Equalities

The Scottish Government
Riaghaltas na h-Alba

Overcoming Barriers to Equality and Diversity on Public, Private and Third Sector Boards in Scotland

Executive Summary

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OVERCOMING BARRIERS TO EQUALITY AND DIVERSITY REPRESENTATION ON PUBLIC, PRIVATE AND THIRD SECTOR BOARDS IN SCOTLAND

EXECUTIVE SUMMARY REPORT

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Table of Contents

1 INTRODUCTION

1.1 The Employment Research Institute (ERI) was commissioned by the Scottish Government to identify how barriers to equality and diversity representation at board level in public, private and third sector organisations could be overcome, particularly for women.

1.2 The research was guided by three questions:

- How have barriers to equality and diversity representation on boards been overcome?

- What can be learned from programmes that support equality and diversity representation on boards?

- Are there potential benefits and challenges to organisations and society of equality and diversity representation on boards?

1.3 Our society's understanding of equalities is changing. There has been a shift away from prevention of harmful behaviours towards a more positive vision of how we would like our society to be. The focus of equalities is on supporting the creation of a fair and equal society where all members have an equal opportunity to participate and fulfil their potential regardless of the characteristics that define them.

1.4 This document presents an executive summary of the findings from the full report entitled 'Overcoming Barriers to Equality and Diversity Representation on Public, Private and Third Sector Boards[1] in Scotland', 2014.

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[1] Please note that there was limited evidence in the context of the Third Sector – discussion on this sector can be found in the main report only.

2   BACKGROUND EVIDENCE

2.1   Since publication of the Lord Davies report into Women on Boards in 2011[2], the proportion of women on boards of the FTSE 100 companies has increased from 12.5% to 20.7% in March 2014 and to 22.8% as of October 2014. In the same periods there has been an increase from 7.8% to 15.6% and to 17.4% among FTSE 250 boards.

2.2   In Scotland, women account for 36% of the members of Ministerial appointed, regulated public boards[3]. However this figure varies significantly by the type of public board. Health boards, Executive non-departmental public bodies (NDPBs) and Advisory NDPBs have the highest percentage of female representation on their boards. However public corporations and executive NDPBs fell below 20% for female board membership.

2.3   Under proposals outlined by the then Deputy First Minster, Nicola Sturgeon, an independent Scotland would introduce quotas to ensure that 40% of director level positions in large public and private organisations would be reserved for women. In March 2014, the then Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners Rights Shona Robison launched a consultation[4] on the possible use of mandatory quotas to ensure at least 40% of public boards are made up of women. The principal driver of this change was the need to ensure that boards represent the communities they serve.

2.4   As of November 2014, Nicola Sturgeon as the new First Minister, with Scotland's first ever 50/50 gender balanced cabinet, will launch early next year a "Partnership for Change Pledge" to achieve a 50/50 split on boards by 2020 ("50:50 by 2020")[5]. Further, post-Referendum, the Scottish Parliament's powers will include the introduction of gender quotas in respect of public bodies in Scotland[6].

2.5   The UK government is also aspiring to appoint women to half of all new appointments to the boards of public bodies by the end of 2015[7]. Progress towards this aspiration appears well advanced. Between April and September

[2] Women on Boards. Davies Review Annual Report 2014:
https://www.gov.uk/government/collections/women-on-boards-reports
[3] Women on Board. Quality through Diversity. Scottish Government Consultation on the Introduction of Gender Quotas on Public Boards. The Scottish Government:
http://www.scotland.gov.uk/Resource/0044/00449321.pdf
[4] Women on Board. Quality through Diversity. Scottish Government Consultation on the Introduction of Gender Quotas on Public Boards. The Scottish Government:
http://www.scotland.gov.uk/Resource/0044/00449321.pdf
[5] Programme for Government 2014-2015 - People's Stories:
http://www.scotland.gov.uk/About/Performance/programme-for-government/Programme-for-Government-2014-15
[6] Smith Commission Report:
https://www.smith-commission.scot/
[7] UN Convention on the elimination of all forms of discrimination against women (CEDAW). United Kingdom's Seventh Periodic Report. June 2011: http://goo.gl/s4ORGo

2014, the percentage of new public appointments achieved by women in England was 44%[8].

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[8] Diversity in public appointments. Gov.Uk: http://goo.gl/adTyiS

3 STRATEGIES TO OVERCOME BARRIERS TO EQUALITY AND DIVERSITY ON BOARDS

Public Boards: Increasing Awareness

3.1 Based on the review of evidence around improving equality on public boards, it is vital organisations are able to draw from as wide a pool of talent as possible. This can be achieved by improving public awareness of the role of public boards and the opportunities that are available to people who serve on them.

