

EQUAL OPPORTUNITIES COMMITTEE

Tuesday 15 December 2009

Session 3

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EQUAL OPPORTUNITIES COMMITTEE

18th Meeting 2009, Session 3

CONVENER

*Margaret Mitchell (Central Scotland) (Con)

DEPUTY CONVENER

Marlyn Glen (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Malcolm Chisholm (Edinburgh North and Leith) (Lab)

*Willie Coffey (Kilmarnock and Loudoun) (SNP)

*Bill Kidd (Glasgow) (SNP)

*Christina McKelvie (Central Scotland) (SNP)

*Hugh O'Donnell (Central Scotland) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Rhoda Grant (Highlands and Islands) (Lab)

Mary Scanlon (Highlands and Islands) (Con)

Margaret Smith (Edinburgh West) (LD)

Shirley-Anne Somerville (Lothians) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Barbara Allison (Scottish Government Directorate of Human Resources and Corporate Services)

John Swinney (Cabinet Secretary for Finance and Sustainable Growth)

CLERK TO THE COMMITTEE

James Johnston

ASSISTANT CLERK

Rebecca Lamb

LOCATION

Committee Room 4

Scottish Parliament

Equal Opportunities Committee

Tuesday 15 December 2009

[THE CONVENER *opened the meeting at 10:00*]

Public Appointments (Equal Opportunities Strategy)

The Convener (Margaret Mitchell): Good morning and welcome to the 18th meeting in 2009 of the Equal Opportunities Committee. I remind everyone that mobile phones and BlackBerrys should be switched off completely, as they interfere with the sound system even when they are switched to silent.

We have received apologies from Marlyn Glen.

I welcome to the committee Jim Johnston, who will be clerking the Equal Opportunities Committee and the Finance Committee, and I pay tribute to Terry Shevlin for the excellent work that he has done for the committee over the past couple of years. Terry will be joining the Finance Committee for the foreseeable future to replace someone who has gone on secondment. We wish him well for the future.

Agenda item 1 concerns the public appointments and equal opportunities strategy. With us, we have the Cabinet Secretary for Finance and Sustainable Growth, John Swinney; Barbara Allison, the director of human resources and corporate services in the Scottish Government; and Avril Coats, the head of public appointments in the Scottish Government.

I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): I appreciate the opportunity to provide the committee with evidence on the Scottish Government's work to date on the strategy of the Office of the Commissioner for Public Appointments in Scotland, "Diversity Delivers: A strategy for enhancing equality of opportunity in Scotland's ministerial public appointments process". The Scottish Government continues to work closely with OCPAS in making improvements to the public appointments process, including on diversity and equality. At last month's OCPAS senior civil servants event, the commissioner spoke of the positive and productive relationship that the Scottish Government has with OCPAS. That is also reflected in the latest OCPAS annual report. We are jointly developing the strategy and implementing its contents.

I accept that there have been frustrations and, sometimes, resourcing difficulties on the parts of the Government and OCPAS with regard to advancing recommendations, but good progress has been made.

The number of women applying and being appointed to the boards of public bodies has increased. In 2008-09, 36 per cent of people who were appointed to OCPAS-regulated bodies were women, which was an increase on the previous year.

We have seen direct proportionate representation of people with disabilities in Scotland applying for boards, and an increase in appointments from among them: some 7.8 per cent of people who are appointed to OCPAS-regulated bodies in 2008-09 were disabled people and 18.9 per cent of applications to regulated bodies were from people with disabilities. In the same year, there was also an increase in the ratio of the number of people from ethnic minority backgrounds applying to the number being appointed.

Those figures clearly represent progress with regard to visible diversity in key elements of the public appointments process, and with regard to the diversity of skills across the public body boards. It is important that that positive work impacts across all public bodies where those appointments are made and is not restricted only to public bodies that are currently regulated by OCPAS.

In these brief opening remarks, I will focus on a few key achievements in the practical implementation of the diversity delivers strategy. Our dedicated public appointments hub website was launched and publicised on 28 May 2009 and has had more than 38,000 visits, and the public appointments DVD has been produced by the Scottish Government. Our dedicated public appointments freephone number has been launched, the public appointments corporate database system is in place, and the new diversity monitoring form has been launched.

I hope that that gives the committee an indication of the Scottish Government's continued work on diversity and equality issues in relation to public appointments, as well as our collaborative work with the commissioner.

