to talk about that specific example.

Helen Miller: The Poverty and Inequality Commission was seeking a brand-new board, so it was looking at what skills and experience it would need from the people around the table. The commission identified that it would need people who had lived in poverty or who had real-life experience of working with people who lived in poverty. The selection panel and selection chair were really clear about the skills that were needed around the table. It is an example of good practice because it set a specific criterion about people's experience and specifically their real, lived experience. It was able to get lots of applications from people who matched the criteria. I do not think that that is that different to what happens for every recruitment round. For every round, the selection panel has management information, diversity information, information about skills audits from the board and information about what is required, and the selection panel will identify the criteria against which it needs to recruit. Every round is specific about the skills and experience that are needed, and there will be an advertising plan and an outreach plan to get people with those skills.

The Scottish Government is keen on good practice, and it really appreciates the writing up of that good practice by the commissioner, which we are able to share across our selection panels and our sponsor teams. We are of the view that our processes are pretty good at identifying and sharing that good practice. Certainly, the Poverty and Inequality Commission is a good example of how recruiting for lived experience was put into practice.

Gil Paterson (Clydebank and Milngavie) (SNP): Good morning. I am fortunate in a way because my constituency is split in two: I have the highest-paid people in the one postcode in Scotland and, in the other part of my constituency, I have some of the lowest-paid people. The experiences in those two parts of my constituency are entirely different with regard to appointments. I take the point about the definition. I would be more likely to describe them as lower-income communities. Does the Government think that, given the lack of representation of lower-income communities and the outcomes that have been mentioned several times, the aim of getting more people from lower-income groups appointed justifies the means? There is no question about it: there are some very bright people in deprived areas—that is for sure—but they do not get the chance to engage. Could that be looked at in the engagement process?

Kate Forbes: I will take that point away. I am very open to suggestions from the committee.

In answer to John Scott's question, there is some good practice on better ways of identifying people, through specifying lived experience and through very intentionally engaging properly, bringing people in and finding people who might not ordinarily think of applying. Once the process has been slightly demystified and there are clear steps to take, they are more likely to apply. We need to be more intentional about finding people.

Neil Findlay: Looking at the appointments issue, I think that it is right but predictable that we seek people for the Poverty and Inequality Commission who have experience of living in poverty. However, we will not make a breakthrough in the appointments area until people with such experience are sitting on the boards of, for example, the Scottish National Investment Bank, Scottish Enterprise and Scottish Water or on health boards.

The figures in table 6 show that 70 per cent or so of those who were appointed either would not say what their salary was or were in the highest income brackets. In my own life, when I was skint, I was happy to tell folk I was skint. However, the more people earn, the more secretive they usually are about how much they earn. Adding together the figures in table 6 for those who preferred not to say what they earned and those who stated how much they earned indicates that over 70 per cent of the people appointed were in the highest income brackets. What are we doing to get people on low earnings or even average earnings appointed to some of those positions, because the progress is pitiful?

Kate Forbes: In answer to your first point, I would agree. Again, I will take that one away. On learning from good practice that has worked in one appointment process—that is, in appointing people with lived experience—and using that for appointments to other boards, along with more unlikely combinations or those that have not been used in the past, the short answer is that we will take that point away. I am happy to write to the committee about what action we are taking as a result of the suggestions this morning.

The Convener: We go back to John Scott to finish his questions.

John Scott: I do not have much more to say, except that it is a sweeping generalisation for Neil Findlay to say that the 22 per cent of people in the category of those who prefer not to say what they earn are necessarily high-income earners. There is a reticence among normal, good Scottish people right across all levels of society around talking about money, and it is not necessarily or exclusively the wealthy who feel that.

The Convener: Thank you. Do you have any further questions for the cabinet secretary?

John Scott: No.

Neil Findlay: Some of this has been covered, but I would like to go back to two points. The class issue is important when we look at the statistics. I look forward to the cabinet secretary coming back to tell me what action the Government will take so that when the Scottish National Investment Bank and some of the financial bodies are looking for new appointees, they appoint people who have some real-life experience of low pay, insecurity at work and poverty.

We have covered some of my second point, but I want to follow up on the 20-week recruitment schedule. Can the cabinet secretary come back to us and explain that? I still do not understand why it takes 20 weeks. Is the 20-week period written down—this is when it starts, and this is when it finishes—or is it just that that is how long it takes at the moment? Is it a formal, written down period, or is that just how long it takes?

Kate Forbes: It is not a formal, written down process; that is just how long it takes. I would be happy to write back to the committee to illustrate all the steps that we are required to take, which extend the period to 20 weeks.

I reiterate that, in the Scottish Government submission, we made a plea for a more flexible, innovative process that would reduce that timescale, because 20 weeks is unacceptable and ridiculous. However, that is the end result of dealing with every step of the process. It can take a shorter time, but it can take up to 20 weeks, and I do not think that that is acceptable.

