

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 19 January 2010

Session 3

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CONTENTS

Tuesday 19 January 2010

Col.

DECISION ON TAKING BUSINESS IN PRIVATE	337
CROSS-PARTY GROUPS	338
COMMISSIONER FOR PUBLIC APPOINTMENTS IN SCOTLAND	339
CROSS-PARTY GROUPS	356

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

1st Meeting 2010, Session 3

CONVENER

*Gil Paterson (West of Scotland) (SNP)

DEPUTY CONVENER

*Marilyn Livingstone (Kirkcaldy) (Lab)

COMMITTEE MEMBERS

*Robert Brown (Glasgow) (LD)

*Aileen Campbell (South of Scotland) (SNP)

*Nanette Milne (North East Scotland) (Con)

*Peter Peacock (Highlands and Islands) (Lab)

*Dave Thompson (Highlands and Islands) (SNP)

COMMITTEE SUBSTITUTES

Alasdair Morgan (South of Scotland) (SNP)

Mary Mulligan (Linlithgow) (Lab)

Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

Elizabeth Smith (Mid Scotland and Fife) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Karen Carlton (Commissioner for Public Appointments in Scotland)

CLERKS TO THE COMMITTEE

Gillian Baxendine

Alison Walker

SENIOR ASSISTANT CLERKS

Mary Dinsdale

Jane Williams

ASSISTANT CLERK

Catherine Fergusson

LOCATION

Committee Room 6

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 19 January 2010

[THE CONVENER opened the meeting at 14:15]

Decision on Taking Business in Private

The Convener (Gil Paterson): I welcome everyone to the first meeting this year of the Standards, Procedures and Public Appointments Committee. I do not know whether I am too late to do so, but I wish everyone a happy new year. We have not received any apologies, so I am expecting a full turnout this afternoon.

The first item of business is a decision on whether to take in private items 5 and 6. The committee previously agreed to take in private item 7, which is consideration of our draft report on the Interpretation and Legislative Reform (Scotland) Bill, and item 8, which is consideration of a note by the clerk on section 2 of the code of conduct. In item 5, the committee will be invited to agree its approach to a rule change on financial memorandums, and in item 6, the committee will be invited to consider its work programme and to decide whether to take forward a number of new issues. Are members agreed?

Members indicated agreement.

Cross-party Groups

14:16

The Convener: Item 2 is consideration of two applications for cross-party groups, the first of which is for a cross-party group on psoriasis and psoriatic arthritis. As Dave Thompson is the group's convener, he might be able to answer a question that has been raised in the papers that have been circulated to members. Will the non-MSP members who are listed in the application attend meetings in connection with the organisations to which they belong? If so, the committee might wish to recommend to the group that it would be preferable if those people were listed with their organisations instead of under the individual non-MSP member category.

Dave Thompson (Highlands and Islands) (SNP): I am quite happy to accept that recommendation. We will have a look at the application and list those people under the appropriate organisation. I am sure that I will get some assistance from the clerks to get it right.

The Convener: As there are no other questions, I ask members whether they agree to recognise the proposed cross-party group on psolar—psoriasis and psoriatic arthritis. Are members agreed?

Members indicated agreement.

The Convener: As you have probably guessed, I am hopeless at English and words where the P comes in front of the S.

The next application is for a cross-party group on Taiwan, which is much easier to pronounce—I think. [*Laughter.*] As you know, I am well clued up on China—or perhaps I should not put Taiwan and China together like that. It is a bit controversial.

As members will see from the paper that has been circulated, no issues have been raised about the application. Are there any questions?

Nanette Milne (North East Scotland) (Con): I should perhaps declare that I am a member of the group.

Aileen Campbell (South of Scotland) (SNP): So am I.

The Convener: Thank you for that. Do members agree to recognise the cross-party group on Taiwan?

Members indicated agreement.

Commissioner for Public Appointments in Scotland

14:18

The Convener: Item 3 is an evidence-taking session with the Commissioner for Public Appointments in Scotland, Karen Carlton, whom I welcome to the meeting. I hope that you appreciate the committee members—I certainly do.

In addition to her annual report, which she laid before the Parliament on 9 December 2009, the commissioner laid before Parliament, on 7 January 2010, a report on stakeholder appointments to health boards. I invite the commissioner to make an opening statement on the two reports and suggest to members that, when we move to questions, we take each report separately.

Karen Carlton (Commissioner for Public Appointments in Scotland): Thank you for the opportunity to discuss both reports with the committee. I will start with the annual report, which is the fifth annual report that I have produced. It is shorter than the previous reports and summarises my office's activities during the year in what I hope is a straightforward and accessible manner.

