

Gender Representation on Public Boards (Scotland) Bill

Financial memorandum

Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Gender Representation on Public Boards (Scotland) Bill ("the Bill"), introduced in the Scottish Parliament on 15 June 2017.
2. The following other accompanying documents have been published separately:
 - Explanatory Notes (SP Bill 16–EN);
 - Policy Memorandum (SP Bill 16–PM);
 - statements on legislative competence by the Presiding Officer and the Cabinet Secretary for Communities, Social Security and Equalities (SP Bill 16–LC).
3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

Background

4. The Bill is reflective of the Scottish Ministers' commitment to ensure that women are properly represented in senior and decision making positions, including on the boards of Scotland's public bodies. That is why the Bill is included in the Scottish Government's Programme for

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

Government 2016-17: A Plan for Scotland¹, and forms part of a range of measures aimed at tackling women's inequality and ensuring a fairer Scotland. Although they are autonomous bodies, not forming part of Scotland's public sector, the Bill extends to the governing bodies of universities and other higher education institutions.

5. The Bill has been made possible by the Scotland Act 2016, which transfers competence to the Scottish Parliament to legislate on equal opportunities relating to "the inclusion of persons with protected characteristics in non-executive posts on boards of Scottish public authorities"².

Costs on the Scottish Government

6. The Scottish Government has a key role in the appointment of non-executive directors to the boards of public bodies in Scotland. Scottish Ministers are directly responsible for appointing the majority of non-executive directors on public sector boards, through a process managed by the Scottish Government Public Appointments Team and regulated by the Commissioner for Ethical Standards in Public Life in Scotland.

7. As the provisions in the Bill do not make changes to the existing recruitment processes in place, the Scottish Government does not envisage that the Bill will incur additional costs for the Scottish Government, on top of the existing expenditure incurred in managing the regulated Ministerial public appointments process.

Costs on local authorities

8. The Bill does not have cost implications for local authorities as they are not subject to the requirements of the Bill.

¹ A Plan For Scotland: The Government's Programme for Scotland 2016-17, page 12,

<http://www.legislation.gov.uk/ukpga/2016/11/section/37/enacted>

² The Scotland Act 2016, Section 37 (3),

<http://www.legislation.gov.uk/ukpga/2016/11/section/37/enacted>

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

Costs on other bodies, individuals and businesses

9. The Scottish Ministers are not responsible for appointing all non-executive members on Scotland's public sector boards. A small number of appointments are made by other appointing persons, including the Lord President, as is the case for the Judicial Appointments Board for Scotland.

10. The Bill also extends to certain bodies whose board appointments are not regulated by the Commissioner for Ethical Standards in Public Life in Scotland³ (these are known as non-regulated bodies), to universities and other higher education institutions (HEIs) and to colleges but does not cover individual office-holders. A full list of the bodies covered in the Bill is available in its schedule 1.

11. As in the case of costs incurred by the Scottish Government, it is likely that there will be minimal costs for these organisations, as the majority made voluntary commitments to increase the gender representation of their boards in 2015. Since then they have been taking steps towards achieving the targets set via the 50/50 by 2020 campaign⁴ and the university sector commitment to achieve a 40:40:20 split of Court members by 2018⁵.

12. To achieve this, organisations have already undertaken the type of activity that was identified in responses to the Scottish Government's consultation on the draft Bill. This has included organising outreach events to reach a wider pool of potential applicants for an appointment; reconsidering traditional modes of advertising appointments and using new and more varied platforms for advertising vacancies; the revision of the person specifications used to advertise board vacancies to be more attractive to a wider pool of applicants; making clear in adverts for board positions that applications from women will be welcomed. This activity has had a positive impact on the diversity of boards, with significant progress being made. For example, the proportion of female applicants and appointments to boards appointed by Ministers has increased: in 2016,

³ <http://www.publicappointments.org/regulating-appointments/overview/>

⁴ <http://onescotland.org/equality-themes/5050-by-2020/>

⁵ <http://www.universities-scotland.ac.uk/bite-size-briefings/gender-balance-on-boards/>

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

43% of applicants and 59% of those appointed were women, an increase of 12 and 20 percentage points, respectively, from 2012, and a jump of 5% in female appointees in a single year. Further information on this is included in the Bill's policy memorandum.

Responses to the Business Regulatory Impact Assessment Questions in Bill Consultation

13. Consultation respondents⁶ were asked for comments on the costs of the draft Bill, to support the development of its Business Regulatory Impact Assessment. Of the 99 responses received to the consultation, a total of 39 respondents commented on this question. In general, public bodies (including universities, other higher education institutions and colleges) considered there would be few additional costs, while other organisation respondents were more likely to identify activities incurring costs.

