



RESPONSE FROM CHANGING THE CHEMISTRY TO THE CONSULTATION ON POTENTIAL REVISIONS TO THE CODE OF PRACTICE FOR MINISTERIAL APPOINTMENTS TO PUBLIC BODIES IN SCOTLAND – NOVEMBER 2020

Introduction

Changing the Chemistry

Changing the Chemistry (CtC) is a volunteer-run Scottish-registered charity that works to improve diversity of thought in the boardroom. Diversity of thought for CtC being not just about gender but also ethnicity, age, disability and other types of protected characteristic as well as cognitive and experiential diversity. Evidence shows that increased diversity improves organisational performance.

CtC operates as a peer-support network charging no membership fee but expecting members to contribute to help individuals from diverse backgrounds secure board roles and then supporting them to perform in those roles.

In addition to developing the supply side of board recruitment, CtC is also working to influence the demand side by making those hiring board members more aware of the biases and stereotypes impacting their decision-making and reiterating the business case that diverse teams perform better.

Membership is open to anyone aged 18 or over who supports the charity's aims and is willing to commit to contribute to its objectives in some way. CtC currently has over 580 members, mostly based in Scotland. The membership is made up of those seeking board roles, those on boards with a desire to continuously improve their boardroom skills and those who want to support the cause of diversity of thought in the boardroom.

The support provided to CtC members includes:

1. Target group – for members who aspire to board roles which meets every month talking about a specific topic to support their board journey.
2. Graduate group – for members with board roles who want to enhance their performance in those positions.
3. Social events – monthly social events are held in Edinburgh and Glasgow organised by members
4. Speaker events/seminars organised by CtC e.g. board journeys, specialist areas (finance for the boardroom).

CtC has filled over 240 board roles from its membership across all three sectors – from FTSE 250 companies to a broad range of public-sector and other private-sector boards to a wide variety of charities. CtC has also had great results working with organisations to help them make significant shifts in the diversity of their Boards by attracting a more diverse range of candidates and supporting these candidates through the recruitment process.

Services CtC provides to organisations wanting to make their boards more diverse:

- Promotion of board vacancies to the membership of Changing the Chemistry



- Advice on succession planning, use of a board skills matrix and guidance on wording of the board role description and adverts
- Training session or workshop for the board on why board diversity is important and the obstacles (including unconscious bias) -
- Guidance on board recruitment process enhancements
- Network outreach to attract a wider range of candidates:
- Support for candidates including workshops and advice

CtC's outreach work has resulted in some very successful recruitment rounds for a range of organisations which were looking to improve the gender balance on their boards. A few examples are

- Where CtC has supported a recruitment round, the boards have had a major shift in their gender diversity (which was their focus given the Scottish Government's 50:50 by 2020 initiative to achieve gender balanced boards). Scottish Canals, VisitScotland and SNH achieved balanced boards – VisitScotland in their previous recruitment round had 28% women apply whilst, having run an event with CtC and CtC provided three free workshops on completing the application form, the most recent round had 62% women apply (out of 100 applications) and 4 of the 5 new appointments were female. For Highlands & Islands Enterprise not only were three of the four new appointments female but all are members of CtC. SNH reported that the gender breakdown of their NED applications had moved from 12 out of 56 for the previous round to 67 out of 115 and recently announced the appointment of 5 new board members, all women. VisitScotland, HIE and SNH all referenced CtC in their press releases¹.
- CtC worked with both HIE and SNH to run joint events in Edinburgh, Glasgow and Inverness. The events provided prospective candidates with information on the role of the board and the benefits of an NED role in addition to explaining what the specific organisations do, the public appointment process and the support available. At least one of the speakers was selected on the basis of being a role model from a diverse background. CtC also provided free workshops on the public sector application form and mock interview panels to support prospective candidates (two in each location i.e. 6 workshops and 6 panels in total). The results have been very much driven by the calibre of the CtC membership and CtC's extended reach through members' contacts and wider networks.
- Another recent example has been CtC's work with Dundee and Angus College where the feedback has been that collaborating with Changing the Chemistry has increased both the quality and number of candidates from diverse backgrounds applying for board roles.

For further information please contact:

Tanya Castell, *Founder of Changing the Chemistry* email:

tanya.castell@changingthechemistry.org or to advertise a board vacancy (free) email board.vacancy@changingthechemistry.org.

This response from CtC to the Consultation on potential revisions to the Code of Practice for Ministerial Appointments to Public Bodies in Scotland, draws on the knowledge and expertise of CtC members, and is informed by our individual

¹ e.g. <http://news.scotland.gov.uk/News/SNH-Board-appointments-24ff.aspx> and <http://news.scotland.gov.uk/News/Appointment-of-Members-to-the-Board-of-Highlands-and-Islands-Enterprise-252c.aspx>



experience and through discussion at our meetings. Feedback is provided only against those questions where we think we can offer a relevant and informed opinion.

