



**Ethical Standards
Commissioner**

2022/23

Annual Report

**Public
Appointments**

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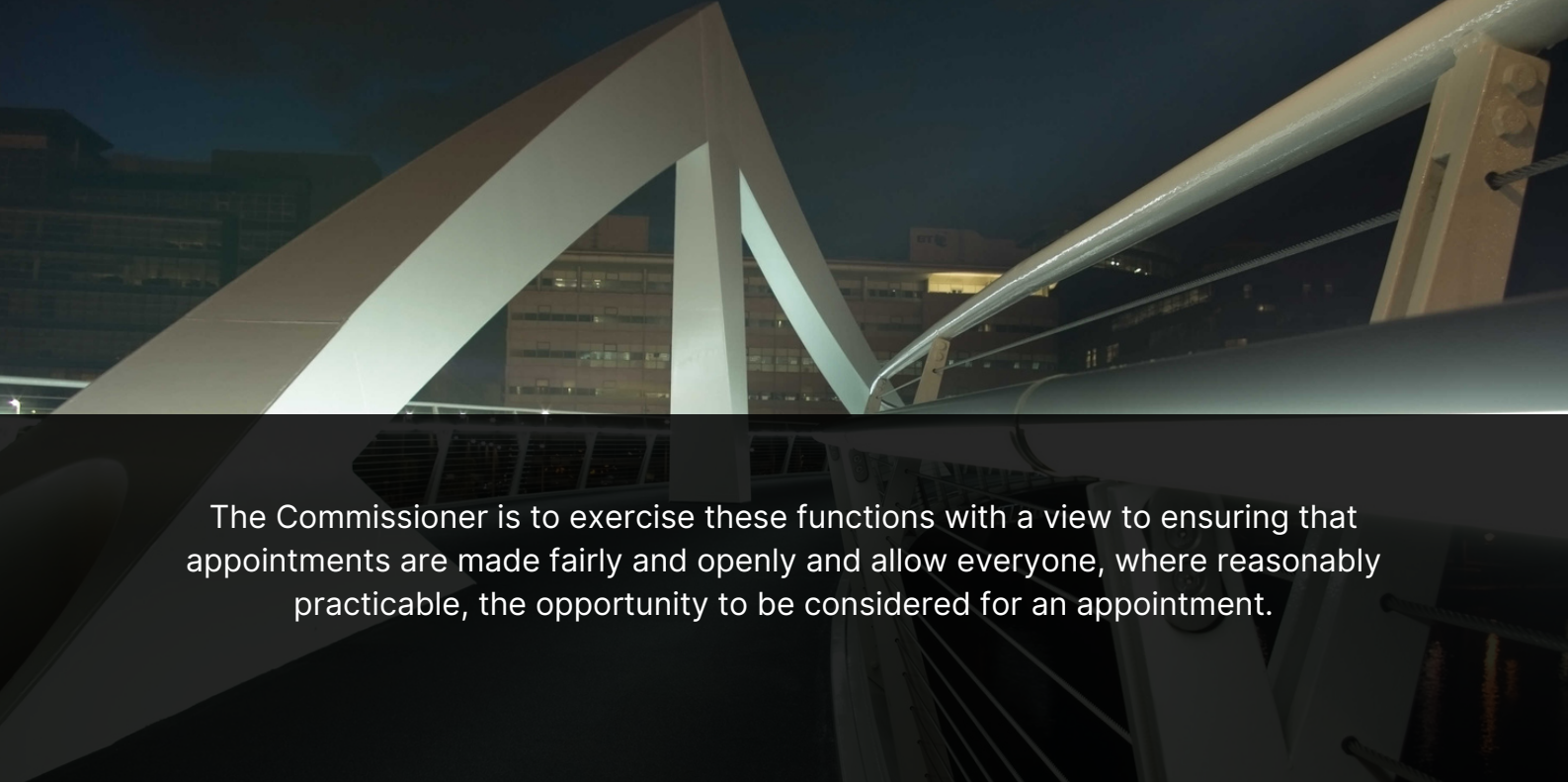
INTRODUCTION

The Commissioner for Ethical Standards in Public Life in Scotland, known as the **Ethical Standards Commissioner**, regulates how Scottish Ministers make appointments to the boards of public bodies that are within our remit.



The Commissioner's statutory functions in relation to public appointments are to:

- prepare, publish and, as necessary, revise a Code of Practice for Ministerial Appointments to Public Bodies in Scotland (the Code)
- issue guidance on the Code and promote compliance with it
- examine the methods and practices employed by the Scottish Ministers when making appointments
- investigate complaints about how an appointment was made
- report to the Scottish Parliament instances of material non-compliance with the Code; the Commissioner may direct the Minister to delay making the appointment until Parliament has considered the report.
- prepare and publish a strategy for ensuring that appointments, and recommendations for appointment, are made by the Scottish Ministers in a manner which encourages equal opportunities.



The Commissioner is to exercise these functions with a view to ensuring that appointments are made fairly and openly and allow everyone, where reasonably practicable, the opportunity to be considered for an appointment.

Summary of the year

By and large there is positive news to report in the progress of Public Appointments work during the 2022-23 financial year.

Work to consult on and revise the Code of Practice for Ministerial Appointments to Public Bodies in Scotland concluded at the end of the previous financial year with the Code being published at the end of March 2022. It came into effect from October 2022 and a handbook of statutory guidance was also published in October 2022. The revised Code of Practice is intended to be progressive and, as it beds in, should see positive changes in both the effectiveness and diversity of boards.

Some of the immediate changes that have been realised with the launch of the revised Code have been around the role and responsibility of the panel chair within each appointment round. Under the revised Code, it is a requirement that each panel chair must be trained on the appointments process and on diversity, equality and inclusion in the context of making public appointments. Independent panel members must also similarly be trained.

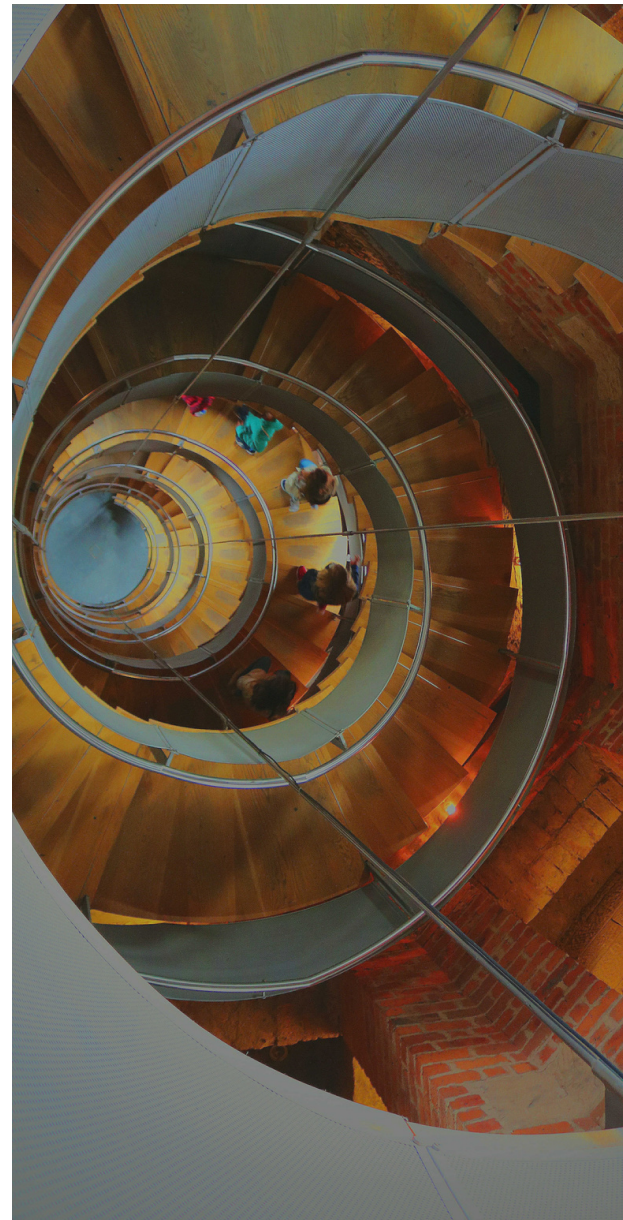
Previously, there was no such requirement for formal training in advance of undertaking an appointment round and where we were aware of some



training being provided it was not formally recorded. We are able to report that 28 panel chairs and 6 independent panel members were trained in the financial year 2022/23 (not every panel will have an independent member). Panel members who are not the chair or independent can also request to receive training. Eleven such panel members were also trained.

Contacts with our office about compliance with the Code highlighted that there were three reports of non-compliance under the revised 2022 Code during the financial year. All three related to situations in which the panel chair had not received training in advance of the round commencing. In each case, the training was completed very shortly after the round commenced and each instance of non-compliance was attributable to confusion over initial implementation of the requirement under the revised Code. It is not expected to become an ongoing trend.

Another change to the revised Code related to the role and responsibilities of the panel chair is that they now have increased responsibility for decision making (as the appointing minister's representative on the panel). This includes responsibility for writing a report at the end of the appointment round, outlining the extent to which it delivered or failed to deliver the desired outcome set by the appointing minister. Reasons for success or failure must be included in that report. A copy of the report is to be provided to the appointing minister and to the Commissioner. Only two such reports were received in the financial year 2022/23, these being related to the only two appointment rounds run under the 2022 Code and concluded in that year. It is expected that these reports will be a critical element of learning and improvement, with panel chairs having to thoughtfully reflect on why each round succeeded or otherwise.



The business plan for Public Appointments, as set out later, includes introducing a system of reporting transparently to the Scottish Parliament's subject committee, for good or bad, with a view to fostering improvements in the appointments process. Panel chair reports will be crucial to that commitment. Work is ongoing to analyse and understand the best way to make the maximum use of all the information available to aid in these transparent reporting arrangements.

Alongside continuing to support the Scottish Ministers and their officials in implementing the revised Code, the business plan also shows that a refresh of the Diversity Strategy (which was initially produced in 2008) is also due to commence in 2023. It has therefore been encouraging to note the incremental and sustained increases of reflection on public body boards of those groups of people who share certain protected characteristics. The membership profile of every group has

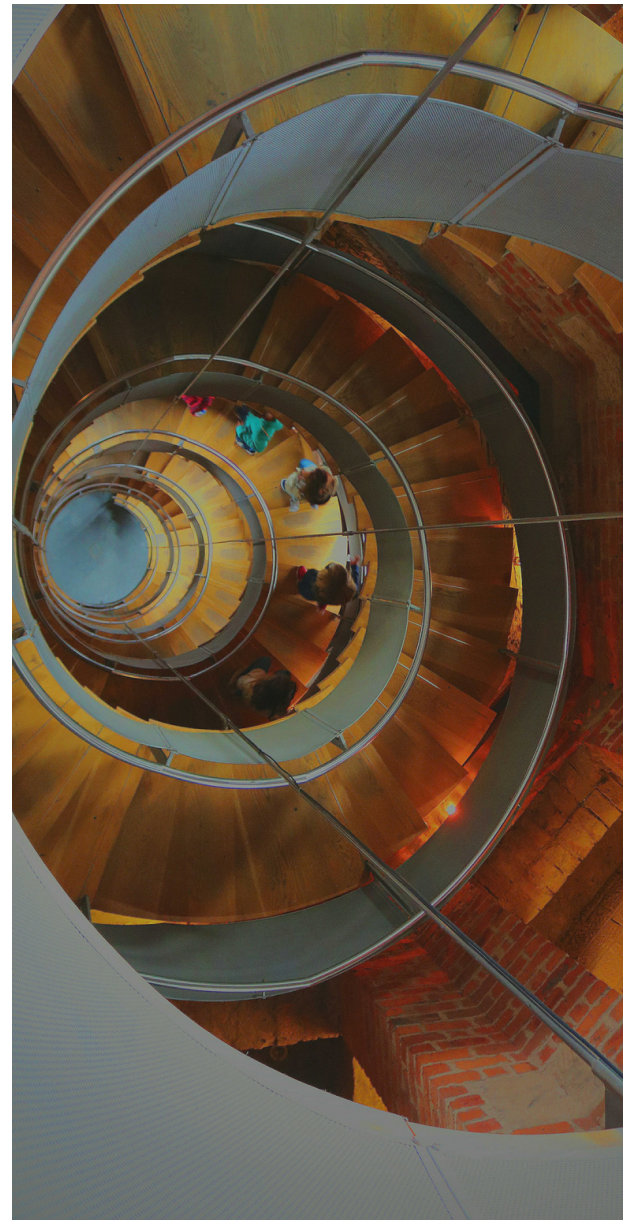
increased during 2022 and there has also been an increase in the percentage of applications made by every group, other than disabled applicants. It was positive that we were also able to report on the percentage of applicants who consider themselves as trans, or having a trans history for the first time. Scottish Government officials have reported to us that a range of actions has had a positive impact on diversity statistics over time, including tailoring the requirements for board vacancies and engagement activity to target applicants.

As we look to review and update our Strategic objectives in 2024, we will consider the way in which our regulatory role will have most impact in influencing ministerial action to secure boards which are effective and reflective of society and we will seek to work alongside Scottish Government officials to understand and promulgate the good practice which they are taking and which already appears to be securing positive outcomes.



As we update our plans for the future, we will do so bearing in mind that, although it is positive to see the increases in those who share protected characteristics rightly taking their place on public bodies' boards, there is still more to be done. This will include: ensuring that the pipeline through to chair positions is further developed and better understanding and addressing the impact of intersectionality on board diversity. We will also always be cognisant of the fact that diversity of thought, which is fundamental to good governance, is not only achieved through diversity of protected characteristics.

It continues to be our aim to provide a regulatory system which not only gives reassurance that public appointments are made in a way that is fair, transparent and made on merit, but that also contributes to securing boards which are effective and reflective of Scottish society.



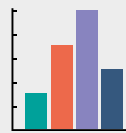
Improving Diversity on the Boards of Public Bodies

We have a statutory duty to use our powers with a view to ensuring that appointments are made fairly and openly and that as far as possible everyone has an opportunity to be considered for these very important roles. As part of our work in this area, the Commissioner agreed targets with the Scottish Ministers in the strategy document “Diversity Delivers” (published September 2008), intended to encourage applications from as wide a range of people as possible. The strategy also included a range of recommendations, agreed with the Scottish Government at the time, intended to improve on the diversity of Scotland’s boards.

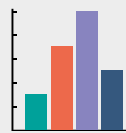
[Progress against the recommendations](#) is available on our website. The Commissioner has included a refresh and update of the diversity strategy in the [Revised Strategic Plan 2021-2024](#) and some initial high level scoping work has already been undertaken.

The following tables and graphs show the extent to which Scotland’s board members at the end of 2022 reflect the population of the country as a whole and how it has changed over time.

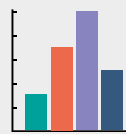
Key figures 2022/23 (click for details)



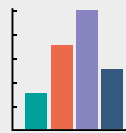
Current demographic profile of Scotland’s boards



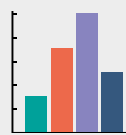
How the demographic profile of Scotland’s boards is changing



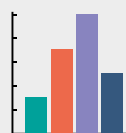
Profile of chairs and board members



Household income of board chairs and members



Household income by male/female and chair/member split



Sector worked (or most recently worked in)

Current demographic profile of Scotland's boards

The Commissioner has not set an objective for reflection by protected characteristics on boards. It is however recognised that this baseline must be tracked in order to assess whether the measures put in place to meet Diversity Delivers targets for applications from individuals from currently under-reflected groups are leading in turn to successful applications and making a difference to board demographics. This in turn will determine whether the targets continue to be required and set at current levels.

Current demographic profile of Scotland's boards

During the year to 31 December

	Female	Disabled	Black and minority ethnic (visible)	Aged 49 and under	Lesbian, gay, and bisexual
Profile of board members at 31 December 2022*	51.26%	9.80%	4.90%	19.33%	5.32%
Scottish Population (2011 Census)	51.50%	19.60%	4.00%	54.3%**	6.0%***

* All board members inclusive of the chair unless otherwise stated. Percentages do not include those who did not make a declaration.