The Convener: The written submission from the commissioner highlights a number of key achievements. However, it also expresses the commissioner's disappointment at the lack of progress on the part of the Scottish Government in respect of diversity in public appointments. Could you comment on the areas in which she felt that more could be achieved? I wrote to you fairly early on to highlight some of those concerns.

John Swinney: I have seen the commissioner's submission, and I have to say that it does not feel like that from where I am sitting. I think that a lot of progress has been made, although I acknowledge that more progress could be made if greater resources were available in relation to certain aspects of the work that is being done. In general, however, the things that I mentioned in my opening statement—the public appointments hub website, the development of the DVD, the expansion of access through the freephone number and that we now have in place the monitoring and cross-referencing work—are particular strengths.

That work is under way. The Government is absolutely committed to making progress on the diversity delivers agenda. We will continue to work with the commissioner on those objectives.

The Convener: We will probe some of those issues further as we proceed with our lines of questioning.

Elaine Smith (Coatbridge and Chryston) (Lab): I do not doubt the Government's commitment to making progress. Nevertheless, worrying issues are raised in the commissioner's submission, which states:

"As the Scottish Government was unwilling to be bound by decisions made by the Implementation Group I disbanded the Group in July 2009. Joint working has been discontinued in favour of OCPAS working alone, or in conjunction with the EHRC."

Are you concerned by OCPAS's decision to disband the diversity delivers implementation group? What implications does that have for successful implementation of the strategy?

John Swinney: I am not concerned by the decision to disband the group, because the decision was taken by the commissioner and the Scottish Government. When I read the commissioner's submission, I noted the words,

"I disbanded the group in July 2009."

That does not accord with the information that I have at my disposal. I understand from my officials that a discussion took place between the commissioner and the then director of change and corporate services in the Scottish Government, and that a joint decision was arrived at not to proceed with the implementation group but instead to appoint the steering group on which Barbara Allison sits as my representative, along with Chris Oswald from the Scottish Human Rights Commission and the commissioner for public appointments. The rationale behind that decision was that we believed that we needed to make it clear that the Government's participation in implementation of the recommendations was anchored in all the Government's activities. Barbara Allison has responsibility for human

resources and appointments issues across the Scottish Government, which means that she is in a position to influence that at a more strategic level than that group was able to do.

Essentially, we have a reliable mechanism for progressing the agenda. The words that the commissioner has used in her submission do not accord with the situation as I understand it, which involved a decision being arrived at jointly by the commissioner and the Scottish Government.

Elaine Smith: The committee might wish to pursue that further with the commissioner. Obviously, we take the cabinet secretary's word for how his section sees events as having happened.

John Swinney: I would like to add one further detail to the answer that I have given. The steering group that is referred to in paragraph 7 of the commissioner's submission met last week and agreed a forward plan for year 2 of the implementation of diversity delivers.

Elaine Smith: That sounds helpful, although it is still slightly worrying that we have different information.

The most worrying part of the paragraph that I quoted is where the commissioner says that the Scottish Government was

"unwilling to be bound by decisions made".

What is your understanding of that statement?

John Swinney: Those are not my words. All I can say to the committee is what I have said before in correspondence with the convener and what I said at the launch of the diversity delivers strategy on 1 September 2008, which I attended on behalf of the Government. The commissioner recorded that in her annual report, which was published some time ago; she said that the

"Cabinet Secretary ... emphasised the importance of the strategy's recommendations and underlined the Scottish Government's support for them and the targets set in the strategy. Since then both OCPAS and the Scottish Government have made progress in taking forward the recommendations."

I completely accord with that view. The Government made a commitment, and I have made clear our support for diversity delivers. I reiterate the Government's willingness to implement that agenda and to ensure that we deliver progress on many of the issues. Some progress has been made—although I am not sitting in front of members saying that we have reached the destination and that there is a panacea.

Elaine Smith: Will the steering group be a positive vehicle for ensuring full and successful implementation of the strategy?

John Swinney: The steering group will be able to capture accurately what it is practical for the Government to implement in a given timescale. If the Government gives a commitment in the steering group to do certain things in certain timescales within the structure that is now in place, it will work with all its energy to deliver on that commitment. We cannot sign up to proposals and targets that, in our heart of hearts, we know will be extremely challenging to deliver, either because of the scale of the challenge involved or the rate of progress that would be required, but I can certainly assure members that we will give and honour commitments in the steering group process.

Elaine Smith: Was the problem with the implementation group that unrealistic targets were set?

