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Dear Mr Kidd

Thank you for inviting me to the Committee meeting on 11 February and for your letter of 19 February. Please find the responses to your questions detailed below.

Time taken to recruit

The length of time it takes for the Government to complete recruitment rounds is a matter of concern to the Committee. In your evidence to the Committee, you indicated that timescales are protracted as a result of the regulation imposed on you by the Ethical Standards Commissioner.

I noted in my evidence to the Committee that the Ethical Standards Commissioner's (the Commissioner) consultation on revisions to the Code of Practice indicated that she has a preference for further prescription to be added. This is of concern to me because the current process takes around 20 weeks and adding further steps has the potential to increase the time taken, create delay and impact on the ability of public body boards to function efficiently. The Commissioner set a target for the Scottish Government to deliver an appointment round within 20 weeks. In 2019 appointment rounds took on average 17.5 weeks from planning to appointment. The current Code of Practice offers a degree of flexibility which the Scottish Government require to manage the public appointments process efficiently and effectively.

The Committee asked to see the steps involved in the appointments process, this is provided in annex A and B.

We would be grateful for more information on how you envisage a more flexible approach would help to reduce the time it takes to fill posts without compromising on rigour or progress towards the achievement of diversity targets.

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The public appointments process is delivered against the Ethical Standards Commissioner's Code of Practice. A principles only, less detailed Code and Guidance was suggested as an option that could allow for greater efficiency and flexibility in the delivery of public appointments because it would focus on outcomes rather than operational detail. The principles of merit, integrity, equality and diversity remain absolutely central to Ministers' thinking about the recruitment of public appointees. There are a number of approaches I believe would deliver efficiency in the process and improve the participation of under-represented groups without compromising on rigour, these are detailed below.

You spoke of your preference for creating a pool of pre-qualified people to be put forward for interviews for vacancies that come up. What specific barriers are preventing you from adopting such an approach now and how do you plan to overcome them?

My preference to create a pool of prequalified pool of people is one a number of actions I would like the Scottish Government to take forward to help improve efficiency in the process , improve the participation of under–represented groups and to retain talented people within the process.

Introducing pre-qualified pools: This refers to creating a register of people who would be suitable appointees and when a vacancy arises selection panels have the option to sift the register for people with the relevant skills, knowledge and experience and invite them to interview. This could potentially reduce the time taken by 4-8 weeks and reduce the time commitment for selection panel members. This approach is used by the Government of New Zealand and Government of South Australia as well as being standard practice in the private sector. The Scottish Government will introduce a new digital applicant tracking system this year, this will facilitate the creation of pre-qualified pools of people. The Scottish Government is not aware of any reasons why this approach would not fit with the current Code of Practice and will consult with the Commissioner as the work develops.

Introducing a guaranteed interview scheme for disabled people: Inclusion Scotland recommended that disabled applicants who meet the minimum criteria for a public appointment should be progressed to the interview stage. The Scottish Government would like to trial a guaranteed interview scheme as part of the work underway to improve the representation of disabled people. This would not fit with the current Code of Practice and the Scottish Government would welcome further discussion about this with the Commissioner.

Using search consultants: From time to time the Scottish Government use search consultants to carry out parts of the selection process to improve outreach and engagement with people from the private sector or people with specialist skills. The Scottish Government wish to have the option to use search consultants in other ways to help reduce pressure on the selection panel, for example delegating the sifting of applications or providing the selection panel with applicant summaries to assist their decision making. The Commissioner's view is that this would create a conflict of interest or give some candidates an advantage over others. There may be scope to procure these services in a way that addresses the Commissioner's concerns and Scottish Government would welcome further discussion about this.

Enabling skills exchange: The Scottish Government would like the flexibility to address skills shortages by being able to move people from one board to another if a board member steps down. This would be particularly helpful for health boards. This would not fit with the current Code of Practice and the Scottish Government would welcome a discussion with the Commissioner about this.

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How do you intend to raise these matters with the Commissioner with a view to securing a mutually agreeable approach?