** Scottish Population aged 18 to 49 as a percentage of the whole population aged 18 and over.

*** Estimated based on information from Stonewall Scotland website.

How the demographic profile of Scotland’s boards is changing

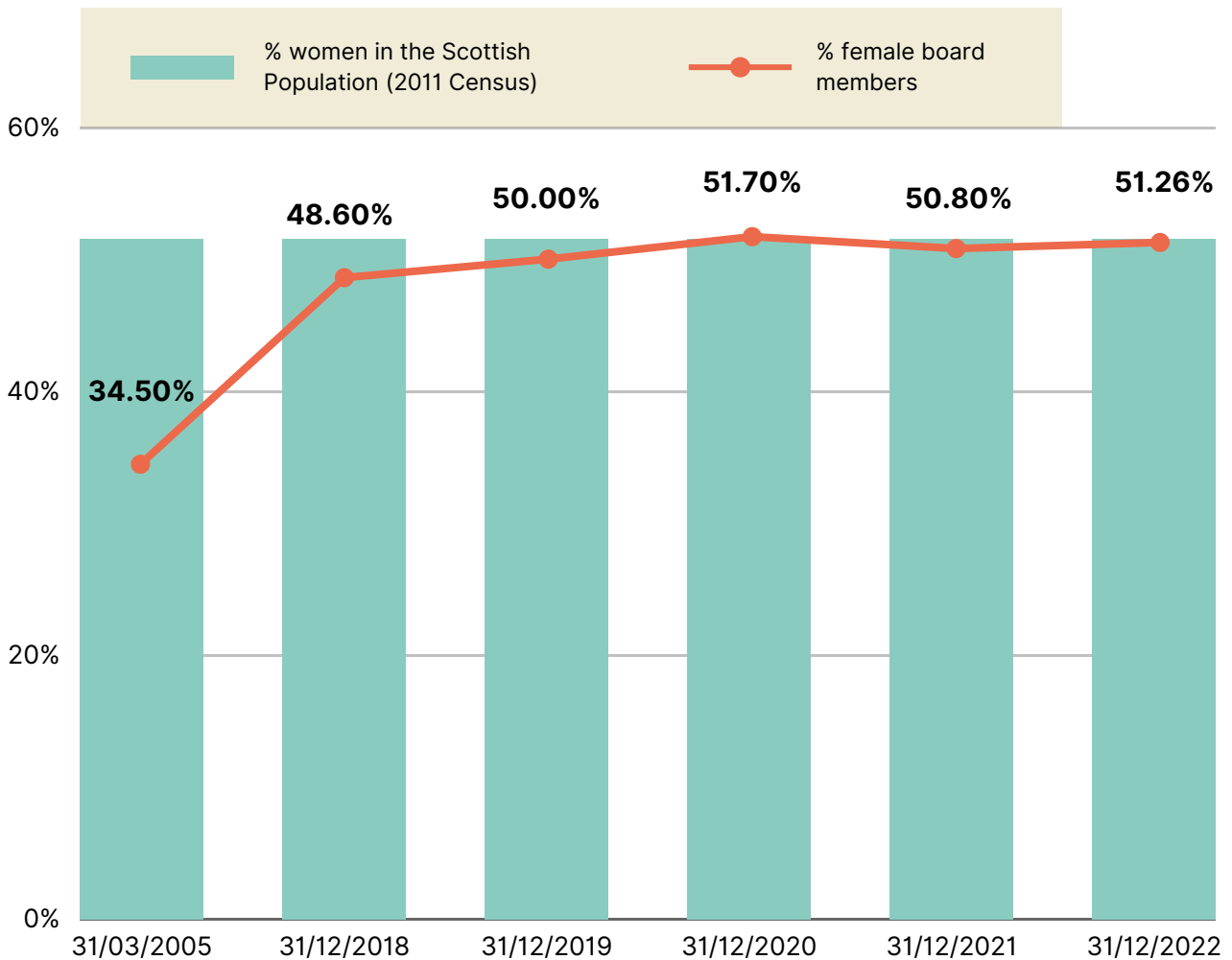


Figure 1. Proportions of female board members on all regulated boards (inclusive of chairs) against the proportion of women in the Scottish Population (51.50%) according to the 2011 Census.

As seen in figure 1, female board membership has increased year on year between 2016 and 2020 and since 2020 has been maintained at around 51%. This exceeds the 50% target set by the Scottish Ministers in 2015. It is encouraging to see increases across all characteristics during 2022, including the level of visible minority ethnic board members, which is now higher than the Scottish population figure from the 2011 census (see Figure 2). There has also now been a regular, albeit small, increase in the percentage of board members declaring a disability over the past 5 years (see Figure 3).

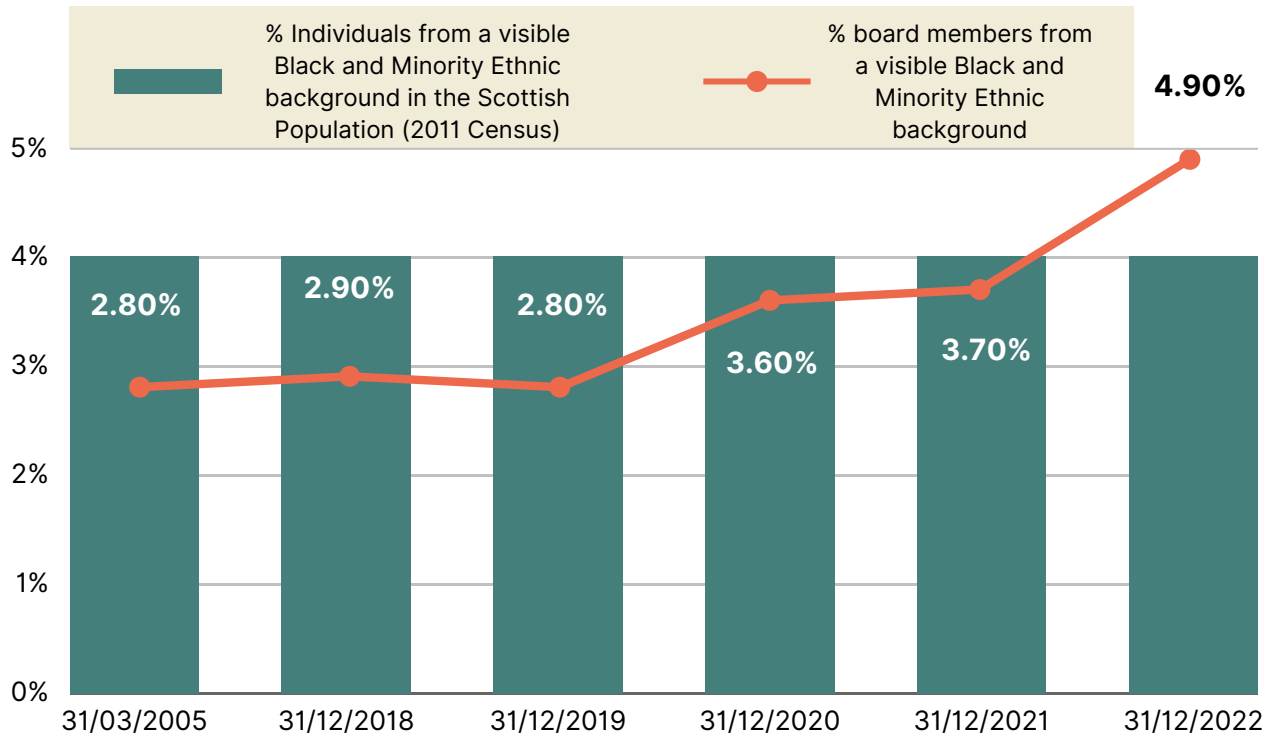


Figure 2. Proportions of board members on all regulated boards from a visible Black and Minority Ethnic background (inclusive of chairs)

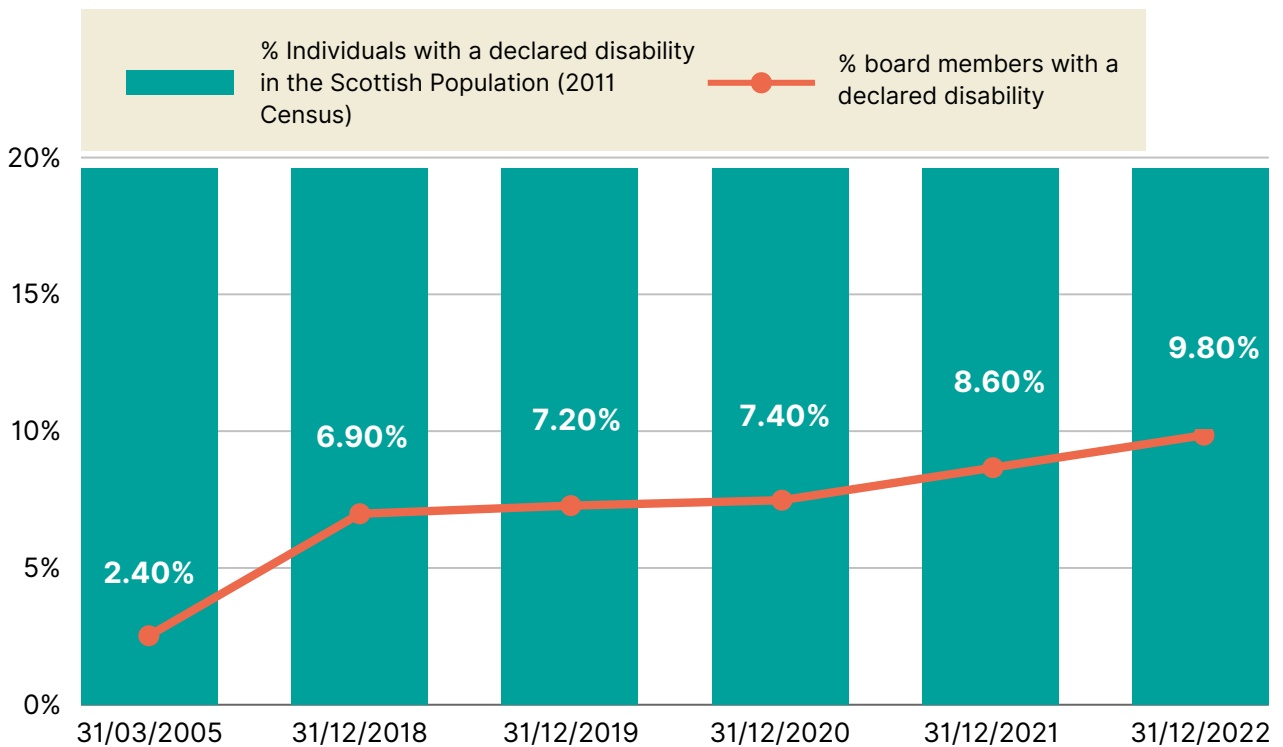


Figure 3. Proportions of board members on all regulated boards with a declared disability (inclusive of chairs) against the proportion of individuals with a declared disability in the Scottish Population (19.60%) according to the 2011 Census

Profile of chairs and board members

In 2018, the Commissioner requested, for the first time, the breakdown between chairs and members with a view to monitoring and tracking the extent to which public body chairs are reflective of society. This data has been provided by the Scottish Government as listed below. Whilst there is still clearly incremental progress shown in the overall percentage of target groups among members, there is still work to be done to encourage people from all of these groups to apply for and take up chair positions (see [Appendix 1](#) for a more detailed breakdown of the demographic profile of chairs and board members over the past 3 years).

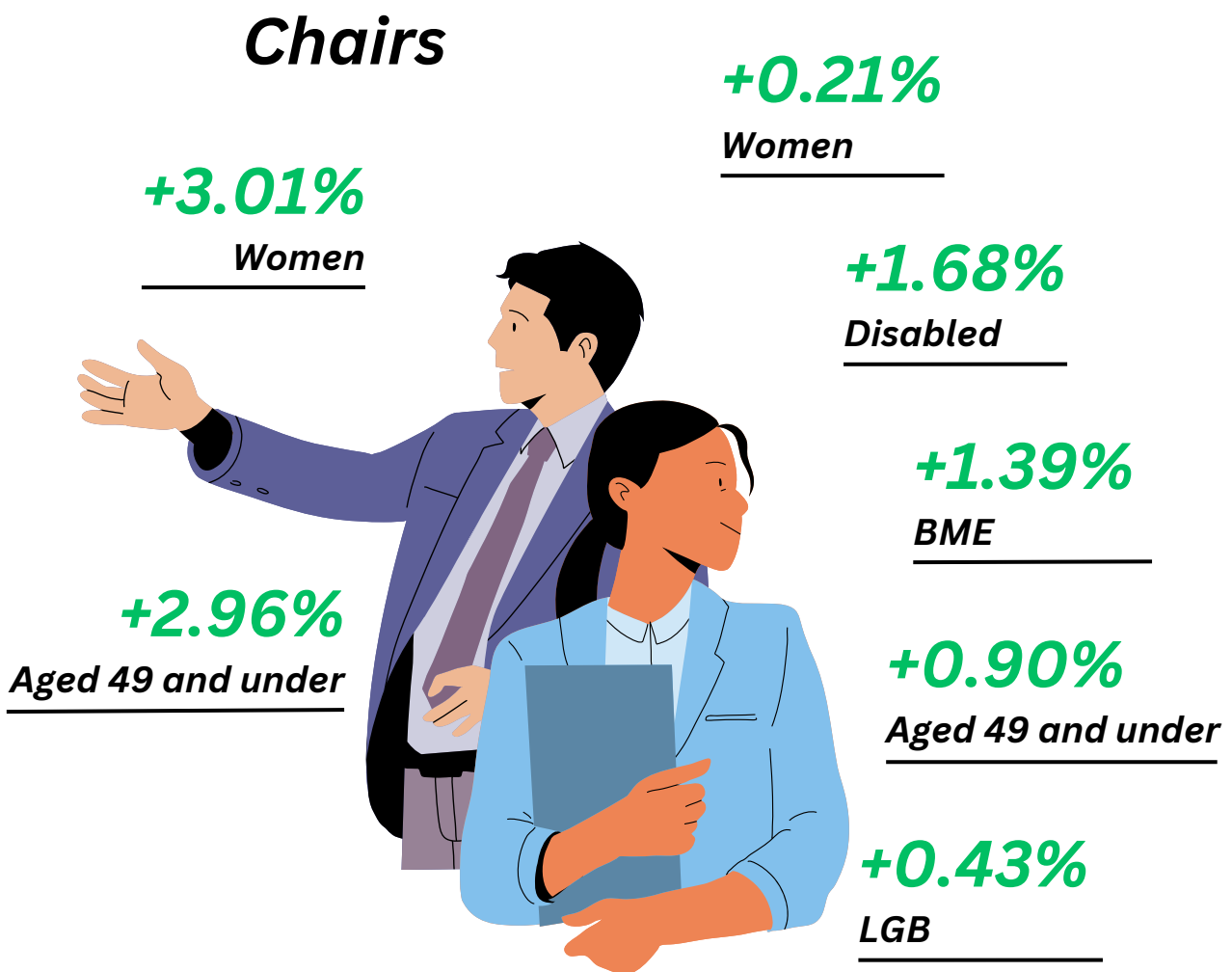


Figure 4. Key increases in the proportions of chairs and board members from under-reflected demographic backgrounds

Members

In the 2019/20 annual report, the Commissioner requested data to be provided about applicants (and subsequently current demographic profile) based on household income and sector worked (or most recently worked) in. Given significant continuing interest from a number of quarters, including the Standards, Procedures and Public Appointments Committee of the Scottish Parliament, about this information, the Commissioner continued to provide it year on year. In December 2021, Scottish Government officials introduced a new system for tracking applicants. This was introduced for all Scottish Government recruitment and included Public Appointments. Standard monitoring questions were introduced for all applicants using the system and these did not include the previously asked bespoke questions about household income or sector worked in. The demographic information provided in this report therefore does not include any new applicants recently appointed to boards (since December 2021). The numbers of board members who provided this information prior to introduction of the new system in December 2021 will reduce year on year and make the information less reliable over time. As such, this information will not be provided after this year's report. There is no information available for the report this year about applications and appointments made during 2022 split by household income or sector worked in. In February 2023 the Scottish Government introduced a socio-economic background question to the diversity monitoring form; the style of the question is based on evidence from the UK Social Mobility Commission¹ which suggests that if you are to ask one socio-economic background-related question, then parental occupation is the most effective. Information based on this question will be available for the 2023/24 report.