3.2 Other strategies implemented to improve equality on public boards include:

- Vacant positions on public boards being widely advertised to ensure that a wide range of people consider applying.

- Mentoring and social networking opportunities between existing and potential female board members is increasingly viewed as an effective approach to improving board diversity.

- Reporting of gender equality targets and greater transparency on the gender make-up of boards are effective methods for improving compliance with social expectations on improving the representation of women on boards.

Improve Training

3.3 Several consultancy firms specialise in creating training packages for women seeking positions on public boards. Support includes:

- Coaching and workshops on corporate governance; risk management; and the role of the non-executive director.

- Advice on updating and rewriting CVs.

- Advice on targeting a board appointment.

- Access to mentoring and networking opportunities.

- Assistance in finding an appropriate type of board for interests and strengths[9].

3.4 A strategy proposed by the Commissioner for Ethical Standards in Public Life in Scotland to improve the representation of equalities groups on public boards, involves the use of education programmes to improve routes for potential board members to develop experience. This process initially would involve identifying individuals from inside the organisation who have potential as board members and whose position on the board would improve board diversity. Existing board members would act as mentors and work within a framework to support potential new appointees.

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[9] Increasing diversity on public and private boards. UK Government Equalities Office. 2009.

Private Boards: Improve the Appointment Process

3.5   The process by which individuals are appointed to private boards has been criticised as being subject to 'groupthink' whereby existing board members appoint those in their own image. This undermines the independence and oversight function of boards as new talent and fresh perspectives are squeezed out in favour of those whose background and experience are most like existing members.

3.6   Addressing the power structures that protect the interests of those already at board level requires changes to: the way in which directorships are framed and created; the weak links between search (executive HR and head hunter firms) consultants and under-represented groups; the lack of diversity on current nomination committees; and potential unconscious bias in the selection process.

3.7   Suggested approaches to tackle issues in the appointment process are:

- The long list of potential boardroom candidates sent to board chairs must include at least three women candidates.

- Headhunters are required to check with a company's board regarding the company's position on diversity and the number of women on their board.

- A target of at least 25% of board members to be women by 2015.

Develop Mentoring

3.8   There is a significant body of evidence to show that mentoring is an effective approach to overcome barriers. Mentoring can take different forms but at its core, a professional mentoring relationship is developed between individuals, both men and women with experience in the boardroom and at executive level, offering experience and insight to women seeking a board position. Mentoring was at the core of the recommendations identified by the Lord Davies Report in 2011 and has been applied by a range of organisations to improve women's representation on private sector boards.

3.9   Mentoring enables potential board candidates to envisage their own success. Mentors can link potential board candidates into social networks through which information about boardroom opportunities and contacts with existing board members are facilitated. Mentors enable women to: think through their career goals; challenge self-limiting beliefs especially for women in male dominated industrial sectors; provide an inspirational figure with a track record of success to act as a mentor and ally; and address feelings of isolation when operating at a senior level.

Fix Pipeline Issues

3.10   Achieving promotion through an organisation is referred to as the corporate pipeline. However, despite similar proportions of male and female graduates entering organisations, fewer women than men are coming through to the top level of organisations. Gender differences in the proportion of those reaching the highest levels can partly be explained by barriers such as lack of flexible working arrangements, work life balance issues and / or disillusionment at the lack of career progression.

3.11   Strategies identified to improve representation of female candidates to the boardroom include:

- Ensuring that the long-list of potential boardroom candidates includes at least three women.

- Integrating women's career development as part of mainstream HR development.

- Providing role models and mentoring.

- Promoting networking opportunities for women.

- Reviewing selection, promotion and appraisal procedures to identify and remove barriers to the progression of women to the boardroom.

Improve Access to Professional Networks

3.12   There are significant differences between the networks that men and women develop. There is evidence that men invest time in developing an influential range of contacts through which information that helps support the transition to senior executive levels is transferred. Networks allow contacts to be established; knowledge shared; new information acquired; and influence applied. Being excluded from influential social networks can mean that women are less likely to be recommended for unadvertised posts and are excluded from lists of potential board candidates.

3.13   To improve access to influential networks for women, several mentoring schemes and organisations have established programmes to improve access to networks. These schemes include:

- The Chair and CEO maintain regular interaction with the top 70 staff through regular presentations to the board.

- Invitations are issued for potential board members to attend pre-board dinners, committee meetings, regional events and social events attended by board members.

- Board meetings are held in regional locations to ensure that as wide a range of individuals can access board members.

- Improving the transparency of the appointments process may help improve access to powerful networks through which information about vacancies becomes known.