Potential Costs identified

14. Around a third of the respondents who answered this question (predominantly public bodies) did not identify any additional costs associated with the draft Bill, or thought that they would be minor. The rest of the respondents to this question identified but did not quantify minor costs, which included:

- writing and promoting guidance;
- ensuring that all interviewing staff are trained;
- administrative costs of gathering information;
- encouraging applications;
- staff time to develop mentoring schemes;
- outreach work;
- explaining/defending the objective;
- longer timescales for completing recruitment exercises, including if Ministers choose to see candidates face to face before a final decision;

⁶ Consultation responses can be accessed here:
<https://consult.scotland.gov.uk/equality-unit/draft-gender-representation-on-public-boards>

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

- provision of child-care for women with children or of appropriate care for women with other caring responsibilities.

Potential additional costs

15. In relation to most of the areas identified above, the Bill does not include requirements that would lead to additional costs for the organisation that are covered by the Bill. In the areas of encouraging applications, outreach work and childcare expenses, there could be additional financial outlay required. The Scottish Government's reasoning behind this is set out below.

Writing and promoting guidance

16. There are a number of existing guidance documents and codes of practice relating to the recruitment of board members and the use of positive action. These include:

- The Commissioner for Ethical Standards in Public Life in Scotland – 2013 Code of Practice and Revised Guidance on Application of the 2013 Code of Practice⁷;
- The Commissioner for Ethical Standards in Public Life in Scotland - Diversity Delivers⁸;
- The Scottish Code of Good Higher Education Governance⁹, which is under review and currently being consulted on¹⁰;

⁷ <http://www.ethicalstandards.org.uk/publications/publication/222/2013-code-of-practice-for-ministerial-appointments-to-public-bodies-in-scotland> and

<http://www.publicappointments.org/publications/publication/781/revised-guidance-on-application-of-the-2013-code-of-practice>

⁸

<http://www.publicappointments.org/site/uploads/publications/9081470494a9d103ac08481.79691631.pdf>

⁹ <http://www.scottishuniversitygovernance.ac.uk/wp-content/uploads/2013/07/Scottish-Code-of-Good-HE-Governance.pdf>

¹⁰ <http://www.scottishuniversitygovernance.ac.uk/live-consultation/>

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

- College Sector Board Appointments: 2014 Ministerial Guidance¹¹;
- The Equality and Human Rights Commission – How to improve board diversity: a six step guide to good practice¹²;
- The Equality and Human Rights Commission - Appointments to Boards and Equality Law guidance¹³;
- Scottish Government Public Bodies Unit - Guidance on Succession Planning for Public Body Boards¹⁴.

17. The Scottish Government therefore has no plans to produce additional guidance in this area, but will continue to ensure that its guidance and resources remain up-to-date and reflective of best practice.

Ensuring that all interviewing staff are trained

18. The Bill does not make changes to the process in place for the recruitment of board members. There is guidance available on the use of positive action and for the recruitment of public appointments. The Scottish Government therefore does not see the need for additional training as a result of the Bill.

Administrative costs of gathering information

19. This legislation does not place a requirement on organisations to gather any additional information. Therefore there will be no additional costs in this area.

Staff time to develop mentoring schemes

20. The Scottish Government does not consider that there will be significant resources required for the development of board mentoring

¹¹

<http://www.gov.scot/Topics/Education/post16reform/hefegovernance/CollegeSectorBoardAppointments2014>

¹² <https://www.equalityhumanrights.com/en/advice-and-guidance/how-improve-board-diversity-six-step-guide-good-practice>

¹³ <https://www.equalityhumanrights.com/en/publication-download/appointments-boards-and-equality-law>

¹⁴ <http://www.gov.scot/Topics/Government/public-bodies/BoardChairs>

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

schemes as these should be delivered by board members, not staff members, and guidance on developing these is available as part of the Scottish Government's succession planning guidance (ref: paragraph 16).

Explaining/defending the objective

21. The Scottish Government does not consider that there will be resources attached to making the case for greater board diversity, given that the majority of boards covered by the Bill are already working towards achieving this outcome or greater gender diversity via voluntary commitments.

Longer timescales for completing recruitment exercises, including if Ministers choose to see candidates face to face before a final decision

22. The Bill does not include any requirements to change the existing way that Scottish Ministers carry out the recruitment process for board members, and as part of that process Ministers are encouraged to meet candidates before making a decision, therefore there will be no additional costs relating to Ministers meeting with candidates as part of the decision-making process.