¹ <https://socialmobilityworks.org/toolkit/measurement/>

Household income of board chairs and members As at 31 December

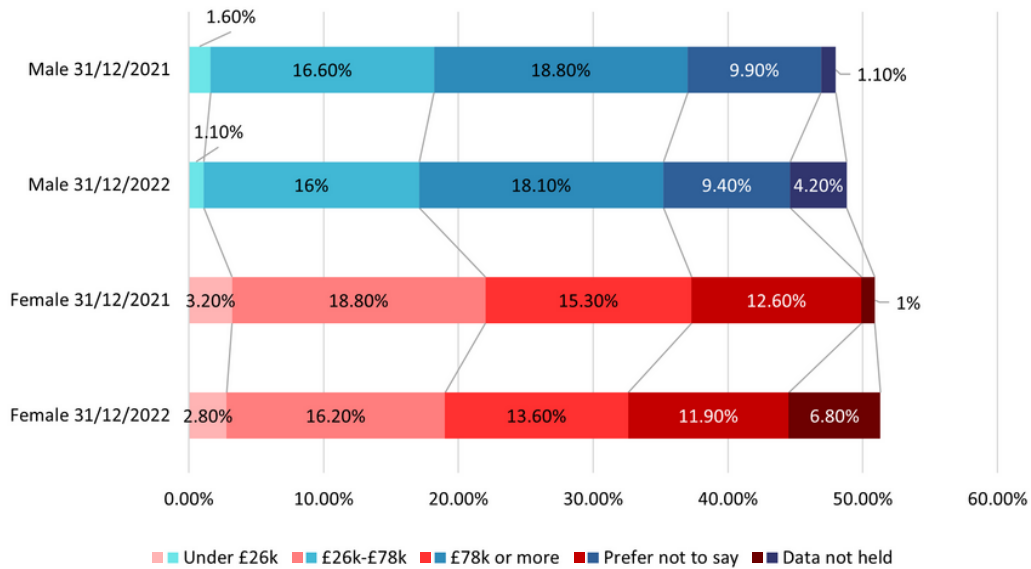


Figure 5. Household income of board chairs and members by Male/Female split

The Scottish Government publication, Poverty and income inequality in Scotland: 2019-2022² gives the median weekly household income figure as £552 per week, equivalent to £28,704 per annum. The closest household income measured was up to £26,000 or over £26,000. The above chart shows that only 3.8% of our current board chairs and members (as at 31 December 2022) earn lower than the median income. This is a similar situation to that reported as at 31 December 2021.

Household income by Male/Female and Chair/Member split As at 31 December

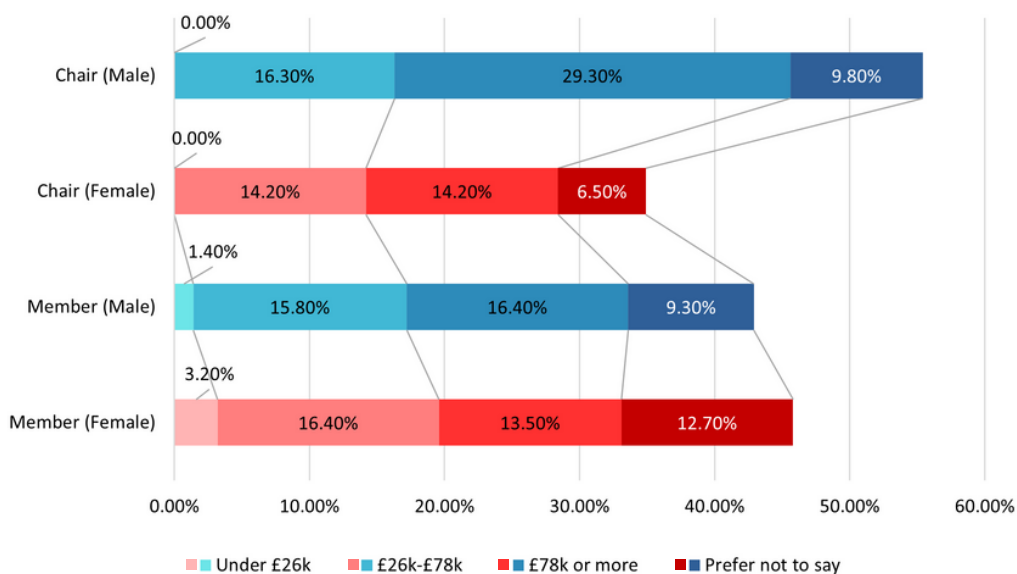


Figure 6. Household income by Male/Female and Chair/Member split

² <https://socialmobilityworks.org/toolkit/measurement/>

Sector worked (or most recently worked) in As at 31 December

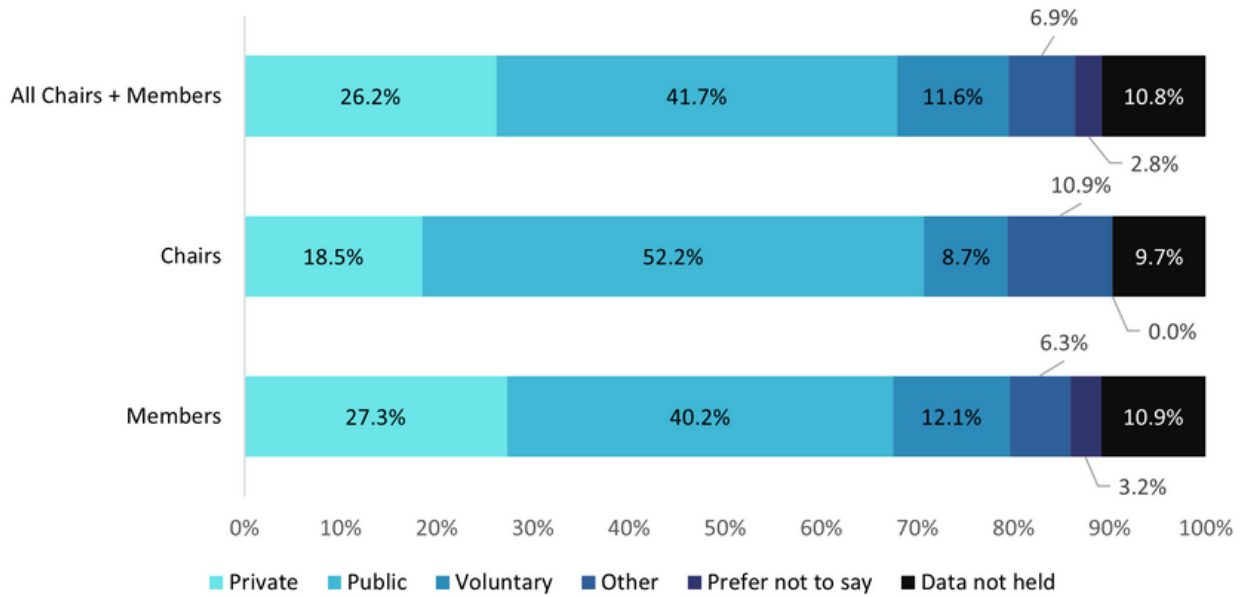
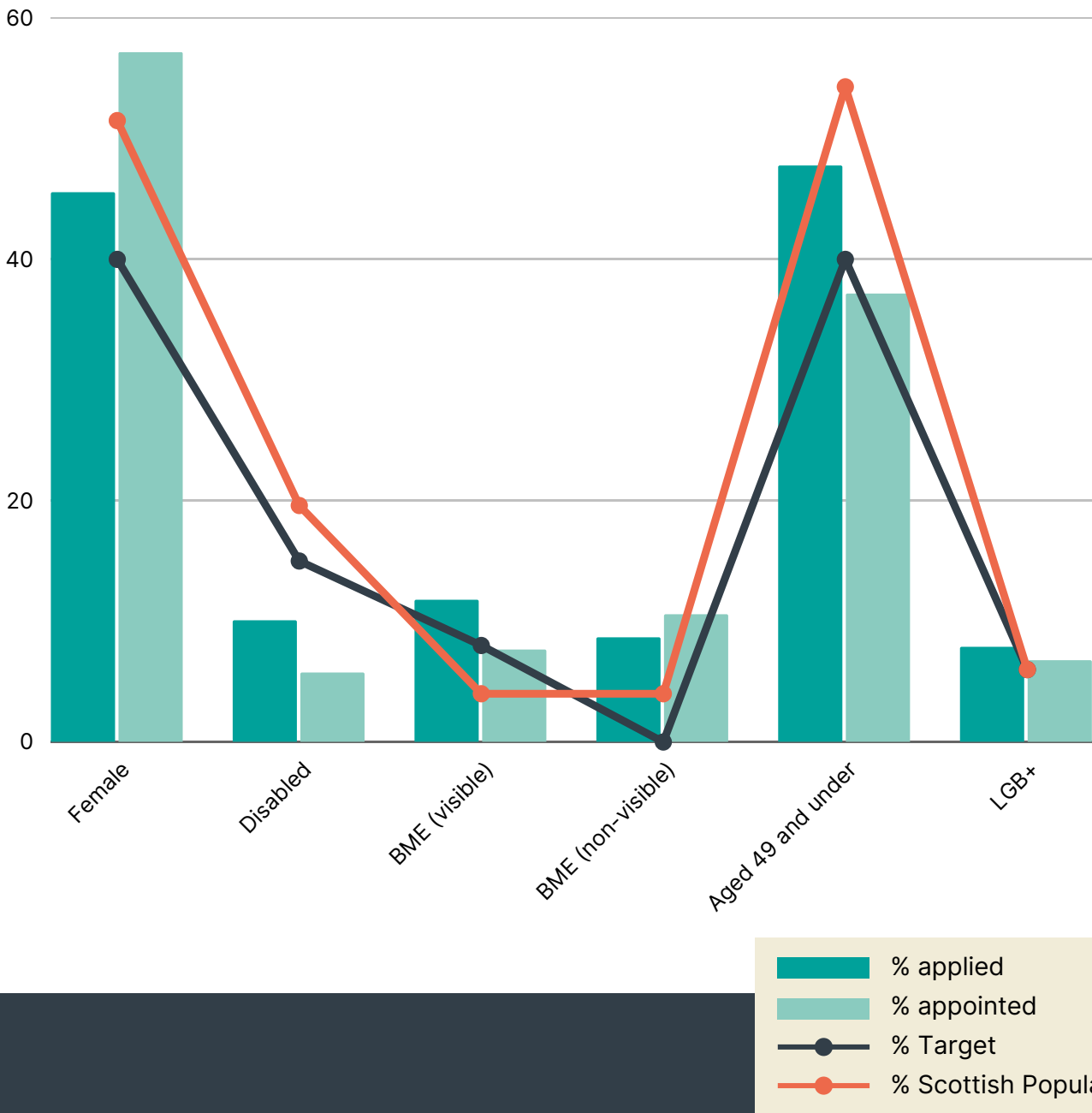


Figure 7. Sectors in which chairs and board members worked/ most recently worked

Figure 6 above shows that around half of public body chairs either work or mostly recently worked in the public sector. According to the Scottish Government publication “Public sector employment in Scotland: Statistics for 2nd Quarter 2022”³ around 22.1% of the Scottish population work in the public sector. So although a smaller percentage of board members work or most recently worked in the public sector, it is still almost double the percentage of the population who work in the public sector.



³ <https://www.gov.scot/publications/public-sector-employment-scotland-statistics-2nd-quarter-2022/pages/2/>



Performance against Diversity Delivers targets 2022

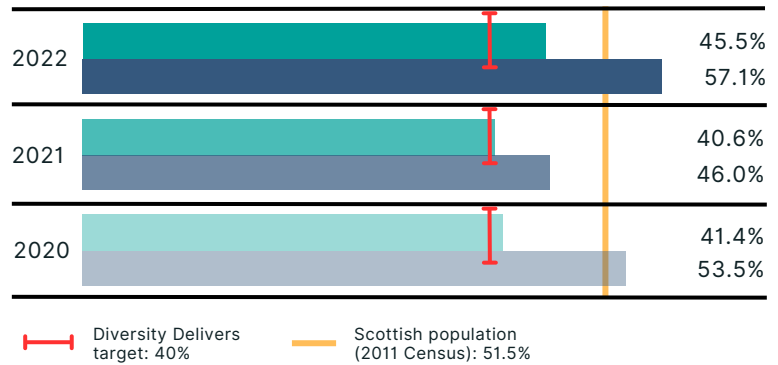
The chart above shows the percentage of applications and appointments in 2022 by each target group as set out in Diversity Delivers. This information is provided by the Scottish Government and relates to a calendar year.

It is encouraging to see gradual increases across most of the groups in recent years. Applications for all groups (other than disabled) have met the target for applications during 2022. There has been a steady increase in the percentage of applications from visible minority ethnic applicants, applicants aged under 49 and applicants from the LGB communities over the past three years. The Scottish Government now collect data on Trans history and therefore figures are now available to report on this group for the first time. Women continue to be the only standalone group over the past three years who were more likely to be successful when they applied. It is hoped that, with the introduction of the revised Code, the good practices which have led to this improvement will proliferate at greater speed.

 Applications
 Appointments

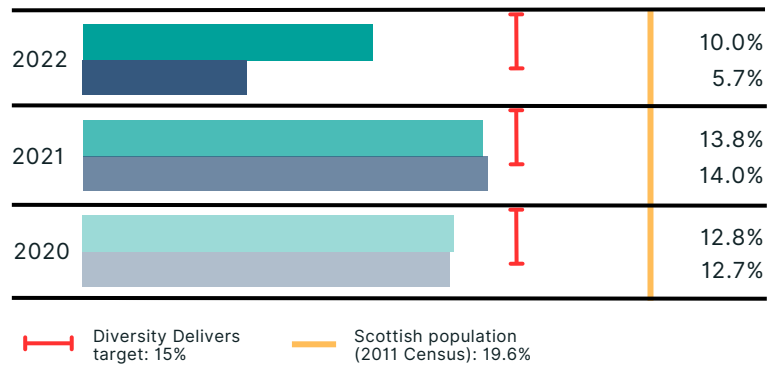
% applications by/ appointments made to women

+4.9%



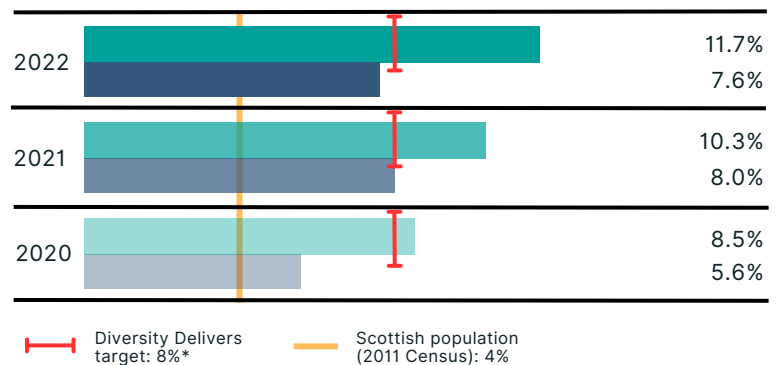
% applications by/ appointments made to candidates with a declared disability