Use Governance Codes to Set Targets

3.14 There have been changes to the UK Corporate Governance Code with the most recent requiring all listed companies to disclose their diversity policies, targets and progress to date. The code applies to the six Scottish based FTSE 100 listed companies and the 15 FTSE 250 companies based in Scotland[10]. The UK Corporate Governance Code is overseen by the Financial Conduct Authority, and is a principles based approach that outlines examples of best practice.

3.15 FTSE 100 companies show a high level of awareness of the need for greater boardroom diversity. 91% of FTSE 100 companies make some reference to boardroom diversity in their annual reports. However, only 37% record progress against those objectives. Findings from FTSE 250 companies were more disappointing with only 18% having a clear policy on boardroom diversity.

Special Measures

3.16 Temporary special measures may be one route to improving gender equality on boards. Although positive discrimination in the UK is unlawful, international human rights law recognises that 'affirmative action may be necessary to overcome past discrimination[11]'. The UN Convention on the Elimination of Discrimination against Women (CEDAW) is an international human rights treaty focussing on equality between men and women. The UK is a signatory to the treaty and the UK Equality and Human Rights Commission (EHRC) has integrated CEDAW into their work on gender equality. Temporary special measures have previously been used to allow political parties to have all-women shortlists for parliamentary candidates. The Equality Act 2010 extended provision for all-women shortlists until 2030.

3.17 Although the UK Government position has been to support voluntary measures to improve gender equality in the boardroom, momentum is building from the European Parliament for the introduction of legislative measures to support improvements in gender balance in the boardroom. In November 2013, the European Parliament introduced draft legislation to improve the gender balance among directors of companies listed on the stock exchange.

3.18 Research on the impact of EU gender directives on the UK suggests that their impact could be significant. The UK Government may have to reconsider the voluntary approach that has been the preferred method for improving gender equality in the boardroom. If the EU directive is finalised and if it appears that

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[10] https://www.gov.uk/government/collections/women-on-boards-reports
[11] Breaking the Mould for Women Leaders: could boardroom quotas hold the key? A Fawcett Society think piece for the Gender Equality Forum. October 2008. Available at: http://www.mbsportal.bl.uk/secure/subjareas/hrmemplyrelat/fawcettsociety/138406breakingmould08.pdf

corporations subject to EU equalities legislation are not likely to meet gender targets by 2020 (or 2018 in the case of public bodies), then it may be necessary to redraft the provision for positive discrimination under the Equality Act 2010[12].

Quotas

3.19 In the EU, the voluntary approach to gender diversity in the boardroom has been criticised from those who see too little change taking place. In 2003, Norway introduced gender quotas for public and private sector boards. Quotas were introduced in response to criticism that change in the gender composition of boards was taking place too slowly. Norway continues to be the most high-profile example of a country where quotas, backed up with the threat of sanctions, has led to a significant increase in the representation of women on boards. However, it has taken a decade from the introduction of the law to achieve 40% female board members.

Looking Ahead

3.20 Although there is a considerable way to go to achieve gender equality in the boardroom, achievements have been made in the previous 5 years. The same cannot be said for other under-represented groups.

3.21 In 2012-13, only 5.2% of public appointments in England and Wales were made to candidates from ethnic minority backgrounds. The Commissioner for Public Appointments in England and Wales in March 2014, stated that the proportion of people from ethnic minority backgrounds being appointed to public boards needs to improve. In May 2014, the chief executive of NHS England, Simon Stevens, spoke of the need for more ethnic minority representation on health boards: 'It can't be right for example that ten years after the launch of the NHS race equality plan, while 41% of NHS staff in London are from black and minority ethnic backgrounds (similar in proportion to the Londoners they serve) only 8% of trust board directors are, with two-fifths of London trust boards having no black and minority ethnic directors at all'.

3.22 Although the ethnic minority population in Scotland is less than in England, the increasing pressure for greater representation in England may have spillover effects in urban areas of Scotland where ethnic minority groups are larger. 12% of the population of Glasgow are from ethnic minority groups with slightly smaller proportions in Edinburgh (8%) and Aberdeen (8%). The same arguments used to achieve gender equality on public boards: good for governance; leads to better decision making; and provides better representation for the communities' boards serve, are also relevant for ethnic minority representation on boards.

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[12] Board minimum quotas for women: Where would male gender discrimination start? Discrimination and Equality Law Committee Newsletter. June 2013. Available at: http://www.herbertsmithfreehills.com/-/media/Files/PDFs/2013/Discrimination_Law_June_20131%20pg%2013-16.pdf

For the full report see: www.scotland.gov.uk/equalitydiversityrepresentation

9

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