I will begin by describing the highlights of the year: the work done to promote diversity in appointments, the way that the public appointments process is changing to encourage more people to apply and the changes in the profile of the people who are applying and being appointed. I will go on to describe our challenges and cover briefly the plans that are outlined in the report to address the challenges and improve the public appointments process.

First, on diversity, on 1 September 2008 I launched the diversity delivers strategy, which is the first equality and diversity strategy ever produced for Scotland's ministerial public appointments process. The strategy resulted from significant research into the operation of the public appointments process and the barriers that people come up against when wishing to apply. The strategy concentrates on the way in which the public appointments process can develop to attract a wider and more diverse range of applicants and it focuses on three specific areas. First, awareness and attraction: the Scottish Government must raise awareness of opportunities to serve on boards and must do so in a way that attracts people. Secondly, confidence and capacity: people must have confidence in the appointments process and those who manage it must develop the capacity to deal effectively with a much wider range of applicants. Thirdly, education

and experience: there must be a development programme for future board members, to provide opportunities for everyone who is interested and has the potential to serve on a board.

The strategy sets out recommended actions for the short, medium and long term, and my annual report summarises the work done during 2008 to address those recommendations. So, what did we do? We developed material for an education programme that is designed to raise awareness of the work of our public bodies, the role of board members and the type of people whom the Scottish ministers wish to apply to sit on the boards of our public bodies. Although I do not mention this in the report, the committee may be interested to know that we ran the first programme in November, and we will run the second tomorrow and the third in Inverness in February. Each programme can take up to 20 people. November's ran at full capacity and tomorrow's will run at full capacity. In fact, we are already building up a reserve list, because there is clearly a lot of interest in this development. The people who attend the programme come from a wide range of currently underrepresented groups and the plan is that, once the education programme has been developed, we will hand it over to the Scottish Government to roll out throughout Scotland.

During 2008-09, we recruited a number of board members to be mentors or role models or to provide case studies to encourage other people to consider themselves as potential board members. The group that we have recruited represents diversity in its broadest sense—its members represent all sections of the community—both visible and non-visible. The mentors are promoting diversity and encouraging people who may not see themselves as typical board members to reconsider their view. Again, this is not included in the annual report, but since I published it I have developed and run mentoring skills workshops for those mentors, so that programme is now also up and running.

Finally on diversity, we helped the Scottish Government by scripting and interviewing board members for the DVD that we have produced, which is designed to encourage viewers to see themselves as potential board members and to provide them with information on how they might apply to sit on the board of public bodies. For committee members who would like to view it, it is available on both the Scottish Government website and YouTube.

On the public appointments process itself, last year the Office of the Commissioner for Public Appointments in Scotland assessors monitored activity during 70 different appointment rounds. We dealt with more than 400 issues regarding the public appointments process, ranging from advice

on the code of practice to reports of non-compliance with the code.

A trend that rather concerned me was the number of requests that I received from sponsor teams in the Scottish Government for exceptions to the code when they did not think that a round could comply entirely with the code's provisions. During 2008-09, I received 63 requests for exceptions. Some of those requests, which were in the context of the current public sector reform, were understandable. I was content to extend appointment terms where bodies were being merged or wound down and it was unreasonable to appoint new members for a relatively short period. That is classed as an exception to the code. There were other appropriate requests to extend the terms of board members who were involved in discrete, specific pieces of work and whose skills were needed until that work was finished—perhaps changes were being made to a pension scheme or a major capital building project. Again, I was content to grant those requests.

A common issue that concerned me was the number of requests that I received to exempt a round from the requirement to give the appointing minister a choice. Such requests may have been made because of a lack of numbers or because the number of applications was high but the quality was not. In the last year, I granted 12 exceptions of that type. That is a growing trend.

It is fair to say that the appointments process has not been focused on applicants in the way that any good recruitment or appointments process should be. During 2008-09, I encouraged the Scottish Government to pilot a variety of application methods to make the process more straightforward for applicants. In addition, I issued several pieces of guidance to the Scottish ministers to help to improve the process, which covered the need to record selection panel decisions on applicants to provide constructive and accurate feedback to people who apply; how summaries of candidates' strengths are written and presented to the appointing minister; how to deal with a lack of choice of appointable candidates—I have referred to that; and the requirement for a planning meeting at the very start of every appointment round.