Senior officials have offered to meet with the Commissioner to discuss the Scottish Government's response to the consultation on the Code of Practice. The Commissioner declined to meet but the offer remains open. Officials have arranged a meeting to discuss revisions to the Code of Practice with the Public Appointments Manager from the Commissioner's team on 15 March. Officials continue to liaise with the Commissioner's team on the day to day delivery of public appointments.

Socio-economic inequality

The Committee would appreciate further information on the steps the Government is taking to address the under representation of applicants from lower income households.

The Scottish Government will investigate how to increase applications from lower income households. This will start with improving the way that socio-economic background and status is monitored within a new applicant tracking system.

Using learning from previous rounds the Scottish Government will continue to encourage public body boards, where appropriate, to broaden the appeal of their board vacancies and consider more minimal criteria or criteria that requires 'stakeholder lived experience.'

Roll out of good practice

The Committee were concerned that where good practice is demonstrated, this is not always rolled out to other recruitment rounds. You acknowledged that more needed to be done in this area. Can you provide more information on how you plan to ensure that good practice is embedded and cite some specific examples?

I agree with the Committee that good practice is a critical part of the improvement process.

In my evidence to the Committee I explained that sharing the good practice from appointment rounds is already embedded in Scottish Government practice. This forms part of the evidence used by selection panels to plan a recruitment round. Selection panels also have access to anonymised diversity data, management information from previous rounds, skills audit and succession planning information. In practice, selection panels exercise discretion about whether good practice is relevant to their round or not.

Examples of good practice that has been embedded in public appointments activity includes:

Facilitating events to broaden attraction: This approach was used in the recruitment round for the Housing Regulator and was written up as good practice by the Commissioner. Since then, board specific events have been delivered for numerous rounds including: NHS Lanarkshire, Historic Environment Scotland, Crown Estate Scotland, South of Scotland Enterprise Agency, Scottish Environment Protection Agency and the Mobility and Access Committee for Scotland.

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Early engagement to identify strategic needs of the board: This was identified as good practice by the Commissioner in a Thematic Review in 2018 and has become an established practice for selection panels.

Using social media to attract a broader range of applicants: This was identified in the Commissioner's surveys as good practice in attracting 1st time applicants. Using social media has become a standard method of attraction and outreach and has proved to be critical during the pandemic.

Using more minimal criteria at application stage to attract a wider range of applicants: The Commissioner identified this as good practice in the Poverty and Inequality Commission appointments. This approach is used regularly in appointment rounds, particularly in health rounds where they aim to keep criteria to a minimum to encourage a broad range of applicants.

Diversity

With regard to reaching certain groups, you stated that “I do not think that we can be content with just putting up adverts and waiting for people to apply. We need to be much more active in our engagement. We need to go out, demystify the process and promote appointments”. Can you provide more information on how you intend to go about this?

In addition, how do you plan to encourage the sense that “the public at large—the people of Scotland” own our public bodies and are therefore more inclined to get involved?

I want public appointments to be open and accessible to people from all walks of life and I agree with the Committee that people across Scotland should feel a sense of ownership for and connection with our public bodies.

Engaging the public about the work of public bodies is critical, participating in a board is only one way to make a contribution. Scottish Ministers expect all public bodies to communicate clearly with their stakeholders, make information widely available, consult thoroughly and imaginatively and seek feedback on the public body's performance, acting on it as appropriate. Public body boards are required to operate in a way that engages directly with stakeholders – and the general public and to develop services using participation, co-production and other assets based approaches. As part of their succession planning public body boards take action to provide mentoring, shadowing and training opportunities for potential board members all of which aims to build a diverse pipeline of talent.

Demystifying the public appointments process has been a key aim of outreach and engagement activity for the Scottish Government. In recent years the Public Appointments Team have participated in 50 events to reach new audiences.