John Swinney: There was an element of that in the approach that was taken in the implementation group, but I am confident that we now have the mechanisms in place to ensure that we can progress an agreed plan. As I said, the steering group met last week, and it has agreed a forward plan for year 2 of the diversity delivers strategy.

The Convener: I would like to clarify something. In paragraph 6 of her evidence, the commissioner states that, in a meeting in April 2009,

"it became clear that none of the Scottish Government's representatives had the authority to make the necessary commitments on its behalf and that the Scottish Government would not be bound by decisions made by the Group."

Was there a misunderstanding or an expectation that could not be realised? Is there something to learn for the future about setting parameters at the beginning when establishing such groups?

John Swinney: We certainly have to be clear about what we think it is possible to deliver. A myriad of people make commitments on behalf of the Government—

The Convener: That must be quite worrying.

John Swinney: It is always reassuring, convener.

A myriad of people at appropriate levels of authority make commitments on behalf of the Scottish ministers. In all circumstances, we must have the right people who are able to make the appropriate commitments on behalf of the Scottish Government.

Perhaps Barbara Allison, who was involved in the discussions, might want to add to what I have said.

10:15

Barbara Allison (Scottish Government Directorate of Human Resources and

Corporate Services): Fairly aggressive targets were set in the action plan that was laid out for year 1 of the implementation group. As work progressed, we realised that some things were going to take a bit longer to implement than we had all hoped at the beginning. For example, with respect to the website and the monitoring form, there were sometimes information technology constraints, and there had to be quality checks with interested groups. Perhaps the dates that we originally set were a bit too enthusiastic.

There was concern in the group about our committing the Scottish Government in a couple of areas, one of which was on the education programme, the sourcing of which required funding that we did not have. We asked whether the implementation people on the group were able to commit Scottish Government resources to certain things as opposed to other things.

The cabinet secretary mentioned that the steering group met last week. We agreed that it would be useful to consider what we had done in the past year and to build on it. We have done a lot of good work jointly, and many statistics are now available. It will be useful to consider what has worked well, what we can build on and areas in which we have not progressed as quickly as we might, so we have agreed that my team and the commissioner's team will get together to do that. It is a matter of setting realistic dates. Perhaps in their initial enthusiasm, people set dates that were not, for various reasons, achieved.

That is where we are. The meeting last week was positive, and my view is that we are all quite comfortable about the way forward.

Hugh O'Donnell (Central Scotland) (LD): I am not entirely sure that adjusting targets to make them achievable is a way of making the progress that we want. I want to be clear about the differences between the implementation group, which ostensibly did what it said on the tin—it implemented the diversity delivers strategy—and the steering group. The final sentence of paragraph 7 of the commissioner's evidence states that the purpose of the steering group

"is to update each other on the progress made by each of our organisations".

Are there just information exchanges rather than joint working?

Finally, has the youth reference group that is referred to in paragraph 8 of the commissioner's evidence been set up?

John Swinney: We should be clear. Nobody is asking whether the diversity delivers strategy should be implemented, and no single organisation can implement it. A myriad of organisations is required to progress that agenda

through their work, including the Government and other public bodies. The strategy needs to be progressed in that fashion, and we are all focused on implementation. We are debating what is the most effective mechanism for monitoring implementation of the strategy by different players in the public sector. Essentially, the steering group will monitor progress in implementing the strategy. The implementation will be done; we will simply have a different mechanism for supervising the strategy.

The steering group will have regular meetings: as Barbara Allison said, its first meeting was on 9 December. The minute of that meeting states:

"The Steering Group will agree a revised action plan for year two of Diversity Delivers, designed to consolidate the work done in year one. It will be based on the priority actions outlined in Diversity Delivers."

It also states that, in preparation, the Scottish Government and OCPAS teams

"will summarise where we are with each priority action, the impact of action taken to date and will provide recommendations for future action for each priority area.

The form used to report progress will be simplified, based on the revised action plan."

The steering group will be in a position to consider comprehensively at strategic level all the implementation questions and will therefore be able to take account of the need to make progress. I hope that it will be an effective mechanism that will provide the opportunity for progress to be made.

Hugh O'Donnell asked about the youth reference group. On 3 May, we sent the commissioner information on the approach that was being taken to reference groups, which included suggestions from the Government about the establishment of the youth reference group. The commissioner responded to our e-mail on 5 May, when she indicated that OCPAS would get back to the Government with its thoughts on setting up the group. We had a follow-up contact on the matter from the commissioner on 3 December.