Encouraging applications/Outreach work

23. The Scottish Government's Public Appointments team currently undertakes a range of outreach activity, including its *Come on Board* events. These awareness-raising events have raised the profile of the work of public boards in Scotland and attracted a broad range of diverse potential board members of the future. The Government held four *Come on Board* events in 2016 across central Scotland, two in Glasgow and two in Edinburgh. **The cost per event was £741.**

24. The Public Appointments team also attend various exhibitions and conferences to connect with potential board applicants. In 2016-17 they attended the Gathering and the National Union of Students Scotland Conference **at a combined cost of £2,064.** In addition, the cost of printing and photocopying materials for all of these events **cost £81.**

25. The total overall annual cost of the Scottish Government's national outreach activity in 2016-17 was therefore **£5,109.** And the total overall

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

estimated yearly cost of Scottish Government **outreach activity in 2017-18 is £5,542.**

26. Many of the organisations that are subject to the requirements of the Bill also undertake outreach work as part of their preparation for a board appointment round. Examples of this type of activity include:

- The Scottish Children's Reporter Administration who produced a short recruitment film **at a cost of £2,500**. This video has now been used in two board recruitment rounds and is easily shared on social media channels;
- The Scottish Housing Regulator held two outreach events, one in Edinburgh and one in Glasgow **at a combined cost of £643**;
- Greater Glasgow and Clyde NHS board held two outreach events, which were carried out in one day in a local community centre at a **cost of £130** for venue hire and staff travel costs. These events were held at 4pm and 7pm, to minimise the need for those interested in attending taking time away from their work;
- VisitScotland held one outreach event in Edinburgh in partnership with Changing the Chemistry. **The cost of this event was £950**, which includes a small fee payable to Changing the Chemistry.

Indicative range of costs

27. It may be that, as a result of the Bill, more boards replicate this activity, potentially leading to increased expenditure for them. These examples give an indicative range of costs per organisation of between £130 and £2,500 per year, unless organisations undertake multiple areas of outreach activity.

28. The highest range of costs, set out in the table below, is based on an estimate of 70 organisations undertaking board appointment rounds per year, which is approximately 50% of the bodies covered by the Bill. This is broadly in line with the number of Ministerial board appointment rounds that are undertaken annually.

| The Range of Outreach Costs | | |
|-----------------------------|------------------------------------|--|
| | Lowest - based on 10 organisations | Highest - based on 70 organisations (approx. |

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

| | | |
|--|-------------------------|---|
| | | half of all bodies covered by the Bill) |
| Undertaking one outreach event at a cost of £130 or £950 per event | £1,300- £9,500 | £9,100-£66,500 |
| Developing recruitment film costing £2,500 | £25,000 | £175,000 |
| Combined Cost of Activities | £26,300 -£34,500 | £184,100 -£241,500 |

Provision of childcare for women with children or of appropriate care for women with other caring responsibilities

29. There could be an increased cost associated with the payment of childcare expenses to board members. On the basis of a recent survey of 45 public bodies, eight said that they offered to pay their members such expenses and a total of £2,844 had been paid out in 2015/16. This gives an average cost per public body of £355. Some bodies are more likely than others to face pressures in this area, given the range of board compositions, but overall it is likely that recruiting more young women will result in payment of more childcare expenses. This is likely to be relatively low given the numbers of board members involved.

30. Increasing the number of female board members may also increase demand for statutory entitlements such as statutory maternity pay (to which appointees may be eligible because of their National Insurance status as 'employed earners'). There are unlikely to be significant cost implications for public bodies from this as they can usually recover 92% of the amount paid from HM Revenue and Customs.

31. However, it should be noted that the current age demographic of sitting board members appointed by the Scottish Ministers is predominantly older with the majority (84%) over the age of 49. This demographic is broadly reflected across all public boards in Scotland. This could be in part due to the fact that the time commitment required for board duties is difficult to balance with full-time employment.

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

| Childcare for women with children or of appropriate care for women with other caring responsibilities- Estimated yearly costs | | |
|--|---|---|
| | Based on eight bodies paying childcare at a cost of £355 per year | Based on 70 bodies (approx. half of all bodies covered by the Bill) paying childcare at a cost of £355 per year |
| Total | £2,844 | £24,850 |

Summary of costs arising from the Bill

| Additional costs on the Scottish Government | | None |
|---|--|---------------------------|
| Additional costs on Other Bodies, Individuals and Businesses | | |
| | Potential Range of annual costs | |
| | Lowest | Highest |
| Encouraging applications/Outreach work | £26,300 - £34,500 | £184,100 - £241,500 |
| Provision of childcare for women with children or of appropriate care for women with other caring responsibilities | £2,844 | £24,850 |
| Total | £29,144 - £37,344 | £208,950- £266,350 |

This document relates to the Gender Representation on Public Boards (Scotland) Bill (SP Bill 16) as introduced in the Scottish Parliament on 15 June 2017

Gender Representation on Public Boards (Scotland) Bill

Financial memorandum

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website -

www.scottish.parliament.scot

Produced and published in Scotland by the Scottish Parliamentary Corporate Body.

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.scot/documents