-3.8%



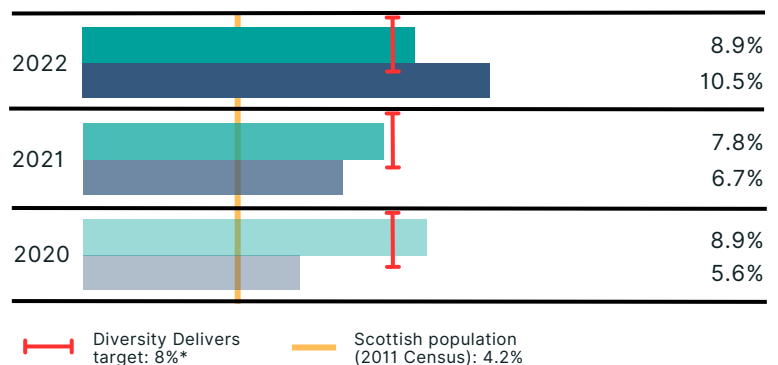
% applications by/ appointments made to candidates of visible BME descent

+1.4%

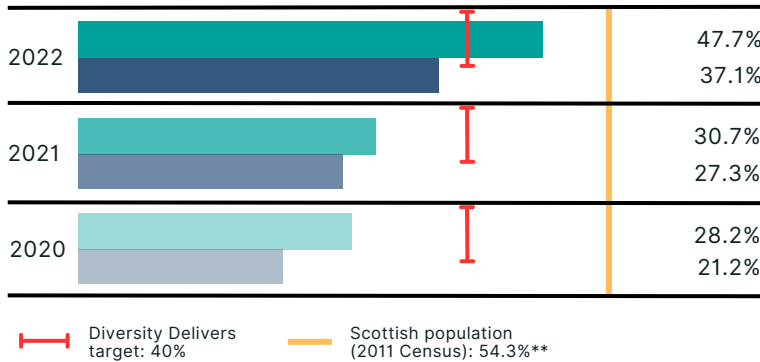


% applications by/ appointments made to candidates of non-visible BME descent

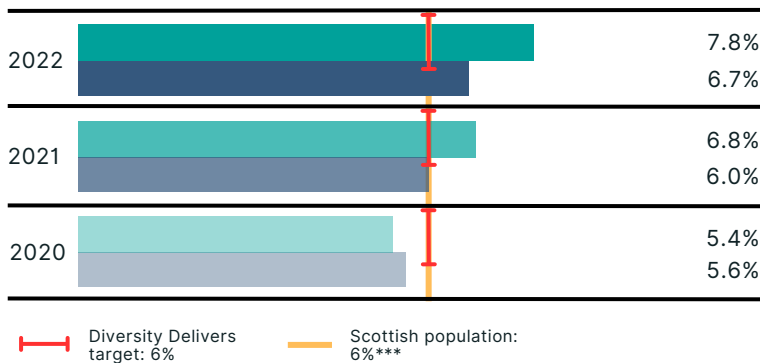
+1.1%



% applications by/ appointments made to individuals aged 49 and under **+17.0%**



% applications by/ appointments made to non-heterosexual candidates **+1.0%**



% applications by/ appointments made to candidates who have a trans status or history **+0.6%**



*The target for the BME population is inclusive of people from non-visible minority groups. Up until 2017 the figures reported on have related to visible minority applicants and appointees. From 2017 onwards, the figures have been provided for both visible and non-visible. For this latter category the monitoring form question responded to is "Other white" and includes those who selected "Irish", "Polish" or "Other white ethnic group"

**Scottish population aged 18 to 49 as a percentage of whole population 18 and over

***Estimated based on information from Stonewall Scotland website

The Scottish Government also provides application and appointment data to the Commissioner disaggregated by Director General (DG) area* to aid in identifying those that are meeting or exceeding the targets and so that the sharing of their good practice can be encouraged. The Director General areas are:



There appears to have been some encouraging progress by some DGs in some areas (see [Appendix 2](#) for a detailed breakdown).

DG Corporate and DG Strategy and External affairs exceeded the 15% target rate for disabled applicants.

Significant improvements have been made in the last six years with applications and appointments of females across all areas and this year was no exception. All but two DG areas met the 40% target and where the target was not met the area came close to it.

Almost all DG areas exceeded the target of 40% of applications made by applicants under the age of 50 at the time of applying. All DG areas were close to meeting the 40% target, if not actually achieving it.

Almost all areas achieved the 8% target (which was based on both visible and non-visible BME) for applications from BME applicants (if looking at applications from visible BME applicants only) and those that did not came very close to it. For applications from non-visible BME applicants, fewer DG areas met the 8% target

*The images chosen to reflect the Scottish Government DG areas have been selected by the Ethical Standards Commissioner and are not affiliated with the Scottish Government.

but those that did not came close to it. The conversion rate from applications to appointments among this group was achieved by all but three of the DG areas.

All but two DG areas achieved the target for applications from LGB communities.

The Commissioner noted that there continues to be a high number of reports of good practice made during the year. Good practice projects continued to be undertaken by the DG Health and Social Care during the year and these are being shared with other directorates. This work encourages and supports applicants who may wish to take on a chair role and it is hoped that this will continue to have an impact into the future. Where higher numbers of applicants and appointments are being received and made, it would be helpful to see further dissection of the information to understand where intersectionality may be making a difference to applicant progress.



Performance against our business plan

The Commissioner's public appointments objective is set out in the strategic plan for 2021 to 2024. It is:

We will, through appropriate regulation, contribute to the establishment and maintenance of effective and diverse boards that are reflective of the communities that they serve.









The following activities are intended to achieve that objective:

- We will publish for consultation a draft revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency and an emphasis on learning lessons
- We will seek support to revise and republish Diversity Delivers, to include new recommendations for the achievement of greater board diversity
- We will take account of all stakeholder views in order to finalise the Code
- We will provide guidance, training and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively

These activities are also detailed in the Biennial Business Plan 2022-24.

Progress against the Business plan for 2022-23 is summarised in the table in the following pages.

Progress of milestones against the strategic objectives of public appointments

Strategic objectives	Milestones	Progress
<p>A1 We will assist with the implementation of the revised Code of Practice for appointments with a greater focus on outcomes, accountability and transparency and an emphasis on learning lessons</p>	<p>Have parts of Code that are of interest and relevance to the public translated into BSL, Easy Read and other languages</p>	<p> Some content has been translated into BSL, but training for Easy Read document production was delayed due to provider inavailability</p>
<p>A2 We will provide guidance and support to everyone engaged in the appointments process with a view to their implementing the new Code's provisions effectively</p>	<p>Draft and publish statutory guidance</p> <p>Run training and review training developed by SG for all relevant stakeholders on new Code's application</p> <p>New Code comes into effect</p> <p>Continual training and guidance developed to support revised Code</p>	<p> Published October 2022</p> <p> SG training reviewed July - October 2022. Joint training for PAA's and SG officials in August 2022</p> <p> Published 31 March 2022 and came into effect from October 2022</p> <p> Guidance provided as required since Code came into effect from October 2022</p>
<p>A3 We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or bad, with a view to improving on practices. We will do so by publicising instances of good practice or innovative practice and learning as well as areas for improvement</p>	<p>Engage with the Scottish Parliament's subject committee about appointments practices with a view to making improvements and increasing transparency</p> <p>Agree suitable reporting arrangements</p> <p>Following discussion, submit periodic reports</p> <p>Publish good practice case studies on website</p>	<p> Will be agreed once end of round information has been analysed as to the best options available to make this report</p> <p> Will not be submitted until a year after implementation of the revised code</p> <p> Will not be submitted until there is evidence of good practice in rounds completed under the revised code</p>

Strategic objectives	Milestones	Progress
A3 We will report publicly on the difference that the new Code of Practice is making to the appointments process, for good or bad, with a view to improving on practices. We will do so by publicising instances of good practice or innovative practice and learning as well as areas for improvement	Continue to feed into lessons learned for the Scottish Government by seeking applicant and panel member views: <ul style="list-style-type: none"> Run applicant surveys on a round by round basis and provide a feedback report, whenever a request to run a survey is made. Survey panel chairs (and body chairs where appropriate) at the end of appointment rounds to seek their views on PAA performance and the PA process. 	<p>Applicant surveys have been updated in readiness for the revised 2022 Code and will be run once first rounds are complete</p> <p>The review process is being updated for the revised 2022 Code and will be run once first rounds are complete</p>
A4 We will seek support to revise and republish Diversity Delivers to include new recommendations for the achievement of greater board diversity	<p>Consult informally from October 2023</p> <p>Run formal consultation from June 2024</p> <p>Commence research into good practice and what the content of the revised strategy should include</p>	<p> Not due until October 2023</p> <p> Not due until June 2024</p> <p> Some basic initial research has commenced</p>



Achieved



Partially achieved



Not achieved

Performance measures	Due Date	Status
1 Number of regulated bodies and posts		
2 Number of appointment rounds initiated and completed		
3 Number of applications and appointments		
4 Time taken for individual stages of appointment rounds		
5 Timing of re-appointments		
6 Numbers of people appointed who have not previously held and do not currently hold a regulated appointment	Published in Annual Report and/or on website	Done
7 Satisfaction levels with appointment process		
8 Changes in demographic profile of applicants, appointees, and board membership		
9 Performance against Diversity Delivers targets		

We publicly report progress against our Biennial Business Plan which can be found on the website. The most recent version is here: [Biennial Business Plan 2021-2023 - Progress as at 31 March 2023](#).

Monitoring and reporting

All information under this heading relates to the Commissioner’s statutory duties to monitor and report on appointment activity and to provide guidance on application of the Code.



The Commissioner’s remit extended to 748 posts on the boards of 100 public bodies at the year end. In the case of a proportion of these bodies, such as regional colleges, only the chair appointments are regulated. Additionally, some bodies are statutorily included in the Commissioner’s remit even though they are either abolished or no longer active.

How many bodies and positions do we regulate?

At 31 March	2023	2022	2021
No. of bodies regulated	100	99	99
No. of posts regulated	748	733	717
Avg. no. of regulated positions per board	7.5	7.4	7.2

The Police Negotiating Board for Scotland was added to the Commissioner’s remit in March 2023.

A list of the regulated bodies is available at www.ethicalstandards.org.uk/regulated-bodies.

How many appointments did we oversee?

During the financial year 2022/23, we were active in overseeing 96 appointment rounds. For a more detailed breakdown of appointment activity see [Appendix 3](#). The data in Appendix 3 are supplied by the Scottish Government. It covers a calendar rather than financial year. It sets out all appointments made by the Scottish Ministers in 2022, the number of applications for the posts and the oversight level applied by the Commissioner.

Appointments are made through a process called an appointment round. Multiple appointments can be made through a single appointment round and the Scottish Ministers can run more than one round in a single year per public body. In certain circumstances we allocate a Public Appointments Adviser (PAA) to oversee all or part of the round. We report on these allocations rather than the number of appointment rounds as this better reflects our actual workload - not every allocation becomes an appointment round and on occasions where a number of appointments are sought within one round, we will usually only make one allocation to cover all the appointments

Number of allocations made

Allocations made	2022/23	2021/22	2020/21
Brought forward from previous year	54	52 ⁴	40 ⁵
Started in year	42	81	58
Active during year	96	133	98
Completed	72	79	45
Open at end of year	24	54	53

The significant drop in the number of rounds completed during the year 2020/21

⁴One round was reported as live at the end of 2020/21 which was subsequently closed with a closing date at the end of March 2021 and therefore should have been included in the "completed in year" category.

⁵Five rounds were reported as live at the end of 2019/20 which were subsequently closed with a closing date at the end of March 2020 and therefore should have been included in the "completed in year" category

can largely be attributed to a temporary cessation in appointment activity due to the Covid-19 pandemic. Levels during 2021/22 and now into 2022/23 have returned to those reported in previous years. The oversight levels for allocations in 2022/23 are set out in the table below. How the Commissioner decides on an appropriate oversight level is explained in the [guidance on application of the Code](#) (see section 8) for 2013 Code oversight (High, Medium and low) and the [guidance on the application of the Code](#) (see section 8) for 2022 Code oversight (Full, planning, early planning, or discrete stages).

Scrutiny of appointment rounds

Scrutiny of appointment rounds	2022 /23	Rounds under the 2013 Code				Rounds under the 2022 Code			
		High	Medium	Low	TBC	Full oversight	Full oversight (at SG request)	Oversight at planning	Oversight early planning
Started in year	42	5	2	3	5	12	3	7	5
Carried forward from previous year	54	21	9	8	16				
Total active in year	96	26	11	11	21	12	3	7	5
Open at year end	24	1	0	0	3	12	1	5	2
Total completed in year	72	25	11	11	18	0	2	2	3

TBC reflects the Commissioner’s allocation of PAAs to rounds at a much earlier stage in planning and before any decisions have been reached on whether and, if so, how many appointments are to be made. A proportion of early engagement allocations did not result in appointment rounds.

How many people applied for a public appointment?

From the information provided by the Scottish Government, during the calendar year 2022, 105 appointments were made to 40 public bodies following 1,962 applications made by 1,864 applicants (2021: 150 appointments were made to 53 public bodies following 1,868 applications made by 1,526 applicants).

Number of applications and appointments

During the year to 31 December

Number of	2022	2021	2020
Applications	1,962	1,868	1,307
Appointments	105	150	71
Average applications per appointment	18.7	12.5	18.4

Breakdown of applications

During the year to 31 December

Number of applications	2022	2021	2020
Applied	1,962	1,868	1,307
Invited to interview	363	480	242
Recommended for appointment	106	159	87
Appointed	105	150	71

How long does an appointment round take?

As with the appointments statistics, much of the material relating to these measures is provided to the Commissioner by the Scottish Government and relates to a calendar year. Concerns have historically been raised about the time taken for appointment rounds and reappointments and the Commissioner therefore included indicative targets for timescales in guidance on application of the Code. All of the indicative targets have been surpassed in four out of the past five reporting years.

The following tables provide information on the time taken for appointment rounds and for appointment and reappointment decisions to be made. The 2022 appointment rounds concerned are listed in [Appendix 3](#).

The average time taken to appoint a member from the date of planning to the Minister's appointment decision

During the year to 31 December

	2022	2021	2020	TARGET
Number of rounds	50 ⁶	67	31	
Average time taken (weeks)	19.2	18.5	20.4	Up to 16 and no more than 20 weeks

Time taken for discrete stages of an appointment round

During the year to 31 December

Stage		2022	2021	2020
From	To	No. of weeks	No. of weeks	No. of weeks
Closing date for applications	Date when all applicants are informed about the final appointment decision	10.8	11.2	13.5
Date of interviews	Date when all applicants are informed about the final appointment decision	5.0	5.9	4.4
Selection panel report	Ministerial decision	8.4	8.3	9.6
Date on which the round is planned	Date on which the minister makes their appointment decision (overall time for purposes of target)	19.2	18.4	20.4
Date on which the round is planned	Date on which applicants are informed of the appointment decision	20.5	26.8	21.1

An appointment to the board of a public body is for a set number of years. At the end of this period, the board member's term of office may cease or they may be re-appointed or have their term extended. The guidance on the Code anticipates that the appointing Minister will give board members reasonable notice of their decision, with a minimum of 13 weeks anticipated.

⁶Appendix 3 shows that the appointment rounds for the 2 NHS rounds (one seeking 2 chairs for Fife and Grampian and one seeking 2 whistleblowing champions for Shetland NHS and the State hospitals boards for Scotland) were run in tandem. Each is counted in this total as a single appointment round.

Time taken to advise board members about reappointment decisions

During the year to 31 December

	2022	2021	2020	Target
	Weeks	Weeks	Weeks	(Min. no. of weeks)
Amount of notice given to re-appointees before term of appointment due to end	17.9	19.5	20.2	13
Number of people reappointed	129	111	65	
Amount of notice given to those having their terms extended	17.7	12.0	22.5	
Number of people having their terms extended	22	18	21	

Applicants hold or have held an appointment

During the year to 31 December. This indicator relates to whether applicants hold or have previously held a public appointment.