If my recollection is correct, I think that reference groups have been established by the commissioner and that the Government does not sit on any of them. *[Interruption.]* I am advised that that is correct.

Hugh O'Donnell: Thank you for your helpful explanation. However, the commissioner said in her evidence that the youth reference group is

"still to be established by the Scottish Government."

You seem to be indicating that that is not the agreed direction of travel and perhaps that the Government has batted the ball back to OCPAS. Who is responsible for establishing the youth

reference group? Is it the Government or is it OCPAS?

John Swinney: I can only set out the chain of communication that is in front of me. The Government provided OCPAS with information on 3 May, following a Scottish Government meeting about reference groups with Young Scot on 29 April. We had a response from the commissioner on 5 May, in which she indicated that OCPAS would come back to us with its thoughts, and there was contact on 3 December. As a consequence of that response from the commissioner, the Scottish Government has contacted the Scottish Youth Parliament to take matters forward, so work is proceeding. I stress that the reference groups that have been established were taken forward by the commissioner.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): A key concern that the commissioner raised relates to monitoring. In September 2008, the "Diversity Delivers" document set out a clear timetable for developing a new equal opportunities form for public appointments, which would enable analysis of the application pool by extension to various new characteristics, which—this is crucial—could be cross-referenced with information on how far individuals progressed in the appointment round. The timetable said that the form would be developed by the end of last year, piloted at the beginning of this year and introduced in April. However, we are told that the form was introduced in October without a pilot having taken place. That seems to contradict what you told the committee in correspondence in April, which was that data on monitoring would be in place for the full year from April 2009. What is the state of play on that commitment?

John Swinney: The data have been in place from October 2009. We discussed with OCPAS whether we should collect data retrospectively for April to October: we agreed with OCPAS that we would not. That is one of the issues that we were not able to take forward in the agreed timescale.

Malcolm Chisholm: What caused the slippage?

John Swinney: We simply were not able, because of the resources that were available to advance that issue among other priorities, to make progress in the timescale that had been envisaged. Barbara Allison talked about assumptions about how long it would take to develop aspects of the approach to implementing diversity delivers—some of that work took longer than was envisaged.

Malcolm Chisholm: The commissioner has also flagged up to us that no system is in place to store or analyse data from the new monitoring forms. What is the state of play on that?

John Swinney: Monitoring forms have from 2 October been stored electronically. We can cross-reference applicants' progress from April 2009. That provision is in place.

Malcolm Chisholm: You said that you will do that only from October. Are you saying that the commissioner is wrong to say that no system is in place?

John Swinney: We can cross-reference data on applications from April, but we agreed with the commissioner that we would not collect the retrospective data.

Malcolm Chisholm: Has the full system been up and running since October?

John Swinney: Yes.

Malcolm Chisholm: The commissioner said in relation to the system:

"The Scottish Government anticipates this will be ready in January 2010".

Is she wrong about that?

John Swinney: My understanding is that the system is up and running now.

Barbara Allison: We are able to provide monitoring information for between April and now for most of the data fields that one would expect. A couple of additional data fields were added in October. Those data fields will not be made retrospective back to April, but we can provide monitoring statistics from April onwards and we can provide the data from the additional fields from October. A system is available that allows us to cross-reference and provide monitoring information, so we are comfortable about our ability to provide that.

A system has been developed with our IT people that will allow people to examine the details of each appointment round. The system has not been rolled out across the Government, but it will be available in January. It will include information on how we advertised, what type of application form was used, how many applicants there were, how many people were interviewed and so on. It will provide a wide range of information, so there will be good data for people who are interested in opportunities in subsequent appointment rounds. That is the type of information that will, from January, be available widely to sponsor teams and so on. The information is available currently but it is internal to HR.

Malcolm Chisholm: Another key area of concern for the commissioner is that the core competency framework for public appointments has not been produced. The Scottish Government agreed to produce it and it was intended to identify the core skills, knowledge and personal qualities that are needed for a board member to be

effective. The commissioner said that officials told her recently that Audit Scotland would produce the competency framework, but she understands that Audit Scotland has not discussed the matter with the Scottish Government. There seems to be some confusion and delay. Can you explain what is going on?

John Swinney: Officials started developing the competency framework in January. The first draft was presented at a directors event in the Scottish Government in February, in which an OCPAS representative was involved. As a result of feedback from the event, we continued to develop the work during the summer. At that stage, it was agreed that we would ensure that the work was aligned with the outcome of the forthcoming Audit Scotland report on the role of boards, which is due in March or April 2010.