Helen Miller talked about minor examples of ways that would make the process take less time, which included using different search agencies, running more joint rounds and creating pools of pre-qualified people to help reduce that time. Although they might seem trivial issues that perhaps should not be discussed at committee, those are all suggestions and examples of moving away slightly from an overly prescriptive approach and being more flexible in approach. We could incorporate that kind of flexibility and innovation to reduce the timescale without compromising the rigour, to refer to what John Scott said. We are not suggesting that we compromise on rigour or scrutiny; we are suggesting that, in order to deliver better outcomes and more diversity, including around socioeconomic issues, doing it in a more flexible way would really help.

Neil Findlay: It is clear that there is absolutely no reason why it should take 20 weeks and there is nothing written down about why it should. Therefore, even within the current system, that can be sorted, if there is the will to do so.

However, we will wait for the cabinet secretary's correspondence.

The Convener: We will see the correspondence when it comes in.

Gil Paterson: My main concern has been that we are missing a trick for the folks on lower income. By definition, they are poor and not getting a chance, so I am pleased that the cabinet secretary said that she would take that away. That is great, and I take her point. The point that Neil Findlay raised in the first place is right, but I am glad that the Scottish Government is on the case, that it is looking for what Neil Findlay asked about, and that we will get a report on that. I have nothing else to add.

Oliver Mundell: I know that we have already talked a little about this, but I am keen to return to the issue of protected groups. The commissioner's report recognises that gender balance was achieved ahead of schedule in 2019, which we all welcome. However, why do you think that "parity" for

"disability, age and ethnicity remains elusive",

to use the commissioner's words? Why is there still such a barrier for those groups?

Kate Forbes: Again, the short answer is that we probably need a national endeavour to resolve areas where the improvements are more incremental than substantial. We are working with quite small groups of people. As I set out in my opening comments, we are working with between 120 and 150 appointments per year.

We have had some success in improving the rate of appointment for disabled people and people from an ethnic minority. You probably have the figures in front of you, but 6 per cent of new appointments made in 2019 were of people from a minority ethnic background, up from 4 per cent in 2018 and 2 per cent in 2017. We are starting from a very low percentage and we are building on that.

10:30

There is a similar trend when it comes to the figures for disability. In 2019, 12 per cent of new appointments were of people who declared a disability, which was up from 7 per cent in 2018 and 6 per cent in 2017.

A large part of our work to date on equality has involved analysing the data and working with disabled people and ethnic minority groups to understand the barriers that they face and taking action to address them.

The issue that is often cited is that, if you cannot see yourself represented on a board now and you do not want to be seen as tokenistic, as it were, there are a lot of hurdles to overcome. We are

working to address that, to understand the barriers, to analyse the data and then to take action to resolve the issues.

I go back to the question that Gil Paterson and Neil Findlay both raised, on how we reach certain groups. I do not think that we can be content with just putting up adverts and waiting for people to apply. We need to be much more active in our engagement. We need to go out, demystify the process and promote appointments. Some of the current appointees have been generous with their time in putting themselves out there for the purposes of publicity to demonstrate that there are already people from those groups on our boards and that more would be strongly welcomed. There must be a more flexible approach, however.

Oliver Mundell: Does that extend to young people, too? My experience suggests that lots of young people in my constituency, which is in the South of Scotland Enterprise area, are very interested in the new organisation, but they would not necessarily know that it has a board or how they might get involved. Do you think that there is enough outreach for young people in general?

To follow up on the point about progress, how long do you expect natural turnover to take? If we are appointing just 150 new people a year, how long do you expect it to take before people in the protected groups are represented to a level that replicates their numbers in the country?

Kate Forbes: On your first question, it depends how you define "young people". I was going to quote a figure for young people, but I see that it refers to people under 50. I am sure that anybody aged 49 will be chuffed to bits that I am classifying them as a young person. The representation figures for under-50s have been steady, at about 18 per cent. We are starting a workstream on the representation of young people and on reaching out to them at the end of next year, I think, in collaboration with Edinburgh Napier University.

On turnover and getting more representation, although the trend that I have just outlined is incremental, because it starts from a low base, it demonstrates that we are moving in the right direction quite consistently. I think that, if we can continue to move in that direction and continue to take the actions that I mentioned in answer to your first question, we could start to see more substantial progress.

We will intentionally—and, to refer to John Scott's point, in a way that is based on merit—ensure better representation of people from those groups, in collaboration with those who represent those demographics. I hope that we will build on that. You could argue that turnover is low on some boards because we get the right people in the first place, but we need to build on the figures.

Oliver Mundell: Do you have a date in mind—a target date for disability or ethnicity, for instance?

Kate Forbes: I do not have a date or a target.

The Convener: Thank you for bringing that into the public domain, Oliver.

John Scott: Gil Paterson said that we would be “missing a trick” if we did not include people on low incomes. I agree with that, and with much of what the cabinet secretary said about the need for greater flexibility. However, we would also be missing a trick if we did not do more to attract people from the private sector.

I refer the cabinet secretary to the information on applicant feedback that we have in our committee papers, which I think applies across the board. The commissioner recently published a report, “Applicant Research 2019”, and more than one applicant who was surveyed felt that the process was a “closed shop”. I am not quite certain what that suggests. We will all, in our own minds, have different ideas of what a “closed shop” means.