	2022				2021				2020			
	●	%	●	%	●	%	●	%	●	%	●	%
Total	1,864		1,962		1,526		1,868		1,117		1,301	
Currently holds/ previously held a public appointment*	182	10	198	10	77	5	81	4	91	8	101	8
Currently holds/ previously held a regulated public appointment*	124	7	154	8	58	4	71	4	54	5	64	5
Did not say**	0	0	0	0	0	0	0	0	0	0	0	0

● Applicants ● Applications

*Applicants who complete the relevant fields on the application form do not restrict themselves to listing regulated appointments. Two figures are provided as a consequence; the number of those who have declared any appointment and those who declared regulated appointments. The former includes children’s panels, housing associations, tribunals, justice of the peace posts and appointments in England among others.

**Applicants are now obliged to provide an answer to this question.

Ministers interviewing applicants

The guidance on application of the Code states that the appointing minister is anticipated as meeting with appointable applicants, particularly in the case of significant chair appointments. During 2022, the Scottish Ministers met with potential appointees on the following rounds:

- Accounts Commission for Scotland (Members)
- Scottish Commission on Social Security (Members)

What do applicants think of the appointments process?

Due to low numbers of applicants responding to the surveys in the previous few years, and the changed operational circumstances of the Commissioner's office, it was not possible to produce an annual applicant survey report for 2022. Individual applicant surveys per round recommenced in June 2023.

Satisfaction with PAA contribution and the appointment process

We also ask public body and panel chairs to provide their views on the contribution of our PAA and on the appointments process. We use a simple 1 to 5 scale; 5 is very satisfied, 1 is very dissatisfied. Satisfaction with PAA contribution has consistently exceeded 4 in the past two years. Satisfaction with the appointment process has consistently been in the region of 4.

Average satisfaction level	2022/23	2021/22	2020/21
PAA's contribution	4.51	4.67	4.46
Appointments process	3.91	4.15	3.85

Satisfaction levels are measured on a scale of 1 to 5 with 1 being very dissatisfied and 5 very satisfied.

Presented by financial year rather than calendar year as information obtained from ESC records rather than those of the Scottish Government.

Any comments or constructive suggestions made are acted upon by the PAT and/ or the Commissioner as appropriate.

Issue raised	2022/23 (2013 Code)	2022/23 (2022 Code)	2021/22	2020/21
Enquiry - Asked for advice on the Code of Practice	81	72	150	177
Enquiry - Asked for advice on good practice	15	19	32	14
Enquiry – Asked for exceptions to the Code, or term extensions or to discuss options not covered by the Code	20	10	39	46
Diversity research enquiry	-	-	-	-
Enquiry - General enquiry on the work of the office	7	6	10	42
Enquiries and Reports - Miscellaneous or “Other” enquiries or reports	85	73	206	346
Enquiry - Freedom of information requests	-	-	-	-
Report a complaint about an appointment round	-	-	-	4
Report a concern about an appointment round or a failure in administration	40	24	71	100
Report about good practice	24	41	49	20
Report an update on round activity	65	45	41	-
Report about non-compliance with the Code of Practice	10	3	4	7
Totals	640	602	602	756



Providing guidance

The above table summarises substantive contacts with the ESC office during the reporting year. As this information is gathered by ESC it is reported by financial year. Contact with the ESC office by each category of issue raised will be explored in detail in the following pages.

1 - Requests for advice on the Code of Practice

Comparative analysis of these requests showed that there was a significant jump in queries relating to general advice on the Code than in previous years. This is likely due to the introduction of the new 2022 Code in October 2022. Queries about the PAA roles, panel membership and encouraging applications also saw a significant increase. All of these areas were strengthened under the 2022 Code.

2 - Exception requests and options discussions

The Scottish Ministers can approach the Commissioner and make a case for specific provisions of the Code to be varied. The Commissioner's agreement to such "exceptions" allows for courses of action to be taken that would otherwise not comply with the Code.

30 such cases were approved during the year in comparison with 39 in 2021/22:

- The largest number of exceptions sought in 2022/23 were in relation to extensions to board member and chairs' terms. This was also the reason for the largest number of exceptions in 2021/22 and to a certain extent still seems to be related to the fact that appointment activity was temporarily ceased due to the Covid-19 pandemic and a backlog of activity resulted. In a small number of cases, the Commissioner agreed to the extension in order to allow the board to function appropriately but also asked for concerns about an apparent lack of succession planning to be highlighted to the appointing minister.

Other exception requests were:

- Additional appointments were made to five bodies
- Changes to panel membership (or agreement for a panel member to miss a section of the process) were allowed for on two occasions
- Unanticipated vacancies were filled from a reserve list of people considered suitable but not appointed at the conclusion of a recent competition four times
- An emergency interim appointment was allowed for twice
- Three miscellaneous Code variations were agreed. One was a request for positive discrimination for a disabled applicant, one was a request to delay the round timetable and the last was to ask about the potential to transfer a chair to a new body without open competition.

3 - Report a complaint about an appointment round

No complaints were received during the year.

4 - Reported concerns

Reported concerns this year were less than in previous years. Concerns about planning and application and assessment methods continue to be the main reasons for concerns.

5 - Reported good practice

Sixty-five good practice reports were received during the course of the year which is a far higher number than in previous years. These included the following:

- Thirty-five of these related to the development and circulation of general guidance or articles of interest, reports of good practice seen from other bodies covering topics such as governance, inclusive recruitment and unconscious bias. Other topics such as reporting updates on projects are also included.
- Eleven related to the development, implementation and evaluation of panel training which, for chairs and independent panel members, is a new requirement under the 2022 Code
- Ten reported good practice during during specific rounds covering areas such as approaches to outreach, creative exercises for applicants and strong awareness of the Code.
- Seven reported on the implementation of the new Code and in particular the development of a Code Aide Memoire to assist panels covering key elements of the Code and guidance.
- Two reports were made about work being done in relation to effective succession planning.

6 - Report non-compliance

There were 13 contacts relating to non-compliance. The instances of non-compliance are listed below.

- Five reported that panel chair and independent panel member (IPM) training had not been completed prior to those individuals' participation in the round. This is a new Code requirement and confirmation was provided by ESC that this mandatory training is required prior to panel chairs or IPMs taking part in appointment rounds.
- One related to different criteria listed on the application form than what was set out in the applicant pack and advert.
- Seven related to an instance of non-compliance which subsequently resulted in an examination of methods and practices by the Commissioner.

7 - Reported an update on a round









In 2021/22 a new category of report was introduced to cover occasions when a report about an update on activity in an appointment round was made but where this update was neither good practice nor serious enough to consider as a concern. 110 such reports were made during 2022.


Guidance on application of the Code

The Commissioner's office provides Code interpretation guidance, primarily to officials and PAAs, on a very frequent, ad hoc basis. Where trends are identified, the Commissioner seeks to provide general guidance with a view to improving on practices and increasing understanding.

Statutory guidance on the application of the 2022 Code of Practice was published in October 2022. This accompanies the 2022 Code of Practice for Ministerial Appointments to Public Bodies in Scotland, also published in October 2022.

Appendix 1: Demographic profile of chairs and board members

Target group	Difference in profile from		Profile of the board at the end of						Scottish Population (2011 Census)
	2021 to 2022		2022		2021		2020		
									
Female	3.01%	0.21%	40.22%	52.89%	37.21%	52.68%	39.29%	53.40%	51.50%
Disabled	-1.92%	1.68%	10.87%	9.65%	12.79%	7.97%	10.71%	6.95%	19.60%
Black and minority ethnic††	^	1.39%	^	5.46%	^	4.07%	^	3.64%	4.00%
Aged 49 and under	2.96%	0.90%	7.61%	21.06%	4.65%	20.16%	5.95%	19.27%	54.3%*
LGB	-0.38%	0.43%	5.43%	5.31%	5.81%	4.88%	^	4.90%	6.0%**

 Chairs  Members

††Black and minority ethnic figures reflect people from a non-white minority ethnic background
 * Scottish Population aged 18 to 49 as a percentage of the whole population aged 18 and over.
 ** Estimated based on information from Stonewall Scotland website
 ^ Values for fewer than five have been suppressed to decrease the risk of disclosure of information about individuals.

Appendix 2: Applications and appointments by DG area

The Scottish Government also provides application and appointment data to the Commissioner disaggregated by Director General (DG) area to aid in identifying those that are meeting or exceeding the targets and so that the sharing of their good practice can be encouraged. In 2022 all eight DG areas (Communities, Corporate, Education & Justice, Economy, Health & Social Care, Net Zero, Scottish Exchequer, and Strategy and External Affairs) saw appointments made to boards within their remit.

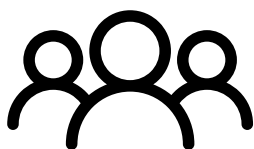
 <p>Communities</p>	 <p>Corporate</p>	 <p>Education and Justice</p>	 <p>Economy</p>
 <p>Health and Social Care</p>	 <p>Net Zero</p>	 <p>Scottish Exchequer</p>	 <p>Strategy and External Affairs</p>

Applications from and appointments made to women in 2022

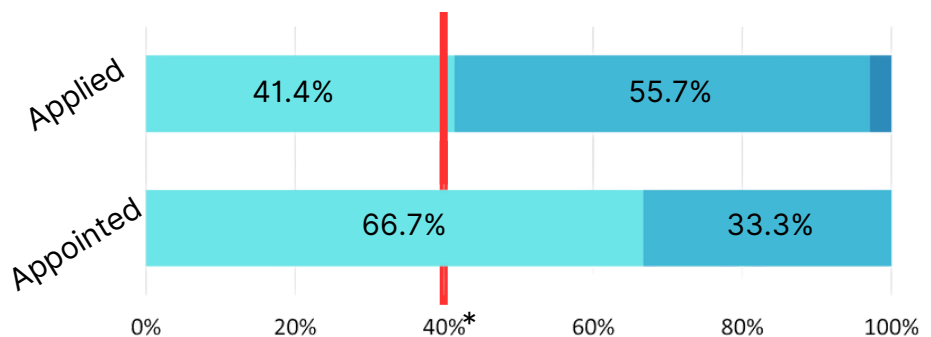
Gender parity has been a particular focus for the Scottish Government since the launch of its 5050 by 2020 campaign in June 2015. That target was achieved in June of 2019, albeit for board members and not board chairs, on the boards of Scotland’s regulated public bodies. Six of the eight DG areas exceeded the target of 40% of applications from women during 2022. 50% or more applications for publicly appointed positions within Education and Justice, and Strategic and External Affairs were made by women. However, all DG areas were close to meeting the 40% target, if not actually achieving it and both areas who achieved the 40% of applications exceeded 50% of appointments.



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 ■ Male
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Communities

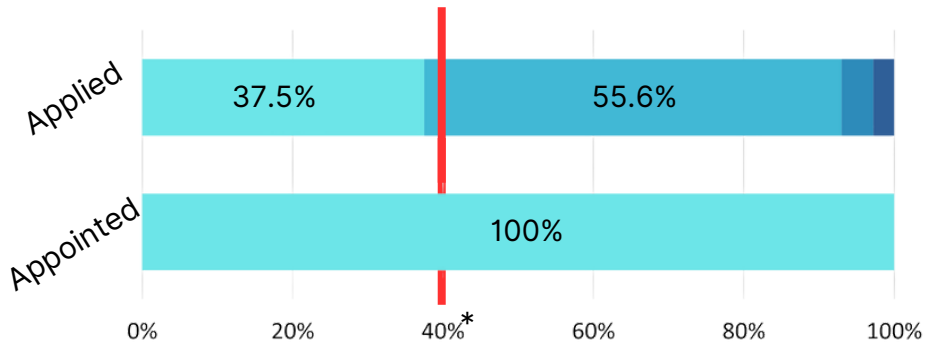


*The Scottish Government’s target for applications from women is at 40% of all applicants. This target does not apply to appointments.

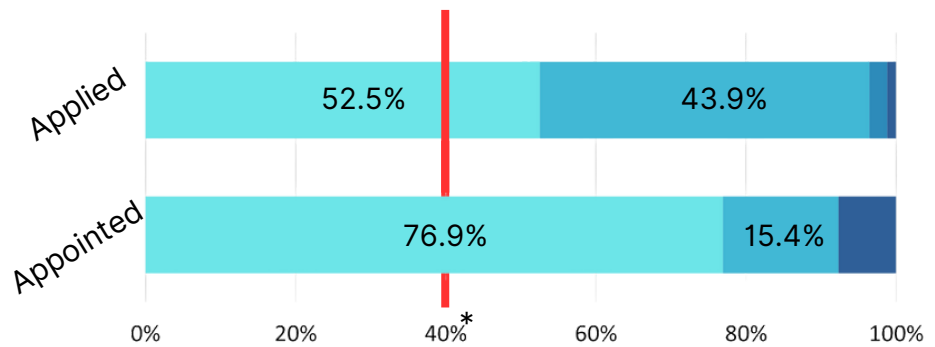
Female Male Prefer not to say Not stated



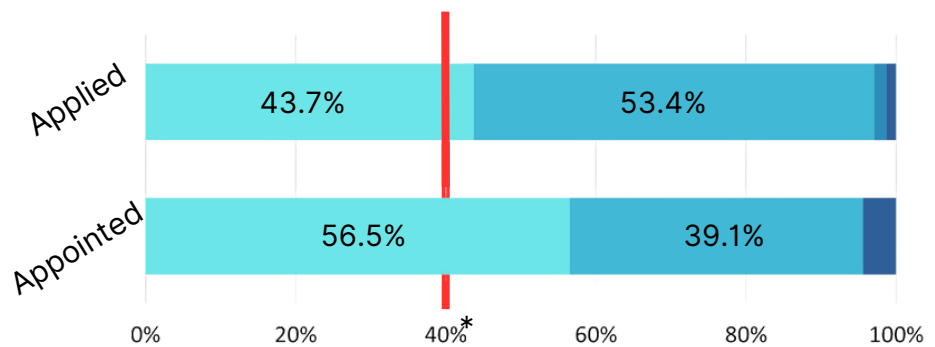
Corporate



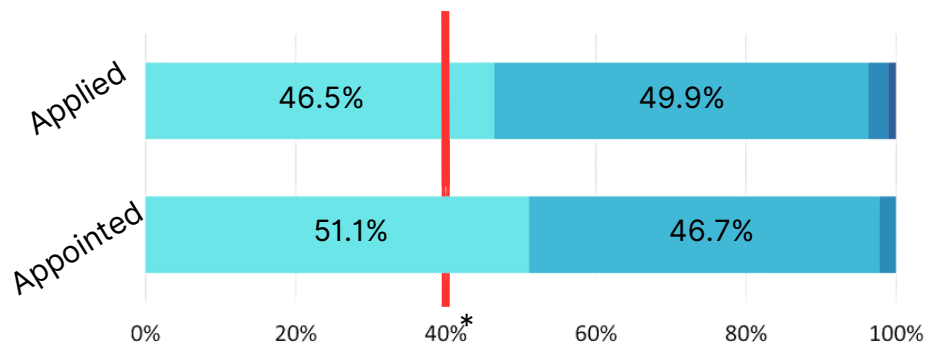
Education & Justice



Economy



Health & Social Care

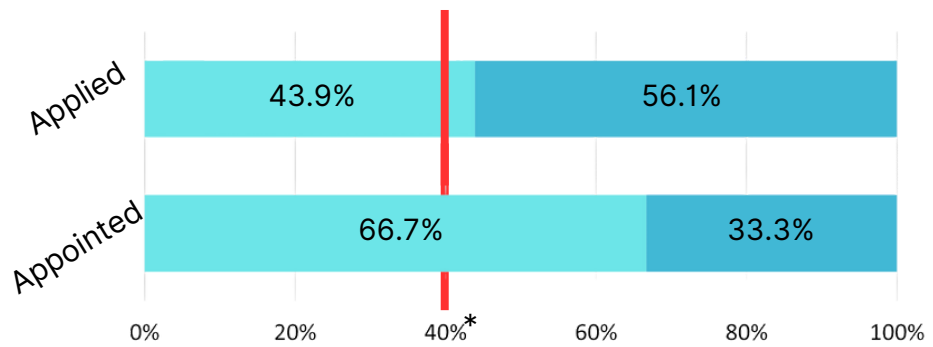


*The Scottish Government's target for applications from women is at 40% of all applicants. This target does not apply to appointments.