OCPAS was informed of the approach, but the Government received from OCPAS no comment—other than what the committee has before it—to suggest that it disagreed with the approach. The approach makes sense to me. If Audit Scotland is producing work that will be relevant to this area of activity, it is pragmatic to align our work with the feedback that will come from Audit Scotland.

That is the decision that we have taken. Part of that judgment hinges on whether we should stick rigidly to an approach and a timescale that we have set out and discussed previously, or deploy some flexibility to take into account changing circumstances. An Audit Scotland report is due soon: we do not want to produce a competency framework that is judged not to be appropriate in the context of Audit Scotland's work. We do not want to reinvent the wheel. A bit of pragmatism does not go amiss.

10:30

Malcolm Chisholm: Who will produce the competency framework? Will it still be the Scottish Government?

John Swinney: It will be the Scottish Government.

Malcolm Chisholm: It seems that the commissioner has been misinformed, as she was told that Audit Scotland would produce the competency framework. She states in her written evidence that Audit Scotland has advised her that it has not discussed the matter with the Scottish Government. Should we expect some discussions to take place between Audit Scotland and the Government on the subject, or are they living in separate worlds?

John Swinney: Mr Chisholm will appreciate, given his long experience as a minister in the Scottish Government, that ministers must be

Careful about the degree of dialogue that they have with Audit Scotland on certain questions. One thing on which we all agree in Parliament, across the political spectrum, is that Audit Scotland and the Auditor General for Scotland have pursued an unreservedly dispassionate approach in undertaking their work, regardless of who is in the Administration.

Part of that approach is built on the fact that we all keep our distance. I will not sit here and suggest that we are in a cosy environment with Audit Scotland, because we should not be; it is there to audit us and hold us to account. A degree of distance must be observed. We know what is in the Audit Scotland work programme, and we have decided that we should wait until the report comes out before we take a final view.

Malcolm Chisholm: I accept that point, but there seems to be a great deal of misunderstanding between the commissioner, Audit Scotland and the Government about what is going on. However, that is on the record now.

John Swinney: It is on the record.

Hugh O'Donnell: I acknowledge the hesitant nature of the relationship between a Scottish Government of any shade and Audit Scotland, given Audit Scotland's role. However, all too often there is a system of silo operation across a range of activities that leads to the very thing to which the cabinet secretary referred: the reinventing of the wheel. A certain level of communication must take place in areas of common interest to clarify who is doing what, when and how.

OCPAS has made it clear to the committee that Audit Scotland has no intention of producing such a framework as part of its work. If I have understood you correctly, your understanding is that Audit Scotland will do that. That leaves everything in limbo. Can you clarify where we are on this issue?

John Swinney: In a sense, you make my point for me. If we were operating in a silo mentality, we would ignore the fact that Audit Scotland will produce a report on the approach of boards in March 2010. We would say, "That is nothing to do with us—it is a different silo. We will press ahead and develop our competency framework". I might then have to appear before the committee in April 2010 and the committee could quite reasonably say, "We have received an Audit Scotland report that is at odds with your competency framework—what are you going to do about that?" I would then have to go back into my silo and construct another competency framework to publish.

We have taken an essentially pragmatic view. We know that an Audit Scotland report on the issue is on its way; we will reflect on that analysis—I think we all agree that it is worth

listening to what Audit Scotland says—and use it in producing our competency framework. We must frequently be flexible and pragmatic about the decisions that we take, because circumstances change around us; it is not a perfect and orderly arrangement.

I accept that there is a need for absolute clarity on some of the progress that has been made on different questions. I am a bit surprised by some of the evidence that the committee has received from the commissioner in that regard, because it is reflected neither in the progress that I see on a variety of different questions, nor in what is emerging from the discussions with the commissioner on some of those points, in which my officials are involved.

Hugh O'Donnell: Just to anticipate matters slightly—[*Interruption.*]

The Convener: Just continue, Mr O'Donnell.

Hugh O'Donnell: If the Audit Scotland report makes no reference to a competency framework, what is plan B? Will there be a hiatus while the Government draws together a framework? Where would we go from there? Would that delay further the implementation of the diversity delivers programme?

John Swinney: If that happens, we will press ahead with developing the competency framework, because we have given a commitment that we will do that. We have a set of interventions that have been progressed, and we will continue to advance those issues.