Questions 1 - 3

Changing the Chemistry (CtC) recognises and celebrates the many types of diversity that influence board effectiveness. In particular, we promote “diversity of thought” (identity, cognitive and experiential) as important for the boardroom. We therefore support expanding the definition of diversity to include factors other than gender. It is important to recognise that diversity of thought comes from diversity of life experience and this cannot always be categorised neatly into boxes. Therefore actions to address board diversity need to go beyond regulation and just adding other characteristics to monitoring forms.

While broadening definitions may be helpful, being overly prescriptive by adding specific provisions for Ministers around redressing under-representation of protected characteristics might make a bureaucratic process even more cumbersome and fail to take account of organisational needs. In reality the work of recruitment falls to the sponsor team and the organisation. It is CtC’s view that education and support for those groups may have a greater impact than imposing tighter regulation. CtC frequently provides advice to organisations starting a board recruitment round including the wording of role adverts, new approaches to encourage a wider range of applications and running board information events. The results, as noted in the introduction, have generally resulted in more diverse and higher quality applicants. Therefore providing more guidance to all those involved in board recruitment could have a significant impact.

The planning stage of board appointments is critical. CtC supports the idea that proper consideration of the particular board needs when appointments are under consideration, is an area where the Code could be tightened. It is important to that the board of the organisation is consulted. We would caution against adding further provisions in relation to positive action measures, as representation across all protected characteristics might not be relevant for all boards. Diversity measures and actions taken should be aligned to the organisation’s needs and any skills or experience gaps in the profile of the existing board.

Monitoring also has an important role to play to ensure that all those involved follow the guidance and therefore CtC is strongly supportive of each organisation reporting on its approach to board recruitment and the results that were achieved.

Questions 4 – 6

While we endorse the principle of capturing lessons learned and evidence-based decision making, CtC does not see benefit in placing more prescriptive requirements on Ministers in this regard. This responsibility should sit with those organisations undertaking the recruitment and the Public Appointments team supporting them. It



is important to identify who is best placed to carry out these activities and at what stage of the process.

Questions 7 - 9

There are a number of positive action measures that could be taken to support board diversity. However these are activities required by those supporting the process, rather than those required of Ministers. For example –

- guidance on how to reach wider audiences
- disability awareness training
- covering expenses for interviewees
- ensuring accessibility requirements are met for a wide range of applicants

It is CtC's view that researching and providing evidence of best practice; along with training and outreach would be best supported by the Public Appointments team.

Questions 10 – 12 – no response

Questions 13 -14 – no response

Questions 15 - 17

CtC agrees that appointment plans should be based on evidence of what works well. The Code could make stronger reference to the recruiting body drawing on practices adopted by other organisations where these have been shown to be effective in recruiting specific characteristics. While the case studies on the Commissioner's website are useful, it would perhaps be more useful for the Commissioner or the Public Appointments team to draw conclusions from these and create best practice guidelines related to specific characteristics e.g. recruitment of younger people or those with digital expertise. This would simplify the job of applying best practice for the recruiting organisation. Other measures that could be adopted might include a checklist to prompt those doing the planning to consider which characteristics are most useful and will add most value to the board, as well as providing training for panel members on unconscious bias.

With regard to adopting measures to achieve greater diversity in relation to protected characteristics, sector and socio-economic status, we caution against an approach which sets targets for or imposes diversity for diversity's sake. It is important to identify where and what type of diversity will add most value at the appointment planning stage. Characteristics such as socio-economic background, geographical location, age and sector more will be more relevant in some organisations than others. For example the breadth of experience required in some roles will mean that a younger person may struggle to add value in some situations while in others, where the organisation's user-base includes young people, this may be highly valued. However CtC has found that board information events often encourage more applications because they demystify the boardroom for those who would not have considered applying for a board role.



Setting targets around gender representation has clearly resulted in more women being appointed to boards but careful thought needs to be given to the relevance of measures and whether further target setting is the answer. While socio-economic status is potentially more relevant to some organisations, it is a crude measure. There are people in higher income brackets who have come from poorer working-class backgrounds and therefore have a good understanding of issues from that perspective as CtC has found within its own membership. Likewise there might be well-educated people from a higher socio-economic background, who have chosen a low paid profession. Taking a target-driven or tick-box approach to this doesn't take account the nuances which can give a better indication of a person's potential contribution.

On the other hand, where demographic data provides clear evidence of under-representation, as with ethnic diversity, then targets could be justified. This needs to be considered at a regional rather than a national level as variations by local council area are significant. For example the proportion of the Scottish population reported as belonging to a minority ethnic group is 4% while in Glasgow it is 12%². Adopting a uniform approach might lead to tokenism in appointments rather than the best outcome for organisations.