The guidance on the requirement that selection panel members hold a planning meeting at the start of a round has proved to be particularly helpful. There is now much greater clarity at the beginning of each round about the skills and knowledge that the board requires, the current level of skills and knowledge on the board and therefore the gaps to be filled by the next appointment. All of that leads, in turn, to a much clearer picture of the type of person who is to be

appointed and therefore the way to publicise the appointment and the best way to attract people who are likely to be interested and suitable. It also means that there is a common understanding of what the selection panel is looking for when it is assessing people against applications and person specifications.

At the beginning, I referred to how the applicant profile is changing. Members will have seen in the report that there is encouraging information about the improved diversity of applicants and people who are appointed. The percentage of women appointed to the boards of Scotland's public bodies rose from 29 per cent in 2007-08 to 36 per cent in 2008-09; the number of people appointed who declared a disability rose from two to 12 in that period; and 18.9 per cent of applications were made by people who declared a disability. We should bear in mind the figures for the population at large: 20 per cent of Scotland's population are disabled, so the figure of 18.9 per cent is relatively healthy. That is quite an improvement on figures for previous years, and it may be partly due to the fact that, during the period, both the Public Transport Users Committee and the Mobility and Access Committee for Scotland applied for members. However, I am still encouraged by the increase.

On the other hand, the number of people from a minority ethnic background who are applying and being appointed is declining, as is the average number of applications per round, which fell from 27 two years ago to 19 in the year that my report covers. I do not know why that is. It could be because the application process is putting people off, because of media coverage of quangos, as the media describe the bodies that I regulate, or because of reputational risks, as there is now much more focus on the work of non-executive directors. However, it could be because the publicity is much more targeted and specific and therefore fewer people—but the right people—are applying, as opposed to what happened two, three or four years ago. Perhaps the evidence of the significant change in the conversion rate between the year that has been reported on and the previous year suggests that that is the case. Two years ago, of those who applied for an appointment pack for a post, only 24 per cent completed and returned the application. The following year, 55 per cent did so, which suggests that the people who are asking for information are more of the right kind of people for the posts.

14:30

I am concerned that, to my knowledge, the Scottish Government is not researching the trends that I am identifying. It is not conducting research into applicant numbers, lack of choice for ministers

or the changing profile of applicants. To an extent, that is because the monitoring form that the Government planned to introduce some time ago was introduced only in October last year. Through the diversity delivers steering group, I will ask the Government to use the data that emerge from the new monitoring form to analyse and give me information about the trends.

I will describe other concerns about the public appointments process. Each year, I audit one or more aspects of the process. I might cover aspects in which OCPAS assessors—my representatives—are not involved, such as reappointment, or I might conduct thematic reviews of how a part of the process is being operated throughout the Government. Last year—in the annual report year—I took a different approach and used a full-time member of staff and two of my assessors to conduct the audit. Members might have seen in the report that that reduced the cost by 88 per cent. As important—if not more important—is the fact that the people who conducted the audit were much more knowledgeable about the public appointments process, could scrutinise much more and could look for much more detail from the Scottish Government in relation to their questions.

The annual report highlights the results of two audits, which concerned reappointment and how the proportionality principle is being applied throughout the Scottish Government. Members will have seen that neither audit gave encouraging results. I wrote to the permanent secretary and I believe that, as a result of the audit findings and of work that he has done, the Government will change how it manages public appointments. A director general wrote to me to outline the Government's plans, which involve more expertise and more central support for public appointments.

The amount of time that is taken to make public appointments has improved markedly. The public perception is that public appointments can take months and months and that ministers take for ever to make up their minds. Two years ago, I spoke to the Cabinet Secretary for Finance and Sustainable Growth to explain my concern. He gave a clear undertaking to reduce the time between providing a minister with a choice of candidates, the minister deciding and candidates being informed. At that point, 15 weeks was not an unusual time for making an appointment. That was entirely inappropriate and demonstrated a lack of respect to candidates. That period has been brought down to less than six weeks. Members will have seen in the report evidence that candidate summaries were once or twice turned round over a weekend and that people were informed of whether they had been appointed within a week. The situation is still not perfect: there are still some examples of delay. The worst delay in the past

year was nine weeks, which is unacceptable. I will put more information about timetables in the next code of practice.

Another concern that I have highlighted quite often is the lack of priority that is given throughout the Government to public appointments. I do not believe that they have the priority that they should have, but of course people say, "You would say that, wouldn't you?" because of my position.