The Convener: My concern relates to what you have said about reflecting on the report and taking a pragmatic approach to the development of a competency framework. In this case, a competency framework would seek to

"identify the core skills, knowledge and personal qualities"

that are necessary for board members, and to ensure that those who sit on panels have the necessary training to ensure that they are aware of those skills and that the people they select have those skills. In the meantime, however, there is a vacuum.

John Swinney: No; there is most definitely not a vacuum. When I and my ministerial colleagues consider recommendations that are presented to us for public appointments, there is a clear assessment of the competence of individuals. There may be a need to systematise the process and to ensure that a consistent approach is taken across a host of disciplines, but I assure the committee that the question of the competence of the relevant individual is at the heart of the process in every public appointment that we make.

The Convener: Does that not rather undermine the value of the competency framework? Your comments suggest that a framework would just systematise the process and that everything is fine at present.

John Swinney: I am simply saying that there is always room for improvement in all aspects of such processes. As I said at the outset, we accept the need for us to ensure that our approach to public appointments remains effective and at the leading edge of what people expect from the process. That in itself drives a process of re-examination of the approaches that we take.

You asked whether there is a vacuum. The question of competency lies at the heart of every decision that is reached on public appointments. Lists of possible appointees to public bodies are put in front of me, and central to the judgment that must be made is whether or not candidates can be recommended for appointment—competency is a fundamental consideration in judging who falls into which category.

The Convener: I think that we have explored that issue as far as we can. You will have understood from our questioning that we are a little concerned that there has been a bit of slippage. [*Interruption.*] We look forward to seeing how the programme progresses and to monitoring how the competency framework is taken forward.

Hugh O'Donnell: Before I ask my main question, I should make the observation that there are circumstances in which people are nominated for public appointments and there are no alternatives. I am thinking of local authorities nominating health board members, for example. The issue also arose some time ago in relation to national park boards. [*Interruption.*] I ask you to clarify, for the record, that such appointments are not based entirely on competence, despite what you have clearly and rightly stated.

John Swinney: I am acutely aware of the issues around the appointments that are made principally, if not exclusively, by local authorities. However, those appointments are not regulated by OCPAS. I have nominations for public appointments sitting in my in-tray just now, and I assure the committee that there is a competence evaluation at the heart of any such appointments.

Hugh O'Donnell: In April 2010, OCPAS is due to merge with the Scottish Parliamentary Standards Commissioner and the chief investigating officer. In the light of what you have said previously about joint working, steering groups and so forth, what assurances can the Scottish Government provide that the implementation of diversity delivers will still be at the hub of what OCPAS and the new body do when OCPAS has been merged with other public bodies?

John Swinney: I do not imagine that there will be any issues around the continued implementation of diversity delivers. As I have said, the Government is absolutely committed to the implementation of diversity delivers. When organisational change takes place, people will have other things to think about. Nevertheless, in the grand scheme of things, the merger need not take anyone's eye off the ball in terms of the implementation of diversity delivers.

Hugh O'Donnell: So, you do not expect any slippage in the timeframe.

John Swinney: We are working in collaboration with the commissioner to put in place—as we have cited in relation to the steering group meeting that took place last week—a credible and deliverable plan for implementation. We will pursue that.

The Convener: I advise members that we have contacted facilities management in connection with the building noises that have accompanied the meeting this morning. It is hoped that there will not be any more during our evidence-taking session.

Willie Coffey (Kilmarnock and Loudoun) (SNP): Good morning, cabinet secretary. In your opening remarks, you highlighted several positive developments that have taken place, which seem to fly in the face of much of the evidence in the paper that we have in front of us. That is very encouraging. I want to ask specifically about the use of the freephone number and the website, and their role in promoting the work that we are doing. Have the improvements that you mentioned come about as a result of the freephone number and public participation through the website?

John Swinney: Establishing an audit trail that enables us to work out exactly how individuals have heard about public appointments activities is a challenge. It is encouraging that the website has been visited more than 38,000 times since it was launched on 28 May. I do not have any figures for contacts that have been made through the phone line, but we can provide that information to the committee after the meeting. The phone line and website are part of an important awareness-raising exercise that we are pursuing to ensure that a large number of individuals are aware of the public appointments process and can participate in it.