What will you do to ensure that there is a level playing field for all applicants? What can be done to make recruitment more accessible and less intimidating for those who have no experience of serving on public boards? In my view, the private sector is by far the biggest neglected group.

Kate Forbes: This committee session has demonstrated the importance of diversity, and each committee member has asked me a different question about whether we are doing more to represent a particular group. However, some of the protected characteristics are not necessarily exclusive of each other, and neither is a private or public sector background.

The concern that overrides all that is the need to demystify the process and be clear about the experience that we need, and then to ensure that public appointments are promoted in such a way as to encourage a diverse range of applicants. When people from the private sector apply, they normally do quite well. It is clear, therefore, that the challenge in that respect lies in inviting people to apply in the first place, and demystifying the process to the extent that they feel comfortable and confident in applying. That is true in relation to people from private sector backgrounds, and it is just as true with regard to the conversations that we have had about different socioeconomic backgrounds and young people, and Oliver Mundell’s questions about disability and ethnic minorities.

If there is a sense among the public at large—the people of Scotland—that they own these bodies and should be represented on their boards in order to reflect the diversity of our population,

we will start to resolve the issue. A lot of work has already gone into that, which is why we see an incremental improvement in representation. Nonetheless, it is clear, based on this conversation and other conversations, that more needs to be done, and more will be done.

John Scott: When the committee first discussed the matter in December, I asked for examples of good practice. We got several examples in the follow-up information that the commissioner submitted. She stated:

“The case studies have been acknowledged by the panel chairs, on behalf of the appointing ministers for the rounds concerned, as representative of good practice.”

However, she went on to say:

“The practices set out therein have not, however, been codified and subsequently rolled out by the Scottish Government as the new standard”.

If they have not, why not? Will you seek to build on those examples of good practice in the future?

Kate Forbes: Absolutely. We are already identifying and sharing good practice as standard. Officials share good practice and learning, both within the public appointments team and across board areas. The process to identify and use evidence and good practice is already established, and it works well.

In a few instances, appointment rounds do not deliver the right calibre of people, but adding further prescription to appointment plans would be unnecessarily restrictive and would add further bureaucracy. Feedback from boards, applicants and selection panels points to the need for greater flexibility in the process.

There is already a tried and tested way of sharing good practice, and we are open to embedding good practice. There is no motivation to overcomplicate the appointments process or to put hurdles in the way to prevent the best applicants from applying. We will continue to share good practice and take into account feedback. We have regular feedback loops and processes for applicants. In the commissioner’s survey, 80 per cent of applicants said that the process was clear, and 90 per cent said that they applied because they had the skills that matched those in the advert.

There is already good practice in sharing best practice, and we regularly take into account feedback from surveys and through the formal appointments process.

John Scott: Other people have suggested that that has not been the case, so you might want to look further into that. Our information tells us that examples of good practice are not being built on. I note your optimism and ebullience, but I think that the matter needs closer examination.

The Convener: Neil Findlay has a question on the back of that.

Neil Findlay: One witness—I cannot recall which one—suggested that something was missing at a Government and ministerial level to drive this agenda, and that, in effect, the minister in charge had taken their eye off the ball. Given what has happened over the past year, I do not expect the issue to be the cabinet secretary's number 1 priority; I understand that we have been very busy with other things. However, it would be quite refreshing if ministers were to accept that their eyes have been off the ball and to say that they will now take action. Is that the case?

Kate Forbes: It is not the case that eyes have been off the ball. Our conversations and the feedback that I have looked at illustrate that there is a lot of progress to be made in improving diversity within our boards. I do not think that the need for progress is unique to the board appointments process, to the Scottish Parliament or, indeed, to any private sector board. Across Scotland, there is a lack of diversity in every sphere, region and demographic. We have had extensive political conversations in Parliament about the lack of diversity, and steps need to be taken to resolve that. That also applies to public appointments.

The figures that I have shared today show that incremental progress is being made in the right direction. Does more need to be done? Absolutely. Are we open to suggestions for improvement? Yes. Do we take our role extremely seriously in ensuring that a diverse range of applicants apply and are successful? Yes.

I commit to taking away any and all suggestions from the committee about what we can do better, and to reflecting on them carefully and then coming back to the committee. However, the problem is not unique to the board appointments process or to the Scottish Government; it is an issue across society.

The Convener: I thank all members for their questions. The cabinet secretary has said that she will get back to us in writing on one or two issues. I thank her and Helen Miller for attending today's meeting. The sun does not always shine in Dingwall, cabinet secretary, but we can see that sunshine is pouring in through your window, so we will let you go.

Cross-Party Groups (Annual Report)

10:44

The Convener: Under the next item, the committee will consider an annual update on cross-party groups' compliance with the code of conduct. Members have received the papers.

I see that members do not wish to make any comments, so I invite them to note the report and to confirm that they do not wish to take any action against any of the groups in relation to breaches of the code of conduct.

As there is no disagreement, we agree to take note of the report.

10:45

Meeting continued in private until 11:21.

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