Before deciding that positive action or target-setting is the answer, it is important to reflect on what is at the heart of the issue: what stops people from applying for these roles? In relation to the under-representation of people from the private sector on public sector boards, it is worth researching why they are not interested. One obvious reason is pay, which tends to be little or in many cases, none. However pay is not the only barrier or solution. Perception of public bodies is also a barrier. Many people in the private sector will view it as slow, bureaucratic and in some cases at the mercy of political whims. CtC suggests that the Commissioner and Ministers should consider how to make serving on public sector boards more appealing to private sector employers for their employees. For example, how to encourage private companies to release employees to participate in public sector governance. Some larger organisations will support external pro-bono work as part of leadership development but more could be done to promote this as an executive development opportunity and even incentivise employers. Is there a benefit or financial incentive that can be offered to participating private sector organisations? A 'giving back or greater good' scheme could be developed where the employer receives public recognition (use of a kite-mark) for participating. It is our view that the issue here is more one of perception than recruitment practices and that promotional activity is better than setting targets or taking positive action on sector representation.

Questions 18-23

Where positive action is being taken, legitimate grounds for choice should be justifiable through an explanation of organisational impact. For example, where specific characteristics have been identified as strategically relevant and / or can be

² <https://www.scotlandscensus.gov.uk/ethnicity-identity-language-and-religion>



tied back to the user-group the organisation serves. We see guidance from the Commissioner around the 'how' – incorporating positive action plans in the appointment plan, as being of greater benefit than requiring 'other characteristics'.

Questions 24- 25

CtC does not think that it is the job of Parliament to consult on appointment plans.

Questions 24- 26

We agree that information provided to applicants should be clear about the obligations to consult on certain roles and what personal information will be shared in line with Data Protection legislation.

Questions 28- 30

Expanding the description of attributes beyond knowledge, skills and experience might only add confusion and additional bureaucracy, particularly if specific characteristics have already been identified. The range of attributes might be quite extensive which then raises the issue of how these should or could be objectively assessed as some are inherently subjective e.g. personal values. In relation to the NHS example, there should be no need to include other characteristics (such as values) as these are covered under the Nolan principles. We suggest that it would be better to look at how these can be used more effectively and review how these principles are being assessed, rather than add further layers to the process.

Questions 31- 32

We do agree that there is a need to match assessment methods to the attributes sought and the Code could be more explicit in that regard. There does not seem to be a consistent approach to assessing attributes covered by the Principles of Public Life and this is an area that could be developed.

Questions 33- 34 – no response

Questions 35 - 37

We consider that training both for the Public Appointments team and the panel members is important particularly in the areas of unconscious bias and also in relation to disability awareness.

In 2019 CtC was contracted by the Scottish Government to run a pilot of unconscious bias and diversity training for the boards of a number of organisations in the agriculture sector. This was one of the recommendations of the Scottish Women in Agriculture taskforce that formally reported in November 2019. The first of these was delivered towards the end of last year with very positive feedback, and the organisation in question has since recruited the first woman to their board. A further 5 workshops have since been run with follow-up underway with the next two organisations to see how things have progressed.



We also believe that diversity within the panel members themselves should be included in the terms of reference, particularly in relation to ethnic diversity but also other characteristics where those characteristics are being sought. For example having a disabled person on a panel when you are interviewing a disabled person can make a huge difference in putting the applicant at ease.

Paying panel members in line with the rate paid in other parts of the UK rather than relying on people who don't need the money. If paying members is not an option then perhaps consideration should be given to reducing the workload, for example using the Public Appointments team to do the first sift of applicants.

Question 38

We support conducting audits of recruitment rounds and view this as an important part of learning and evidence gathering around what works or doesn't work. Regulation can then be based on evidence and the impact of it tracked. One option could be that conducting audits was part of the role of the Public Appointments team.

Questions 39 – 40 – no response

Questions 41 - 42

CtC suggests that the role of the Commissioner's office in providing evidence and research, in addition to engaging and supporting those it is regulating, should be considered. If its remit is to encourage fairness, good conduct and transparency in public life in Scotland, then perhaps it should engage at a lower level (e.g. with applicants successful and unsuccessful, as well as the wider public) to understand the impact the current regulatory model is having and whether this needs to change.

Questions 43 - 44

As highlighted previously, the work of appointing board members falls largely on the sponsor team and the organisation rather than Ministers. Many organisations are not clear on the role of the Public Appointments team or what support is available. Therefore each time an organisation has to learn what the team does and what they need to do themselves and how to go about it. We suggest that the role of the Public Appointments team should be considered alongside changes to the Code and that they could take a greater role in reviewing and recording best practice, providing or organising training and ensuring the consistent application of best practice across organisations.

CtC would like to encourage the Scottish Government to continue its board observers programme to help demystify the boardroom. Additionally board information sessions and events to explain how boards operate and how to apply for public sector board roles are very beneficial. CtC knows from its members that in trying to encourage people to apply for the first time, helping people understand what boards do and how their skills will be relevant is very important.