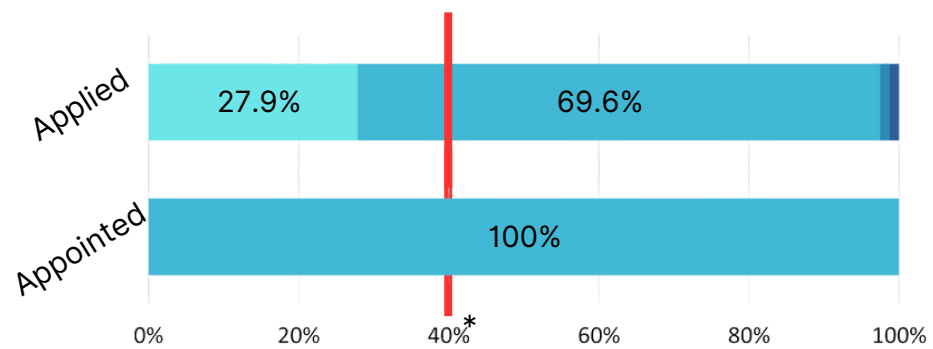
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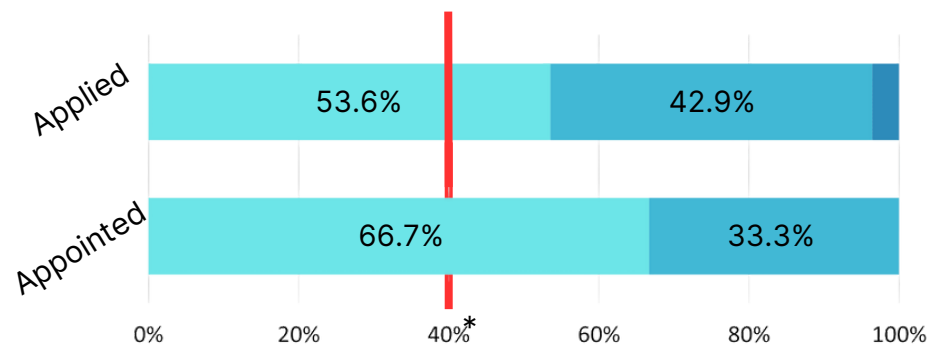
Net Zero



Scottish Exchequer



Strategy and External Affairs



*The Scottish Government’s target for applications from women is at 40% of all applicants. This target does not apply to appointments.

We continue to observe a wide range of good practice being developed and implemented within the Health and Social Care directorates and this also being made available to other DG areas. Some of these good practices also include building a pipeline of diverse applicants who are ready and enthused to apply for chair roles. It is positive to see this good practice reflected in the application and appointment numbers within these directorates.

It is also very positive to see a large range of diverse applicants continue to apply and being appointed in the Education and Justice directorates. We continued to receive a high level of good practice reports during 2022/23 and expect that this may have had an impact on the diversity of applicants applying in the same period.

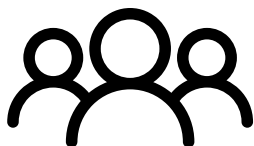
Reviews of other protected characteristics by DG area showed some differentiations for different groups.

Applications from and appointments made to individuals by age in 2022

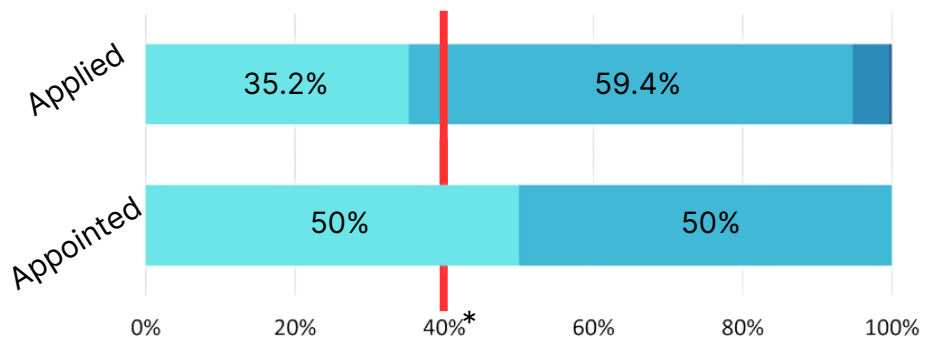
The target for applications made from individuals under the age of 50 is 40% of all applications. The Scottish Government directorate areas that saw to the achievement of this target were: Corporate, Education and Justice, Economy, Health and Social Care, Scottish Exchequer, and Strategy and External Affairs.



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Communities

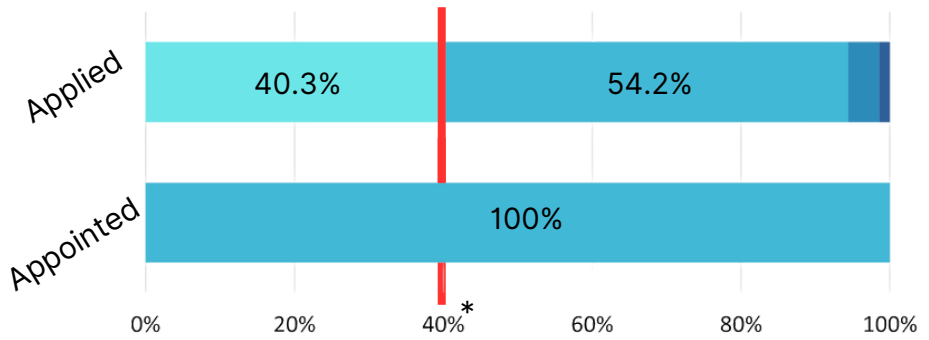


*The Scottish Government's target for applications from under 50s is at 40% of all applicants. This target does not apply to appointments.

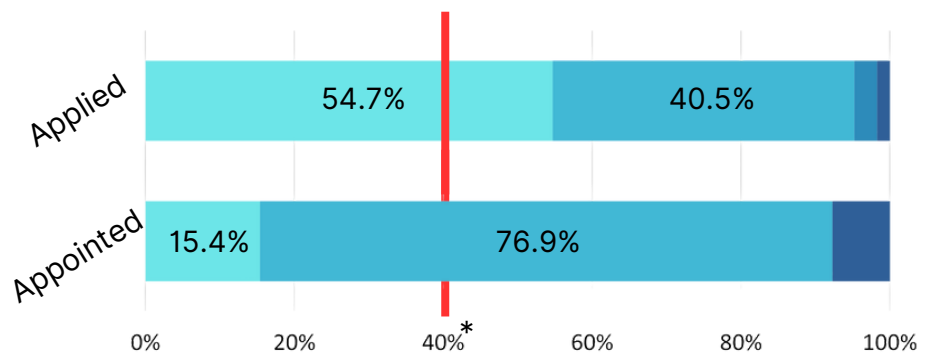
■ Under 50
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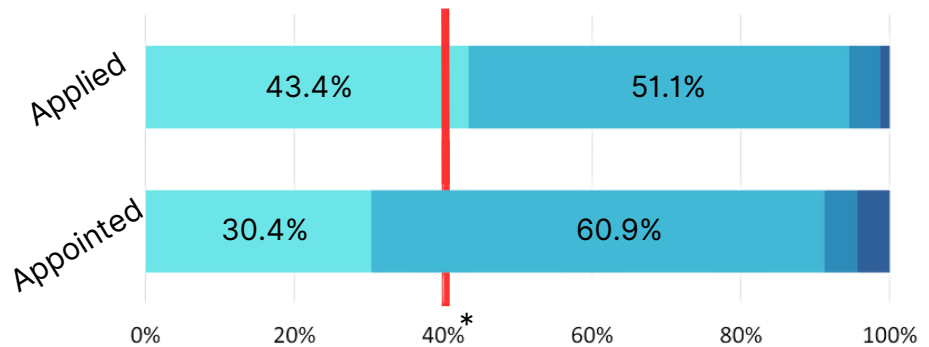
Corporate



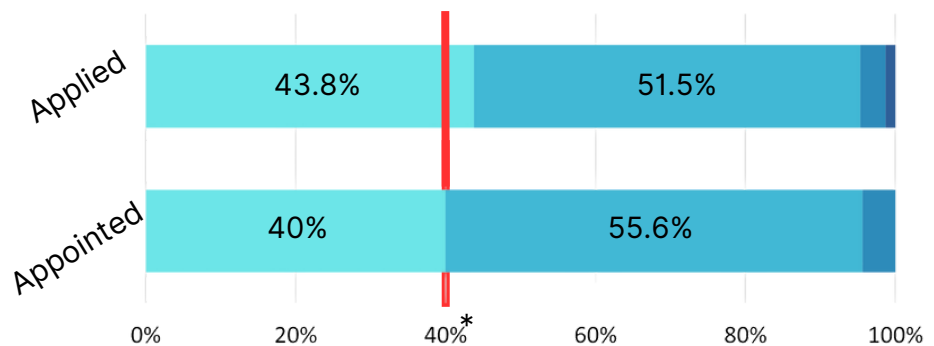
Education & Justice



Economy



Health & Social Care

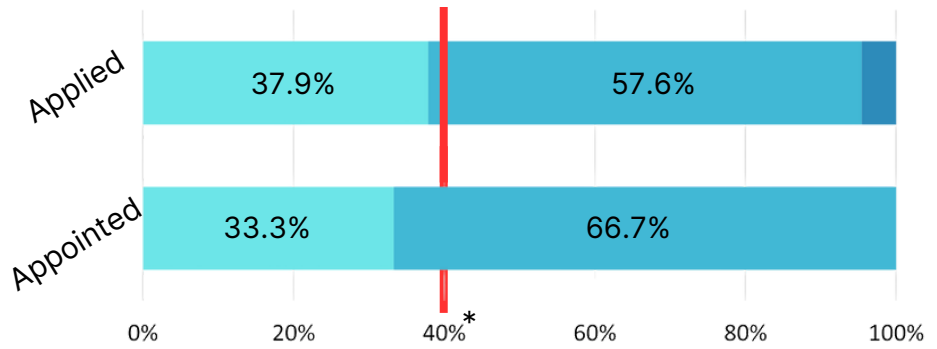


*The Scottish Government's target for applications from under 50s is at 40% of all applicants. This target does not apply to appointments.

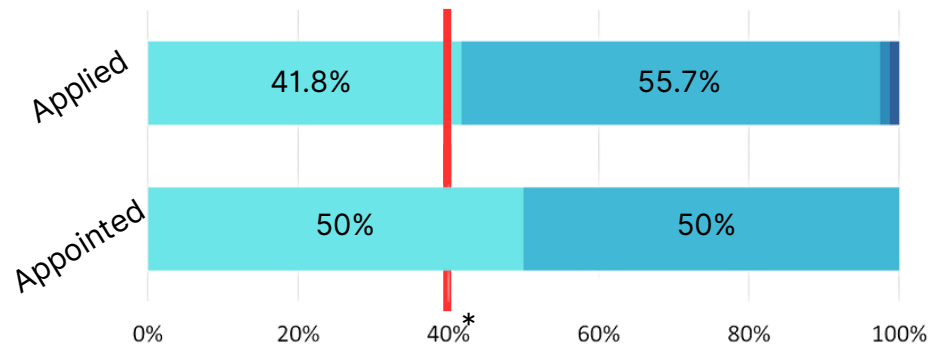
■ Under 50
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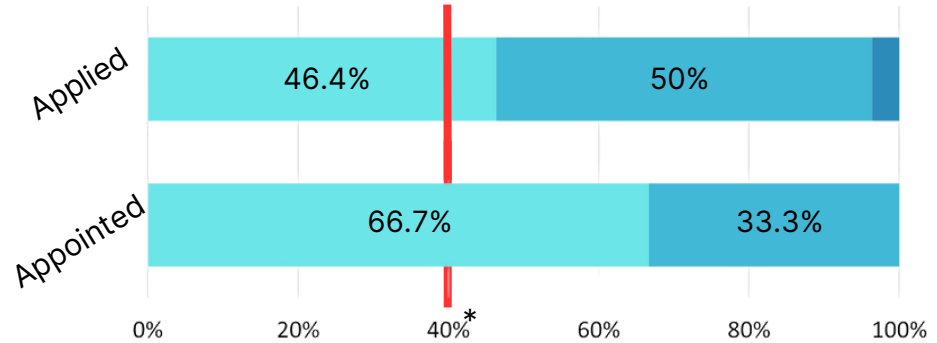
Net Zero



Scottish Exchequer



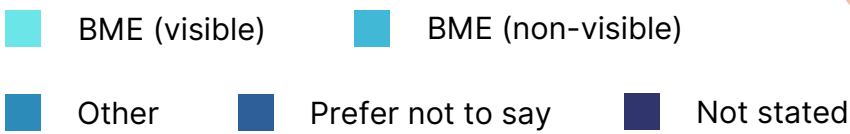
Strategy and External Affairs



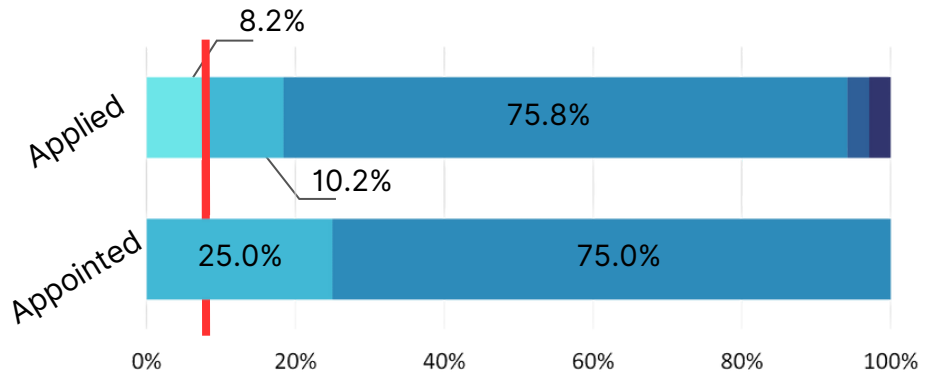
*The Scottish Government's target for applications from under 50s is at 40% of all applicants. This target does not apply to appointments.

Applications from and appointments made by ethnicity

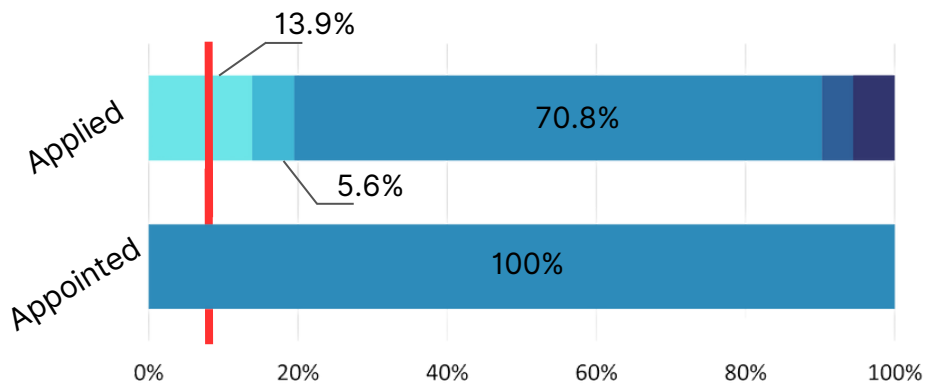
The target for applications from this group is 8% for both visible and non-visible BME individuals. There is no disaggregated target for non-visible BME applicants.