Finally, I will look to the future. What can be done to address the concerns that I have expressed and to improve the public appointments process? My greatest lever to ensure that Scotland has a fair, open and truly accessible appointments process is the code of practice. I am revising the code: the next version will differ significantly from the one that is in use today. That is not to say that the current code is not working: it is a clear and concise document that gained significant support in the consultation phase, and has been used as the basis for the changes to the code of practice in Northern Ireland. However, the code could be more prescriptive in some areas, and it will be. It could also be more flexible in others, shorter and supported with detailed guidance on its implementation. A new code could make clear the need to focus on both applicants and outcomes, as opposed to the process alone. Furthermore, a clear requirement of a new code could be that the Scottish Government conducts effective training prior to its implementation, which sadly was lacking prior to the implementation of the current code, for which there is significant evidence.

In summary, the annual report highlights both the positive and the not so positive in public appointments. It indicates what I can and will do about that, and it also makes clear what is expected of the Scottish Government. It is, after all, its appointments process. Thank you for your interest. I look forward to working with you during the next years as commissioner.

The Convener: Thanks for that. As I said earlier, I would like to split questioning into two segments. The first will be on the annual report, and then colleagues will ask about the board appointments report.

Robert Brown (Glasgow) (LD): I will start by asking about the reappointment process, which the commissioner mentioned. There was a scrutiny finding that the Government was not carrying out proper appraisal of appointees, nor was there adequate information to support reappointments. That is significant because in many posts there is some suggestion that reappointment might be in order. If that happens automatically without any lead-up, the situation can be difficult. The commissioner said that she had some communication with the Government

about that. Is the issue about sharpening up departmental practices, or is there a bigger cultural problem that requires a challenge function to be brought in?

Karen Carlton: I am not sure that I can comment on the cultural or challenge function aspects. Reappointment is based on performance appraisal by chairs. I am not aware of any challenge function within boards.

To my mind, the Scottish Government's reappointment process does not reflect all the skills and knowledge that are necessary for someone to serve on a board. It reflects some of them, but perhaps not as many as it might. It is fair to say that if the process were changed slightly to take into account the skills and knowledge based on which someone was appointed, those that they have had to use in post and those that might be needed in the future, there would be a much clearer picture about whether they were the right person to continue in post, as opposed to what happens at the moment, which is that, as Robert Brown says, there is almost an assumption that they will be reappointed.

I have not had specific feedback from the Government about what it is going to do, but that does not mean that that will not be forthcoming. As I said, I have been given information about the internal review that it undertook and the work that it plans to put in place. When I talk about there being more expertise, I have so far assumed that that means expertise in areas that are currently not being addressed as effectively as they might be. Fortunately, the director of human resources and corporate services sits with me on the diversity delivers steering group, so we have the opportunity to discuss those issues fairly frequently.

Robert Brown: Will you elaborate a little on how the process might be changed? Ministers have occasional contact with many of the bodies, but they and their officials are not in a position to comment on performance. If you were to put that function into the hands of the chairman of the body in question, it would put rather a lot of power into the hands of an individual who might have personal prejudices and so on. How do we get over that problem with semi-arm's-length bodies?

Karen Carlton: There are all sorts of different ways of doing it that a variety of organisations use. One public body, which is rather forward thinking in this way, has introduced a 180-degree process—I do not think that it is a 360-degree process, but I am not sure about the detail—whereby the chair will reflect on members' performance and will have a meaningful discussion about that based on a set of criteria. However, there is also feedback on the chair's performance. If there is a culture clash or if

someone is not as aware as they might be of what board members are thinking and doing, there is an opportunity for that to be fed back to that individual. That 180-degree view around the board also creates an opportunity for peer review.

The Scottish Government could adopt many mechanisms. Appraisal could be face to face or paper based. It may be annual or once during an appointment term—at the moment, the suggestion is that it should be annual. One size will not necessarily fit all. One of my frustrations has been that, to date, there appears to be a strong need for consistency of approach. I have tried to say that consistency of thinking—on the openness, accessibility and merit-based nature of the process—is what matters and that a tailor-made approach is needed for each body, round and position. If we got that message out, we would have a much more responsive public appointment, and reappointment, process.

Dave Thompson: Good afternoon, Ms Carlton. I have two or three little points. Are the percentages of men and women who have a disability or are from an ethnic background the same as, greater than or less than the overall figures for those groups?

Karen Carlton: Traditionally, the Government has not separated the groups because of data protection requirements. If there is a particularly small number from which it would be possible to identify the individual, it has tended not to break up groups. We accepted that, if the figure was under 12, we would not ask for the information, so I cannot answer your question with reference to the black and ethnic minority community. As far as I know, the Government has not separated out the figures for disabled applicants.