10:45

Willie Coffey: “Diversity Delivers” suggests that we would like one in three adults to have heard about the public appointments hub website. However, I would be astounded if a third of the population of Scotland had heard of the public appointments hub website. It is more important that it is used as a tool to deliver the kind of improvements that the Scottish Government is

seeking in public appointments. What role does the website play in delivering those improvements?

John Swinney: If we did not have a website, we would have a bit of explaining to do. Even John Swinney MSP has a website, which colleagues may wish to visit for Christmastide entertainment if the television schedules are not up to much.

The Convener: No advertising, please, cabinet secretary.

John Swinney: The website is a piece of essential architecture, given that many people obtain their information from the internet nowadays. We must ensure that it is accessible and that people can find information through it. We will also pursue other, wider awareness-raising initiatives. A minister going along to the launch of "Diversity Delivers" was designed to attract wider media focus on the fact that we are trying to change the approach to public appointments. In some of the data, we are beginning to see encouraging trends—they are moving in the right direction—and we must encourage that to continue.

The target is for 35 per cent of adults to have heard of the public appointments hub website. I am not sure whether 35 per cent of adults have yet heard of the John Swinney MSP website, although I am optimistic. The number of committee members who had heard of it was low, even among my loyal colleagues.

The Convener: Who would they be?

John Swinney: Reaching that target feels like a bit of a tall order, although I am not saying that we should not aim high. There is a need to ensure that a wider group of individuals in Scottish society are aware of the public appointments process and feel that they are able to participate in it. That is, in essence, the test of the work on public appointments. We must be confident that a broad range of citizens can participate in the process and secure appointments, rather than it being a familiar list of candidates who participate in the public appointments process.

Willie Coffey: It will be very encouraging if, over the Christmas holidays, when the TV is likely to be bad, there is a huge jump in the number of people visiting the public appointments website looking for something to do.

The Convener: I hope that that question has helped to raise awareness of the public appointments website, as opposed to the cabinet secretary's website.

John Swinney: I hope so, too, convener. There is an online surgery form on my website—

The Convener: Enough.

Christina McKelvie (Central Scotland) (SNP):

Good morning, cabinet secretary. One of the recommended actions in "Diversity Delivers" is the provision of an education programme for members of the public that would explain the work of the non-executive board members of public bodies. Paragraph 9 of the commissioner's submission, under the heading "Key Achievements", details positive things that have been achieved through the pathfinder education programmes. What progress has the Scottish Government made in addressing that recommendation?

John Swinney: The information on that is in the commissioner's submission, but I might add that Barbara Allison takes part in the monitoring work to assess the development of the mentoring programmes, which are obviously linked to the education activity. We take matters forward through a number of channels—including the Scottish Government directors events that I mentioned earlier—to ensure that those who are involved in the public appointments process are fully aware of the challenges that they need to live up to.

Christina McKelvie: Does Barbara Allison have anything to add to that?

Barbara Allison: Actually, we discussed this at our meeting last week. The first education programme has been run by Queen Margaret University and a second programme has been scheduled. We discussed last week how we can know whether those who attended the education programme go on to apply for posts and whether they are successful in doing so. Initial feedback from the course was very positive—people enjoyed the course and found it helpful—but feedback from the commissioner was that the attendees tended to be those who might have known about the public appointments system in any case, so the course might not actually be attracting new people. We agreed last week that, after some time has elapsed following the second course, we will ask the attendees from the first two courses whether the course changed their approach to public appointments, whether they then applied for an appointment and whether they were successful in doing so. I think that the trick is to get people to attend the courses who would not normally be interested in public appointments and to link them to mentors who could possibly help them with their applications.

As I said, it is early days so we might look later at whether the Scottish Government can help to fund the courses. Up until now, we have not been able to help with the funding of those programmes, although the commissioner was successful in securing funding from elsewhere. Once we have reviewed the success of the first two programmes,

we will decide whether we might be in a position to take that forward.

Christina McKelvie: That is a very welcome achievement.

Figures from November 2009 show that board membership of OCPAS-regulated bodies does not have the level of diversity for which we had hoped. Earlier in the year, I highlighted to the Parliament my concern that the 2008 edition of the annual "Sex and Power" report, which details the involvement of women in civic and political Scotland, showed that we had slipped a bit in the past year. What steps has the Scottish Government taken to ensure increased diversity not only among applicants but in appointments to posts?

John Swinney: Let me just deal with the position of the different groupings.