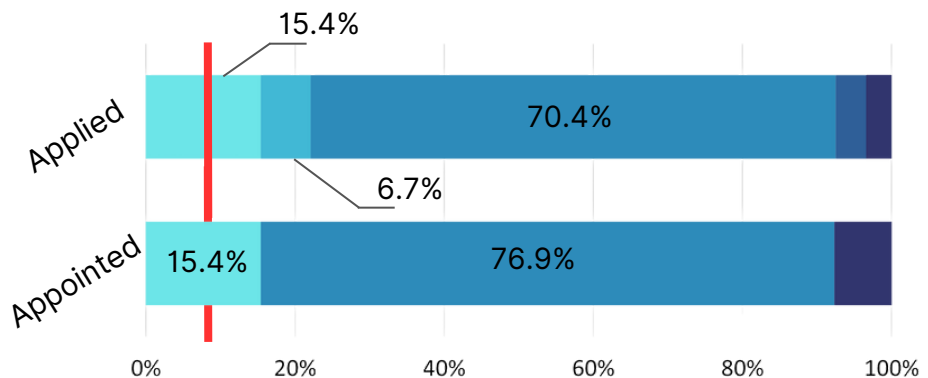
Communities

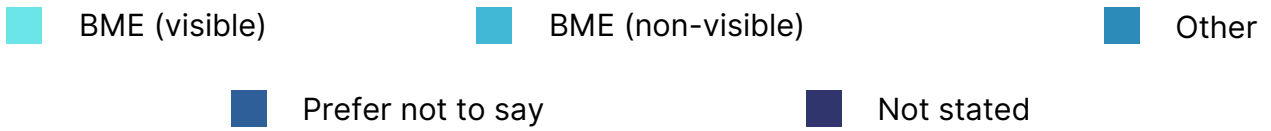


Corporate

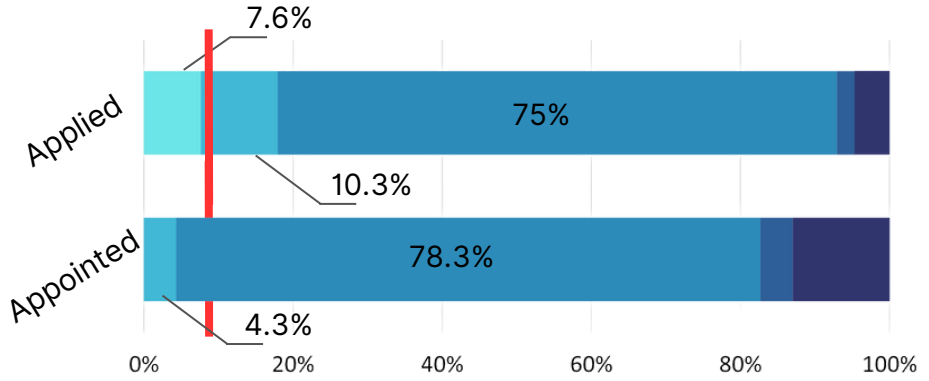


Education & Justice

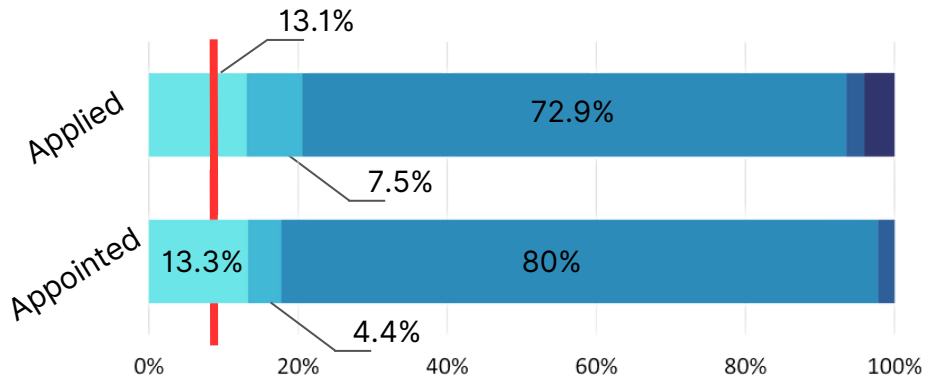




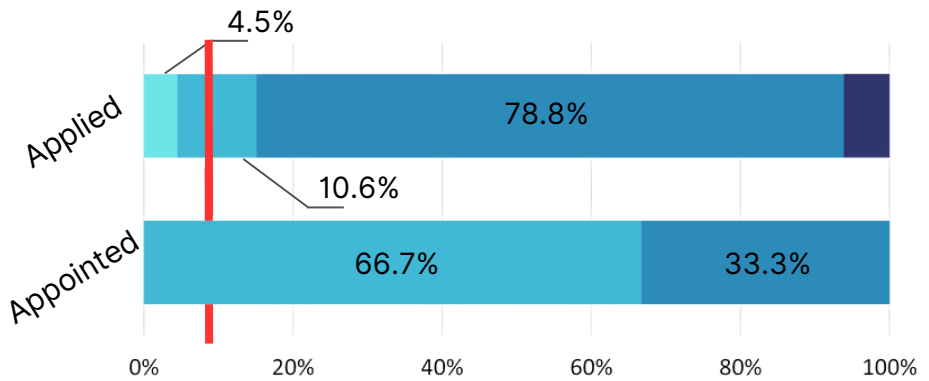
Economy



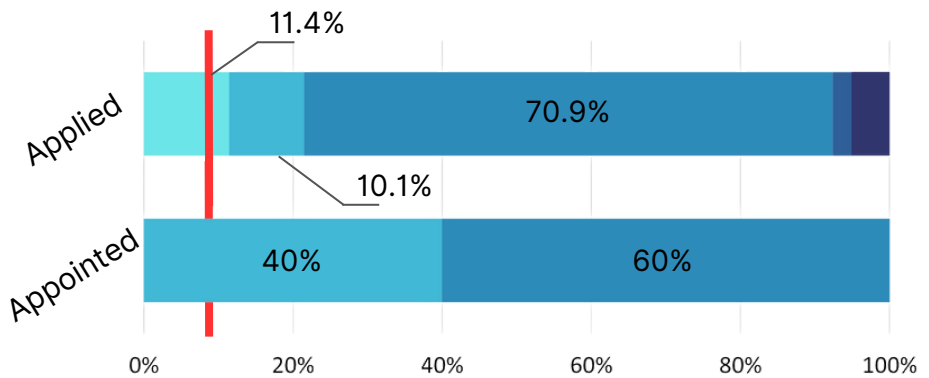
Health & Social Care

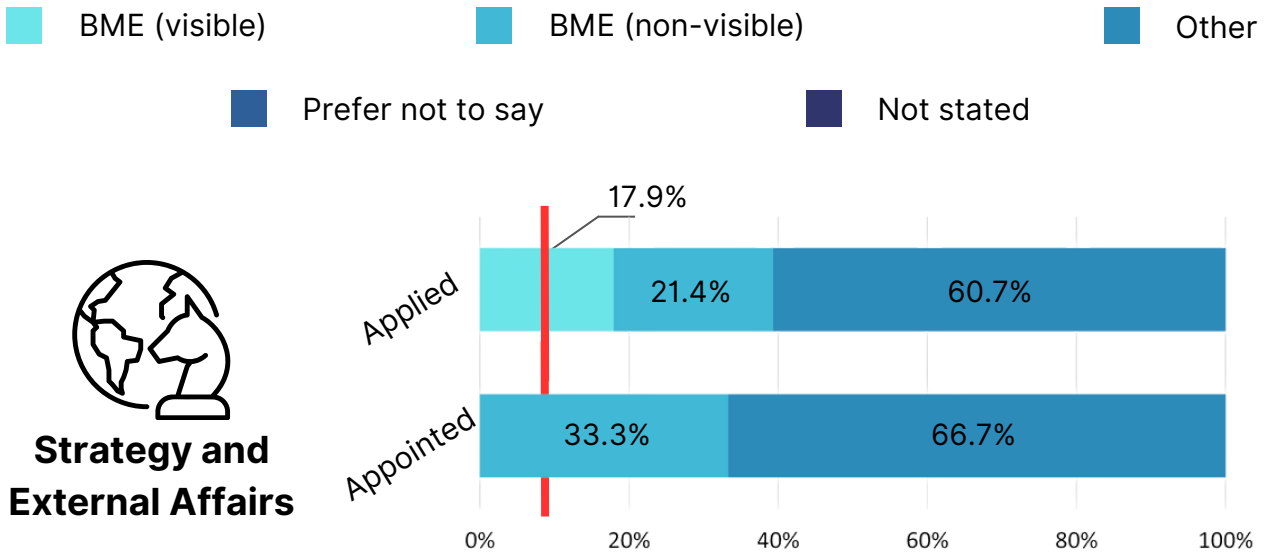


Net Zero



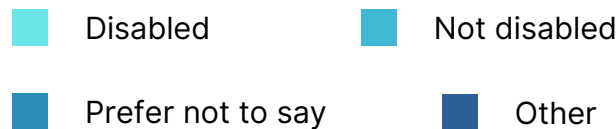
Scottish Exchequer



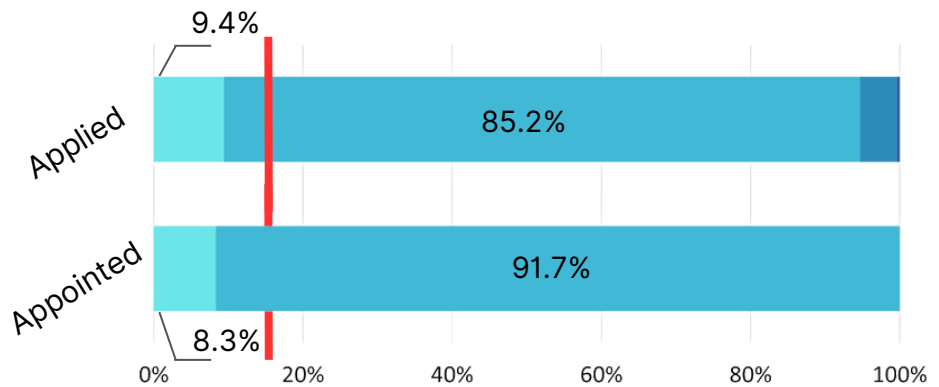


Applications from and appointments made to individuals with a declared disability in 2022

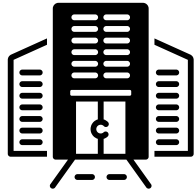
The target for applications from this group is 15%.



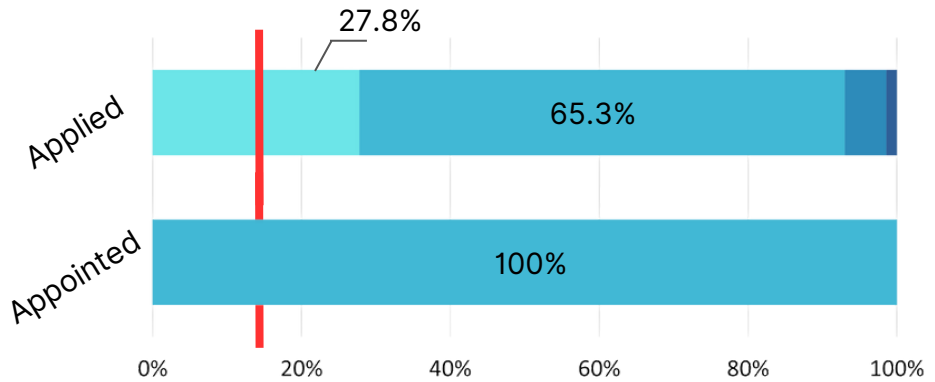
Communities



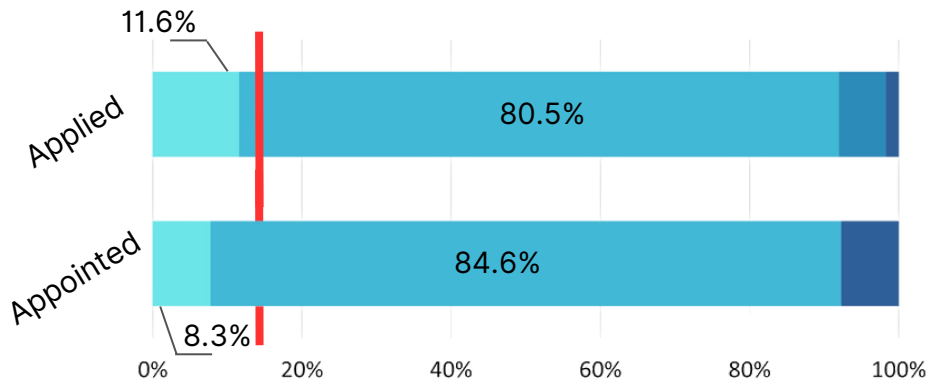
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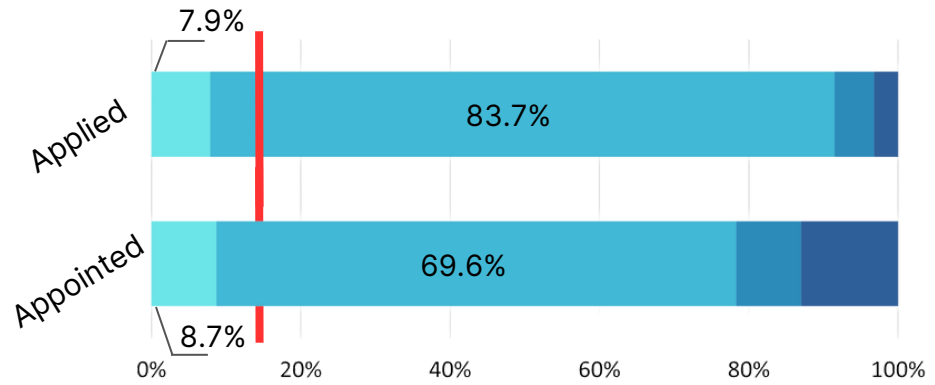
Corporate



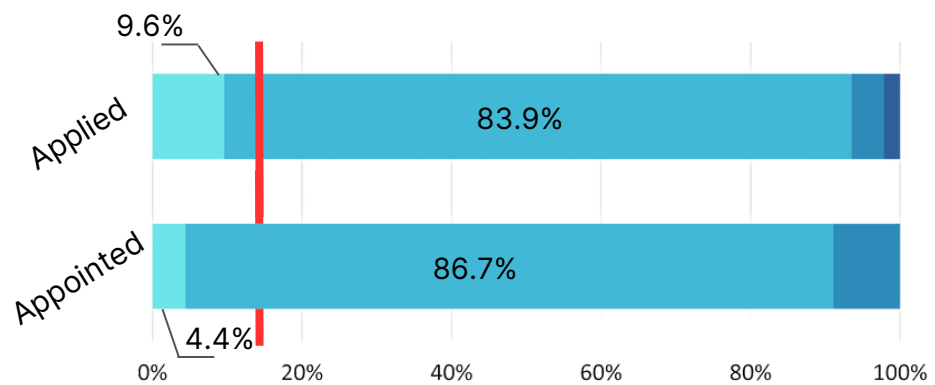
Education & Justice



Economy



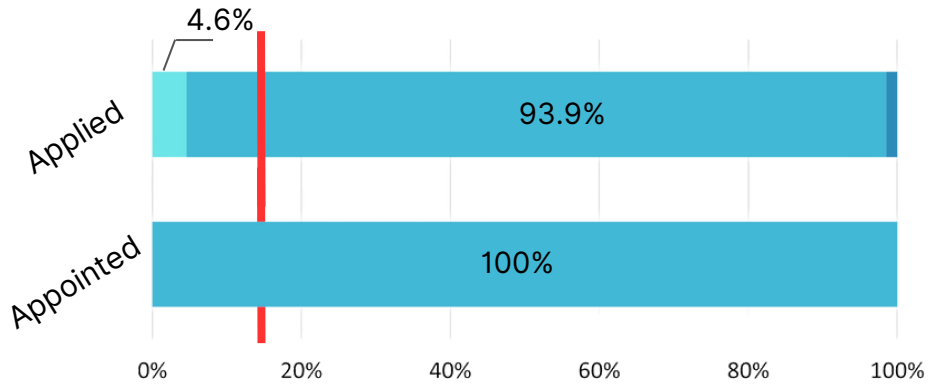
Health & Social Care



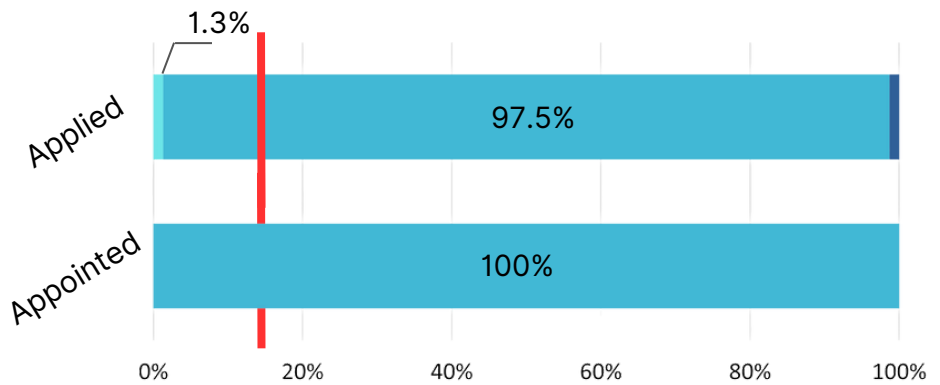
Disabled Not disabled Prefer not to say Other