Because the form that was used in the past was not as comprehensive as it might have been, the data could not be analysed or segmented in as many ways as can be done now. The new monitoring form will enable the Government to answer all sorts of questions about applicants' gender, age, ability or disability and household income to find out whether those factors have an impact on what positions people apply for.

The availability of data improves year on year but, at the moment, the Government does not have the level of detail for which you ask.

Dave Thompson: You touched on my second point when you mentioned household income. How do you differentiate between applicants who have different positions in society—class, for want of a better word—and ensure that people from all levels of society come forward?

Karen Carlton: That is what the diversity delivers work that I am doing is all about. We are going out to a wide variety of communities in

which people have never before seen themselves as potential members of public bodies, running education programmes for them and providing mentors to guide them as they work through the process. I now require the Government to provide information about that area. If we have information on applicants' postcodes, their household incomes and the positions for which they apply, we can see what trends or patterns emerge so that we can address specific barriers and real concerns, as opposed taking a fairly wide approach to underrepresented groups, which is what we do at the moment.

Dave Thompson: We hope that your next report will have more information on that, which will give us a better idea.

My final question concerns the reduction, from 27 to 19, in the average number of people applying for each vacancy. Were more or fewer people found to be unsuitable during the first sift of applicants? You said that the reduction might be because publicity is better targeted. If that was the case, I imagine that fewer applicants would be sifted out on the first look. Is there any evidence of that happening?

Karen Carlton: We do not have the statistics for that because, so far, the impact assessment that is required of the Government has not provided that information across the Government. The only information that I have been able to glean by digging is what I describe as the conversion rate. I will go back just a little bit beyond the current annual report to when I worked as an OCPAS assessor. Then, there was a small box on the application form where applicants could say why they believed that they would be suitable. People wrote responses such as "I am a taxi driver so I know all about health care in Scotland" and genuinely thought that that equipped them to sit on a board. Therefore, because of the refinements in the process, I am not surprised that applicant numbers have reduced, and I am encouraged by the fact that it seems that more of the right people are following up the publicity and filling in application forms.

However, I have asked the Government to provide me with monitoring information and pan-Government figures for everything about which we have talked, including whether applicants are from the public, private or voluntary sector and which stage they get to in every round. The new monitoring form that has been introduced should help the Government to provide that information, not only for me, but for itself. Year after year, I have asked the Government to be more targeted in its approach, and it cannot do that unless it reflects in its planning what happened during the previous round.

14:45

Peter Peacock (Highlands and Islands) (Lab):

I want to ask three different questions, if I can. I will start where Robert Brown left off, on the reappointment process. I think that you said in your opening statement that your assessors were not involved in that. Are you advocating that they should be?

Karen Carlton: That is right—we will need to look at that. The approach that will be adopted in the new code cannot be quite as clear as a risk-based approach, because I do not believe that I am yet in a position to take my foot off the accelerator on the scrutiny of public appointments. Before I leave as commissioner, my aim is for us to be in a position in which each round will involve an assessment of the risk of non-compliance and will involve more or less scrutiny as a result.

More generally, as I have highlighted in my audit report, the risk of non-compliance in reappointments is high, so that will be an area of focus.

Peter Peacock: My second question is about women. You rightly pointed out that the percentage of women who were appointed had increased from 29 to 36 per cent, but that rather disguised the fact that in the previous year the figure fell from 35 to 29 per cent. In fact, the same percentage of women were appointed in 2008-09 as in 2005-06. On the face of it, that is quite disappointing, given that more than half the population are women and that just over 30 per cent of applicants are women. What more must be done to attract women to apply in the first place and thereby raise the number of women who are appointed?

Karen Carlton: A lot more needs to be done, but if one looks at the percentage of women applicants versus the percentage of women appointments, there is clear evidence that when women apply, they are likely to be appointed. Once we get them interested, women progress well through the appointment process.

All the research that I did for diversity delivers shows that there are a number of reasons why women might not see themselves, or might genuinely not be interested in, sitting on the board of a public body, but I will give one example of work that we can still do. It is the case that, despite equality, women carry the significant burden of caring responsibilities in a family, whether for children, adults or their own parents. The times and locations of board meetings do not always suit women, nor does what I have described generally as the infrastructure that supports boards.