- 2018 - 16 events reaching approx. 220 people
- 2019 –19 events reaching approx. 495 people
- 2020 - 15 events reaching approx. 240 people

The Scottish Government also support outreach and engagement activity for individual board vacancies, most recently the Crown Estate facilitated two online events in partnership with Changing the Chemistry, an organisation that promotes diversity on boards and CEMVO, an organisation that engages with ethnic minority people across Scotland. The Mobility and Access

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Committee also recently ran two online events to promote their upcoming appointments. We know that the people who attend events are more likely to submit applications and be successful in the appointments process because of the advice and information they receive for example in 2019, NHS Lanarkshire held an evening event to promote a vacancy, 60% of those invited to interview and the final appointee had attended the event.

The Scottish Government maintains a database of people who have expressed an interest in public appointments, 1,842 have registered and receive regular updates about new vacancies. The Scottish Government also maintain social media accounts on Facebook, Twitter, LinkedIn and Instagram.

Going forward the Scottish Government will continue to deliver outreach and engagement activity that supports the priorities detailed in their Public Appointments Strategy and Action Plan (2020-2022) which seeks to:

- Run appointment rounds in accordance with the Code of Practice from the Ethical Standards Commissioner
- Respond to the volume of appointments activity in as an efficient and effective way as possible
- Plan its improvement and outreach activity based on its data and statutory obligations, to improve the demographic diversity of appointees.

Current priorities are:

- Disabled people – addressing under-representation in civic life through public appointments
- Gender Representation on Public Boards Act – supporting implementation to achieve 50% women on public body boards
- All diversity targets: women, disabled people, people from a black or ethnic minority background, people 49 and under, people who are lesbian, gay, bisexual or other (not heterosexual) sexuality – assessing data for target areas and actions and responding appropriately.

Time Commitment

The Commissioner published findings from a survey of recent appointees to public boards, a majority of whom stated that the time commitment that is needed for the role is more than had been advertised. The Committee believes that this will have the effect of reducing diversity by excluding those with full time jobs and/or caring responsibilities. How do you plan to address the discrepancy between advertised time commitment and actual input?

The Scottish Government is considering the results of the Commissioner's survey and will seek to examine board practices and time management and identify any actions required to address discrepancies. The Scottish Government will respond formally to the Ethical Standards Commissioner and will share that response with the Committee.

The data provided by current appointees suggests that the majority of appointees hold full time jobs 43%, 20.7% are self-employed, 14% are retired and 8.1% work up part time. Women are more likely to have caring responsibilities and they represent 50% of appointees, childcare costs are covered by expenses policies for board members.

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In practice officials work with public bodies and Board Chairs at the outset of an appointment round to confirm the time commitment required. This is made clear in the advert and the application pack. During the recruitment process, the selection panel will conduct a Fit and Proper Person test, this is one of the requirements of the Commissioner's Code of Practice, the test requires panels to establish that the applicant is able to meet the time commitment.

The time commitment varies across the range of public body boards, for example, NHS board members require a time commitment of around 8 hours per week. NHS applicants packs were recently refreshed to more accurately reflect the requirement to participate in an Integration Joint Board, for example, NHS Tayside advertised for members who could commit to 16 hours per week. Other boards require much less time for example, 2 days a year for the Agricultural Wages Board to around one day a month for the National Museums of Scotland.