In terms of the number of women, 32 per cent of those who applied for public appointments in 2008-09 were women. That was slightly down from 2007-08, when the proportion was 34 per cent. However, the proportion of appointments that went to women increased from 29 per cent in 2007-08 to 36 per cent in 2008-09. That is still not at the level of population share, but the figures are, thankfully, moving back in the right direction after having dipped in 2007-08.

In terms of people with disabilities, for the first time in recent years—certainly from the data that I have in front of me—we have begun to achieve some degree of relationship with population share. Whereas about 20 per cent of the general population have some form of disability, 18.9 per cent of applicants for public appointments were people with disabilities. The proportion of applicants with a disability who were appointed was only 7.8 per cent. We are moving in the right direction on the application process, but the appointment process is driven by many other factors and it is not always possible to make the same progress.

On people from minority ethnic backgrounds, 3 per cent of the general population are considered to come from such a group. Although 3 per cent of applicants for public appointments were from those groups, in 2008-09 only 1.3 per cent of those who were appointed were minority ethnic candidates, which represented a decrease on the previous year's figure of 2.7 per cent. The numbers involved are quite small, so we need to look at the data over a period to ensure that we see an established pattern.

The commissioner's promotional activities to encourage diversity, along with publication of the "Diversity Delivers" strategy, mean that we are in a position to marshal many of the arguments and opportunities to members of the public. The

Government will continue to do that through the work that we undertake internally on educating our staff on how to adopt the right outlook to such issues.

Christina McKelvie: Is it possible to measure objectively how the performance of more diverse bodies compares with the performance of less diverse bodies? I realise that that might be difficult to do. Is there any way of measuring that? Do we have data on that?

John Swinney: I do not have any data on that, and it would be inherently challenging to conduct such an exercise objectively. However, the more diverse the boards are, the more reflective they will be of society. Instinctively, one gets the feeling that they will make better judgments and adopt better approaches than they would do if they were not fully representative of our society.

Bill Kidd (Glasgow) (SNP): Good morning, cabinet secretary. In certain circumstances, the United Kingdom Government's Equality Bill will allow positive action in recruitment and promotion. Clause 153 will permit an employer to take a protected characteristic into consideration when deciding whom to recruit or promote, but only when the protected characteristic relates to disadvantage or underrepresentation and when the candidates are equally qualified. In other words, the provision will allow positive action rather than positive discrimination. Will the clauses in the UK Government's Equality Bill on positive action in recruitment and promotion result in any changes being made to public appointments by ministers in the Scottish Government?

John Swinney: As I understand it, the Equality Bill relates to employees, and public appointments are not defined to involve employees, so the application of the positive action clauses would not be taken forward in the context of the public appointments process.

There is, of course, an element of best practice that we can learn from the bill and progress through the public appointments process, but I do not envisage a need for legislation in that respect. When we consider our approach to public appointments, we will look to see how we can make the maximum contribution to ensuring that the sentiments that are enshrined in the Equality Bill are reflected in that approach.

Bill Kidd: So you would prefer to go down a best-practice route rather than a legislative route.

11:00

John Swinney: I will not close the door entirely on legislation, but we will certainly look to the Equality Bill to establish where we can take forward best practice. If, as a consequence of that,

we consider that we need to resort to legislation, we will give consideration to that option.

Elaine Smith: Bill Kidd mentioned positive discrimination but, obviously, that is unlawful and will remain so under the bill that has been mentioned. However, the cabinet secretary is saying that people who are subject to public appointments are not considered to be employed or to be employees. Does that mean that positive discrimination would not be unlawful in those cases?

John Swinney: No. I think that positive discrimination is unlawful, whether the people who are being appointed are employees or not. If I have any reason to reconsider that view, I will write to the convener.

Elaine Smith: Given the figures that have been mentioned, action is needed, and I understand from what you are saying that action will be taken. I just thought that the issue that arose earlier should be clarified.

John Swinney: With regard to the appointments process, we are moving in the right direction. We are by no means at the end of the process—I do not suggest for a moment that we are. Diversity delivers helps us to make progress, because it advertises the fact that we need to emphasise the recruitment of individuals to public bodies.

The Convener: That concludes our questions. Do you wish to add anything, cabinet secretary?

John Swinney: I have nothing further to add.

The Convener: I thank you for what has been an informative question-and-answer session on a number of levels, and wish you a happy Christmas.

As agreed at a previous meeting, we move into private session to deal with agenda item 2, which concerns an options paper on trafficking and the economic impact of migration.

11:02

Meeting continued in private until 11:17.

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