The work that has been done, such as the Walker report, says that people who sit on boards

should look to dedicate 30 to 36 days per year to that, but I am asking bodies whether they might consider, if governance arrangements would permit it, role sharing for board members so that two people could take on one role, which would mean a smaller time commitment for each of them. I am also asking whether boards would be willing to be flexible and to have a rolling programme of meetings, which, over a period, might be in the morning, the afternoon or the evening. Board members do not have to attend every board meeting, but such an approach would mean that a member who cares for their parents, for example, could attend many more meetings than they could if meetings were always held during the day.

We also need to be more flexible in giving consideration to the use of teleconferencing and videoconferencing. I sit on the board of a company that is based in London. I go down to London four times a year; the rest of the time I fulfil my role by teleconference. Just because someone has caring responsibilities, that does not mean that they cannot sit at the end of a telephone for a certain period, provided that the event has been prearranged for a particular day. That issue is quite specific to women, who tend to have greater caring responsibilities.

Cultural issues have been mentioned. When I talk to groups of women, I find that most of them do not see themselves as potential board members. That is the challenge that we face in Scotland, which is why I am encouraging both visible and non-visible diversity. We should promote that as much as we can. Women tell me that if they go to the website of an organisation such as the Scottish Environment Protection Agency and look at the make-up of the board, they find that it consists of 12 august males—forgive me, Mr Peacock.

Peter Peacock: That is a thoroughly good thing, if you ask me. [*Laughter.*]

Karen Carlton: People look at such boards and think that they are not for them, whereas that is not the case if they see a board of older and younger people, and males and females. However, we want to get away from tokenism—for example, one person from a minority ethnic background or one person in a wheelchair; that is not what I am suggesting.

Peter Lederer, the chairman of VisitScotland, was 42 before his dyslexia was discovered, so he can talk to people about getting to where he is despite the problems and challenges in his life. I suppose that that is more a general point rather than something that is specific to women. I had better be quiet—I do go on. However, we can do many things.

Peter Peacock: Is it your job to do them, or is it principally a job for the Government?

Karen Carlton: My general responsibility under section 9 of the Public Appointments and Public Bodies etc (Scotland) Act 2003 is to ensure that all categories of person are afforded the opportunity to apply. I can do that through the code of practice, by ensuring that positions are publicised to all appropriate categories of person. However, I do not think that, without there being some external stimulus—some poking in the ribs—or without my taking a “here’s what I prepared earlier” approach, I will get the momentum. I do much of the work, which I hope the Government will take over, on research and on the education and mentoring programmes. I suppose that I do that to make it hard for people to say that they do not know whether something will work; I will do it and prove that it works, and then it can be rolled out across Scotland.

Peter Peacock: I think that there was only one suitable candidate in 12 cases. What do your assessors say to you about that? Are applicants of lower quality, or are higher standards expected of them? At one level, it could be quite convenient to have only one suitable candidate for an appointment. If that candidate is suitable for appointment, can you refuse an exception to allow their appointment?

Karen Carlton: I would get the exception request earlier than that stage. When the situation becomes clear—perhaps few applications are received and, on reading them, it is clear that one or two could go forward—the exception request would come to me, even before the interview stage.

Peter Peacock: Can you ask at that point for the position to be re-advertised?

Karen Carlton: The minister always has that choice, but I would not insist on it. Again, in a reasonable process, the minister must make a decision in principle in some circumstances. The minister cannot say, “Let me see who the candidate is—okay, I know him”; the minister must be asked in principle whether they would be willing to proceed if there was only one person at the end of the round. It is not unwise for a minister to say that they would be willing to do that, because if that one person does not appear suitable to the minister, they can still re-advertise. However, it is probably not worth re-advertising before that point.

We need to know what the pattern is. Twelve cases over 70 appointments are not enough for us to start to look for a pattern. Is it more likely that there will be only one candidate for chair positions than for board member positions? The standards, to which you referred, the requirements and the time commitments are higher for chair positions. It

is therefore too early to give an answer to the question why there is sometimes only one candidate. We need to get a picture of what exactly causes that to happen.

Marilyn Livingstone (Kirkcaldy) (Lab): I want to ask about stakeholder members of health boards. Is the commissioner content with the Scottish Government's decision to remove from her remit the appointment of stakeholder members?

Karen Carlton: I would not be responsible for deciding which bodies or posts are within schedule 2 of the 2003 act. I believe that a Scottish statutory instrument has been laid before the Parliament for a decision in that regard. What I can say is that, if Parliament agrees with the proposal, it will resolve the position now and for the future.

Marilyn Livingstone: Have you any comments on the policy position in the SSI?