Yours sincerely



KATE FORBES

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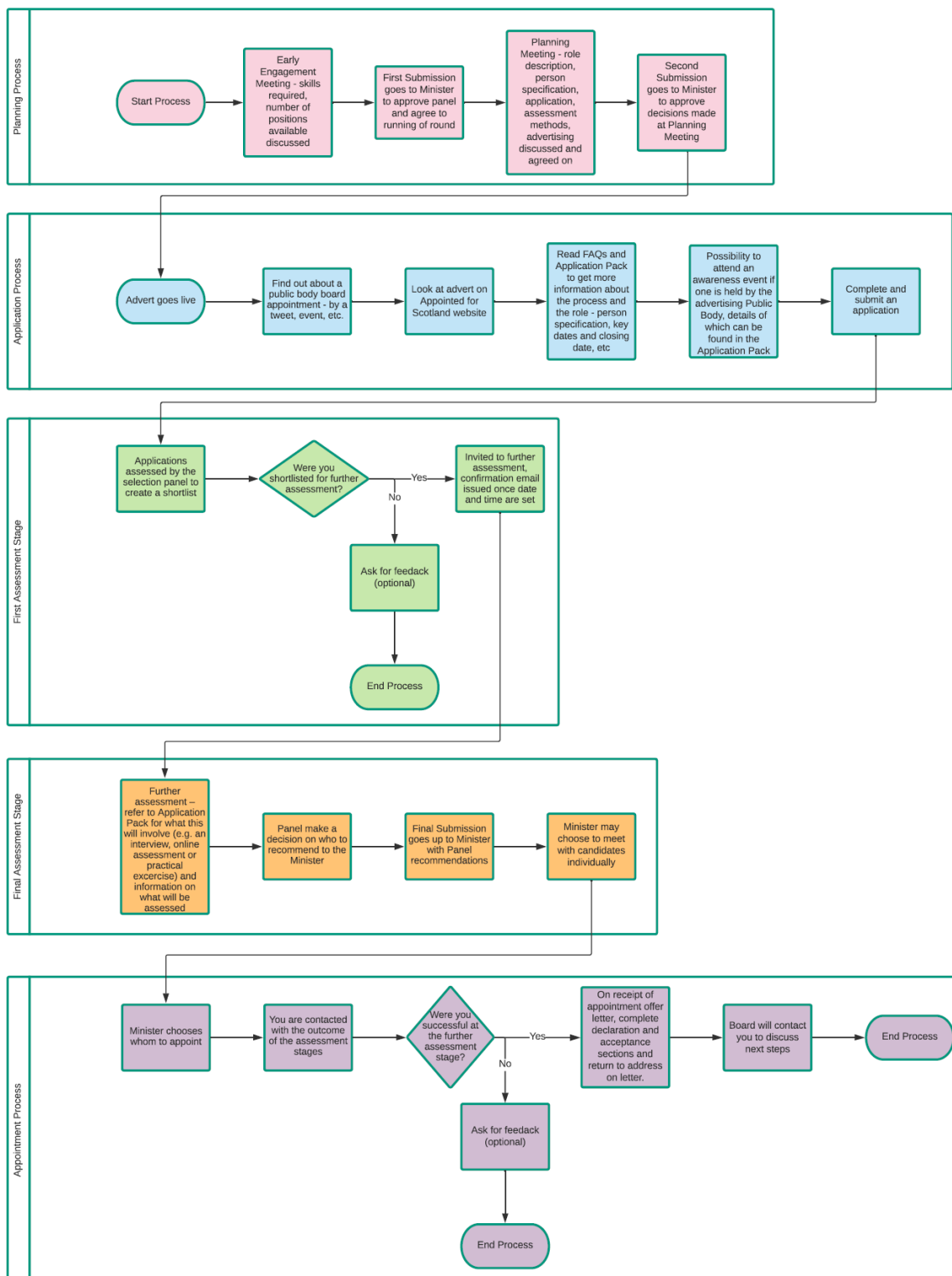


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Regulated Ministerial Public Appointments Process Overview



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EXAMPLE OF PLANNING TIMETABLE FOR AN APPOINTMENT ROUND

Stage in Process	Dates	Comments
Early Engagement Meeting	w/c 15 February 2021	
First Submission	22 February 2021	
Planning meeting	9, 10, 11 March 2021	
Panel and ESC Adviser to approve papers	By 18 March 2021	
Second submission	18 March 2021	
Advertising period	26 March 2021	
Advertising closes	23 April 2021	
Shortlisting meeting	w/c 3 May 2021	
Interviews	17/18/19 May 2021	
Candidate summaries approved	By 16 June 2021	
Final submission	17 June 2021	
Minister's decision	By 1 July 2021	
Appointment dates	TBC	

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