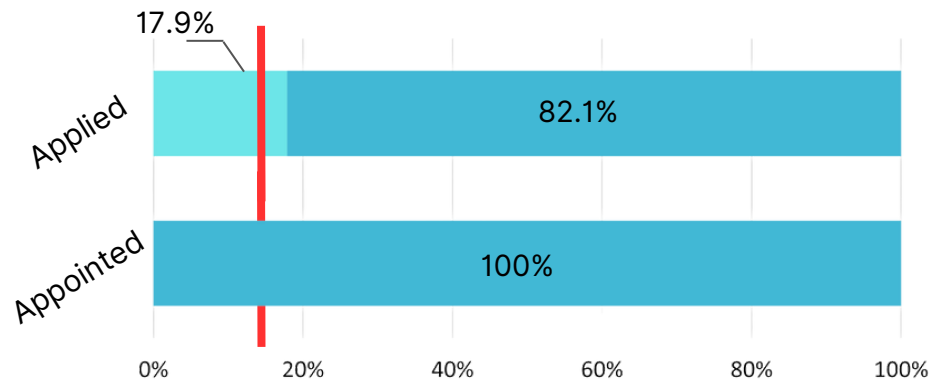
Net Zero



Scottish Exchequer



Strategy and External Affairs

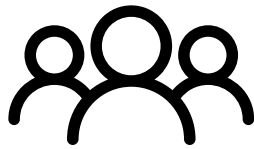


Applications from and appointments made to individuals by sexual orientation in 2022

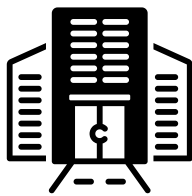
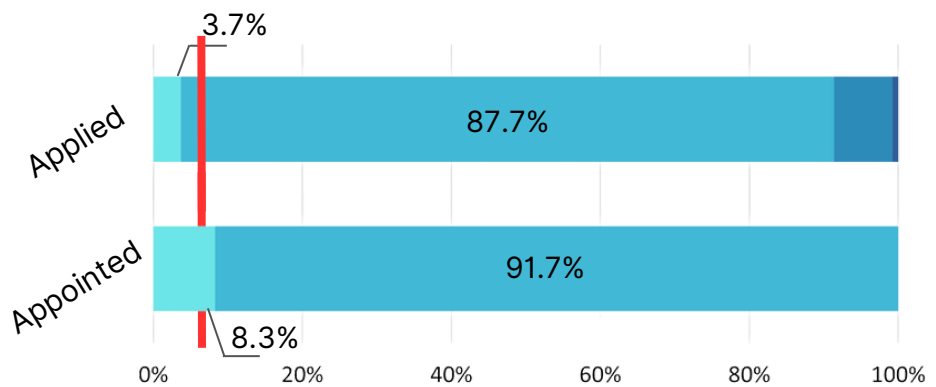
The target for applications from this group is 6%.



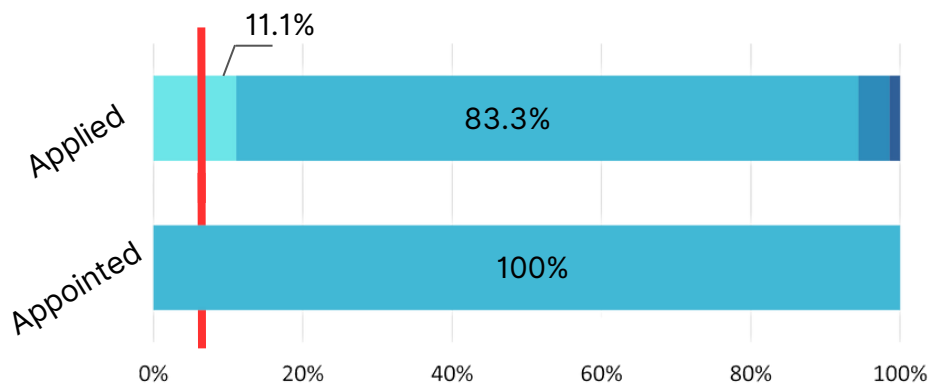
- Non-heterosexual
- Heterosexual
- Prefer not to say
- Other



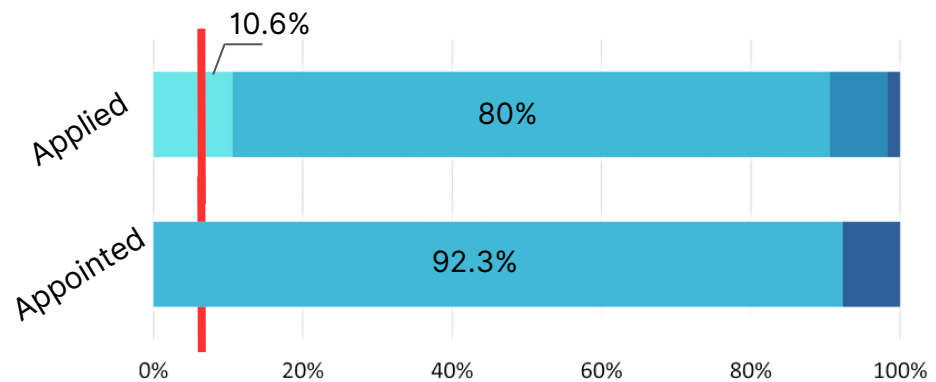
Communities



Corporate



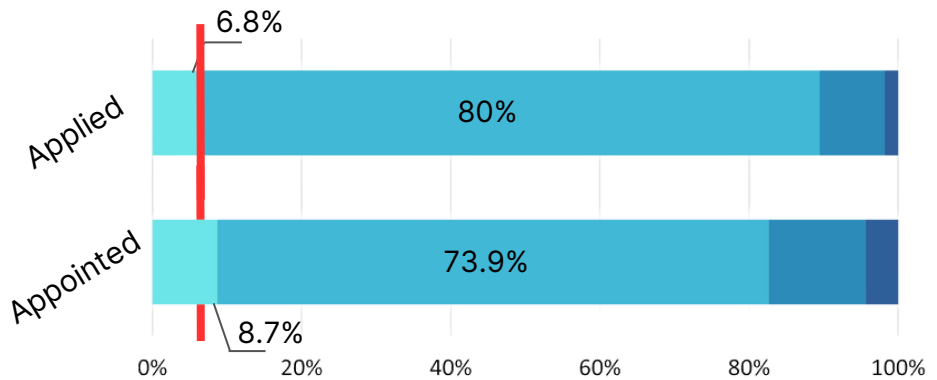
Education & Justice



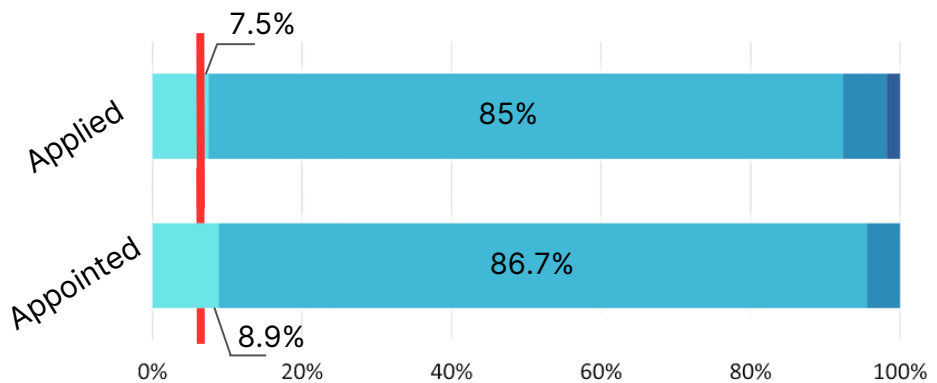
■ Non-heterosexual
 ■ Heterosexual
 ■ Prefer not to say
 ■ Other



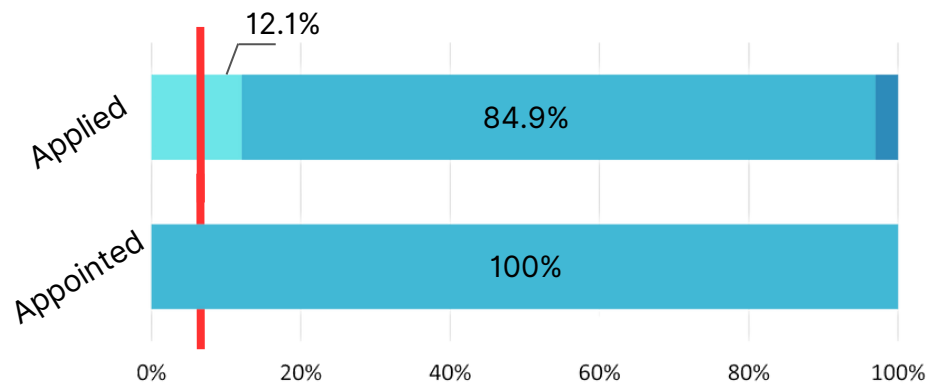
Economy



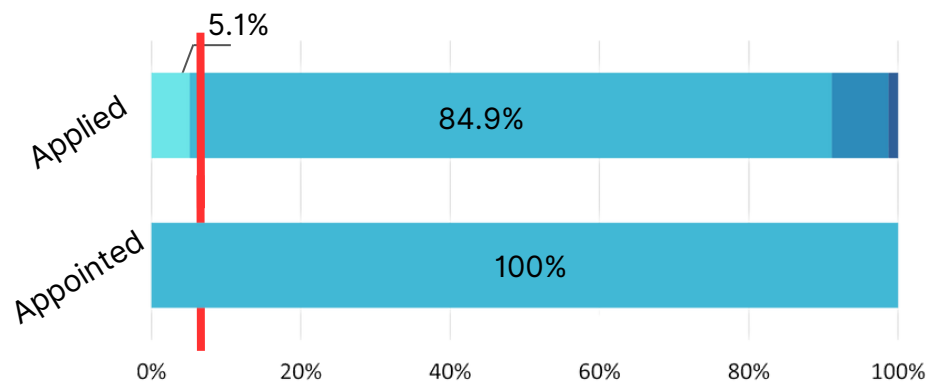
Health & Social Care



Net Zero



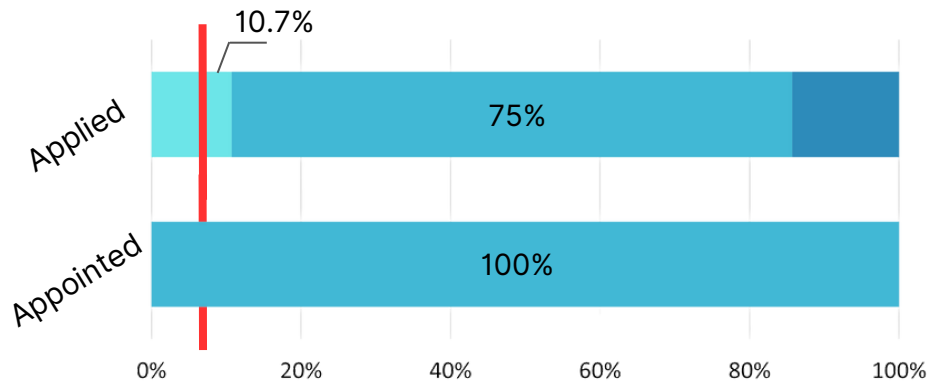
Scottish Exchequer



■ Non-heterosexual ■ Heterosexual ■ Prefer not to say ■ Other





Strategy and External Affairs





Appendix 3: Appointments made in 2022

Key for table			
Applications: ●		Appointments: ●	
Column: DG		Column: Level	
DG	Director General with sponsorship responsibility	L	Low
C	DG for General Communities	M	Medium
E	DG for General Economy	MSG	PAA involvement during planning requested
EJ	DG for General Education and Justice	H	High
HSC	Chief Exec of NHS Scotland	HSG	Set at high level at the request of the Scottish Government
SE	DG for Scottish Exchequer		
Cor	DG for General Corporate		

Body	DG	Position	●	●	Level
Accounts Commission for Scotland	C	Members	68	4	M
Architecture and Design Scotland	C	Members	50	2	M
Ayrshire & Arran NHS Board	HSC	Member	31	1	H
Ayrshire College	EJ	Chair	10	1	H
Caledonian Maritime Assets Ltd.	SE	Chair	7	1	H
Caledonian Maritime Assets Ltd.	E	Member	31	1	H
Care Inspectorate	HSC	Chair	17	1	H
Care Inspectorate	HSC	Members	39	1	M
Children's Hearings Scotland	EJ	Chair	7	0	H
Crofting Commission	E	Commissioners	21	2	M

Body	DG	Position			Level
Crown Estate Scotland	E	Members	50	2	L
Dundee and Angus College	EJ	Chair	6	1	H
Edinburgh College	EJ	Chair	11	1	H
NHS Fife, NHS Grampian	HSC	Chair	11	1	H
Fife NHS Board	HSC	Member	28	3	M
Food Standard Scotland	HSC	Members	46	4	H
Greater Glasgow & Clyde NHS Board	HSC	Member	18	2	H
Healthcare Improvement Scotland	HSC	Members	49	5	M
Highland and Islands Enterprise	E	Members	71	4	M
Judicial Appointments Board for Scotland (JABS)	EJ	Legal Member	8	1	M
Lothian NHS Board	HSC	Members	62	7	H
Mobility and Access Committee for Scotland	E	Members	16	3	L
National Library of Scotland	E	Members	28	3	L
National Museums of Scotland	E	Trustees	83	4	L
NatureScot	NetZero	Members	66	3	M
Shetland NHS and State Hospitals Board for Scotland	HSC	NHS Whistleblowing Champions	72	2	H
NHS Golden Jubilee Board	HSC	Member	22	1	M
NHS National Services Scotland	HSC	Member	43	1	M
North East Scotland College	EJ	Chair	15	1	M
Office of the Scottish Charity Regulator	C	Chair	20	1	H
Office of the Scottish Charity Regulator	C	Members	106	5	H
Orkney NHS Board	HSC	Members	22	1	M
Public Health Scotland	HSC	Member	80	2	M
School Closure Review Panels	EJ	Convenor	14	0	H
Scottish Children's Reporter Administration (SCRA)	EJ	Member	62	2	L
Scottish Commission on Social Security	Cor	Chair	9	0	H

Body	DG	Position			Level
Scottish Commission on Social Security	Cor	Member	18	0	L
Scottish Commission on Social Security	Cor	Member	45	1	H
Scottish Enterprise	E	Chair	12	0	H
Scottish Fiscal Commission	SE	Chair	4	1	H
Scottish Fiscal Commission	SE	Commissioner	5	1	H
Scottish Futures Trust	SE	Members	70	3	M
Scottish Legal Complaints Commission	EJ	Chair	10	0	H
Scottish Legal Complaints Commission	EJ	Lawyer Members	19	2	H
Scottish Legal Complaints Commission	EJ	Members	144	1	M
Skills Development Scotland	EJ	Members	109	3	L
South of Scotland Enterprise	E	Members	47	4	M
SportScotland	HSC	Members	100	6	H
Tayside NHS Board	HSC	Member	38	4	M
VisitScotland	E	Member	42	2	M
Total			1,962	105	

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