Karen Carlton: It is probably very similar to the position that we were in with the national parks. For example, one of the stakeholder member positions is for councillors. If people have been directly elected to represent a community, and they are then on a health board to reflect the community's views and ensure that the health board meets its needs, that may well be entirely appropriate. One of the issues that health boards face is that they believe that there is insufficient community involvement—that is why they are going for direct elections.

A more fundamental question is why certain bodies and posts are included in schedule 2 and others are not. That relates to the purpose of regulating public appointments. We do not have a pick-and-mix approach to who is and is not regulated—please do not let me persuade you that I believe that we do—but such an approach may not be the best method in the long term by which to encourage confidence in public appointments. My office gets many questions about appointments that I do not regulate. People wonder why I do not regulate them, and the only answer is that they are not contained in schedule 2 to the 2003 act.

The Convener: Can I take us back to the annual report?

Marilyn Livingstone: Sorry.

The Convener: It is okay. We will come back to that point in a moment.

Nanette Milne: I want to return to the point about diversity. You said that the number of minority and ethnic applications has reduced. I speak as a member of the Public Petitions Committee, and we have found that the average petitioner is a middle-class, middle-aged male, so there might well be similarities there. We held a

significant inquiry into the issue, as a result of which we have been looking at using new methods of communication as well as conventional means of approaching people and advertising or publicising. We have increased the number of languages in which publicity material goes out, but we are also looking at more modern methods such as texting, blogging, tweeting and other things that I do not know very much about. Has thought been given to those methods of approaching people?

Karen Carlton: "Diversity Delivers" contained a clear message that the Government needed a much more accessible and approachable website. That has now been created by the Government. A little like you, I thought that blogs were the most up-to-date method of communication, so I recommended that the Government should get board members to write blogs to do exactly what you said—to attract people. When I asked a particular firm of public relations and communication experts whether they would do some training on blogging for chairs of public bodies, I was told, "Blogs are out of date now."

Aileen Campbell: You could try tweets.

Karen Carlton: We have recommended that.

One issue in public appointments is age. To an extent, that is understandable, because people in their late 20s and early 30s are still building a career, a home and a family, and they might not have developed the skills that are necessary to sit on a board, but that does not mean that none of them has done that. How can we access the younger generation unless we start to use their forms of communication?

The way in which a post is advertised or publicised is up to the sponsor team; the appointing minister then decides whether its recommendations are appropriate. However, we are saying that people should think about much more user-friendly approaches. Another benefit is that many of those approaches are free. This is not an example of the electronic means of communication that you mentioned, but when the Government had posts available with the Public Transport Users Committee for Scotland, it advertised them on buses and it got 183 applications. We keep reminding people that there are all sorts of different approaches that they can take.

Aileen Campbell: You talked about changes to personnel issues, such as the pre-planning meetings and feedback for applicants when they have gone through the process. Those suggestions seem reasonably straightforward. Will you say a wee bit about why they have not been in place before and how you hope they will improve the process?

Karen Carlton: There are two reasons, which probably come out from what I have said. I do not believe that the public appointments process has had the priority that other aspects of work might have had, so the time that has been allocated to it has not been as significant as it could have been. The time to provide people with constructive, helpful and accurate feedback has not necessarily been available.

In some cases, the chairs of public bodies and civil servants have not been willing to spend a lot of time planning appointments. The habit used to be to say, "We'll just do what we did last time. We'll use the previous person specification and dust off the previous piece of publicity." That is entirely wrong at a time when we are trying to increase diversity, because, as you know, if people do what they did last time, they will get what they got last time. We are trying to make some major changes.

I felt that it was crucial to have planning meetings, but people were not willing to sign up to them, so I used my powers to make them mandatory and build them into the code. The feedback has been amazing. They have made significant changes. Sometimes culture change is done through persuasion, but sometimes it is done through regulation. People see the benefits and it becomes part of the culture.

In addition, perhaps expertise in appointments and appointment strategies has not always been sited in the people conducting the appointment activity. Much of that activity has been delegated to fairly junior members of sponsor teams, who might manage only one round of appointments before moving on and being replaced by someone new. In the information that I have received from the Government, the indications are that that is changing.

15:00

Aileen Campbell: In the applications that you have received, are you happy that new people are coming through and that we do not just have a revolving door whereby people go from board to board?

Karen Carlton: Remember that I do not receive applications. The applications go directly to whichever sponsor team in the Government is dealing with the position. I am told by people who say that they will apply that some changes have taken place. However, the changes will take a while to filter through because, by the time that people show interest and apply, they might need to apply for two or three positions before they are appointed. The indications are that things are beginning to change.

The Convener: That concludes our questions on OCPAS's annual report.

We move to the report on stakeholder appointments to health boards. Looking at the list of health board members in appendix 1, I suspect that one or two people on that list—for example, councillor members—have, from your perspective, come under the radar. In your view, what is the prospect of that continuing? Is it sufficient that councillor appointees are nominated by a council and undergo scrutiny by that body? Are you relaxed about that?

Karen Carlton: I do not know whether stakeholder members undergo scrutiny by the body that nominates them. That is one of the mysteries that no one has got to the bottom of. Because I have had no involvement in stakeholder appointments to health boards—none of the current players has been involved in them—I do not know what has happened in such appointments. It may well be that, when a council nominates someone to sit on the local health board, the nominee goes through a process that scrutinises the requirements of the board and the requirements for the board member and assesses the nominee against those requirements; it may be that it is just that person's turn. No one knows. Therefore, I cannot comment on the appropriateness of such appointments.

The Convener: Does the involvement of a democratic process—typically, the stakeholder member is a group leader, so there is a double jeopardy in that the member will have been elected by the public and by council members—add something, or is it your view that such matters should not be taken into account?

Karen Carlton: No, there could well be sufficient scrutiny if stakeholder members are democratically elected and then go through some other process that identifies whether they should sit on the health board. All I am saying is that, because I do not know what those internal processes might be in the different health boards and local authorities in Scotland, I cannot say whether that appointments process is good or bad or should or should not happen. When it was proposed that the local authority members of national park boards should be included within the regulatory regime—the requirement was then removed—I know that there was a strong view that the fact that such members are elected means that they are appropriate to sit on park boards.

As members know, my report deals not just with council stakeholder members but with a variety of other such members. Again, it might be entirely reasonable for such people to sit on a health board. For example, if the chair of an area clinical forum is nominated because of his or her expertise, it might be entirely appropriate that such

a person sits on the health board. I am not making any subjective judgment about whether such members should sit on health boards; I am just highlighting the fact that they should have been subject to the appointments process but were not so subject for the reasons that are contained in the report.

The Convener: Finally, would it be helpful if some form of rigour was involved at local level—I will stick to local councils at this stage—before an appointment was made? Would that perhaps square the circle?

Karen Carlton: I think so. That is what I recommended when the membership of national park boards was an issue, before I laid my report before the Parliament. I suggested that, if it were helpful, such a process could be introduced and we could provide guidance to councils on how to ensure that nominees met the requirements of the minister and of the body for which they were being nominated. Yes, that might be a helpful approach.

The Convener: Thank you for your very full contribution.

Do members have anything further to say on what we have heard today, or any recommendations to make?

Aileen Campbell: The format of the report was different from previous years, and it was helpful and informative.

The Convener: Are members happy for the Health and Sport Committee to consider the SSI? We will see the report on that.

Members indicated agreement.

Cross-party Groups

15:06

The Convener: Item 4 is cross-party groups. Do members have any comments on the paper that they have received?

Peter Peacock: It is noted, convener.

The Convener: It appears that members are happy with it. Are members happy for the committee to be notified in this way annually?

Nanette Milne: Has the committee ever turned down an application for a cross-party group?

The Convener: Not in our time—I do not know whether it has in the past.

Gillian Baxendine (Clerk): Certainly not during the current session of Parliament.

Nanette Milne: I think we all agree that there is an incredibly large number of cross-party groups—I, like other members, am probably on far too many groups, which makes it difficult to service them. There is no limit on how many groups there can be.

Dave Thompson: Am I right in thinking that provided the groups comply with the relevant rules and regulations, it would be very difficult for us to turn down an application?

The Convener: Yes. Do you think that the committee needs to be provided with additional information, or are you satisfied with what we have received?

Dave Thompson: With regard to the number of cross-party group meetings that were not quorate, I remind group conveners that they should ensure that they comply with the rules in that respect. It gives a group difficulty if the meeting is not quorate, because minutes cannot be taken and business cannot be conducted. It is difficult for MSPs when there are so many groups and we are all on so many of them.

Aileen Campbell: Is there any requirement on a cross-party group to provide a report or audit of what it has done during the year?

Marilyn Livingstone: There is a pro forma annual report.

Aileen Campbell: I have never seen one.

Dave Thompson: Only 30 groups have done that this year.

The Convener: Those annual reports go to the relevant committee; they do not come to us for scrutiny.

15:08

Meeting continued in private until 16:05.

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