

Gender Representation on Public Boards (Scotland) Act 2018
Guidance

DRAFT

Contents

1. Introduction	
2. Terminology used in the Act <ul style="list-style-type: none">• The gender representation objective• Public authorities and appointing persons• Public board• Non-executive member and excluded position• The definition of ‘woman’ for the purposes of this Act	
3. The appointment process <ul style="list-style-type: none">• Introduction• Appointment on merit• Meaning of “equally qualified”• The “tie-break” provision	
4. Encouraging applications by women	
5. Taking other steps	
6. Reporting progress <ul style="list-style-type: none">• Overview• Reporting on sections 3 and 4• Reporting on section 5• Reporting on section 6• Publication of reports• Connections to the public sector equality duty• Scottish Ministers’ reports to the Scottish Parliament	
7. After achieving the gender representation objective <ul style="list-style-type: none">• Requirements• Reporting• Future action	
8. Good practice guide	
9. Further reading	
Annex – List of public authorities and appointing persons	

Introduction

1.1 This guidance has been prepared by the Scottish Government on behalf of Scottish Ministers in accordance with section 7 of the Gender Representation on Public Boards (Scotland) Act 2018¹.

1.2 Guidance is intended to support appointing persons and public authorities to carry out their functions under the Act, and in doing so, appointing persons and public authorities must have regard to this guidance.

1.3 The Gender Representation on Public Boards (Scotland) Act 2018 is an Act of the Scottish Parliament. It received Royal Assent on 9 March 2018. The Act sets a “gender representation objective” for the boards of listed Scottish public authorities, that 50% of the board’s non-executive members are women, and it requires appointing persons and public authorities to take certain steps towards achieving the objective.

1.4 The Commissioner for Ethical Standards in Public Life in Scotland regulates appointments to the boards of many of Scotland’s public bodies. Many, but not all of the appointments covered by the Act are regulated by the Commissioner.

What is covered by this guidance

1.5 Section 7 of the Act requires Scottish Ministers to publish guidance on the operation of the Act. The guidance must in particular cover:

- (a) an appointing person’s functions in—
 - (i) appointing non-executive members under sections 3 and 4,
 - (ii) encouraging applications by women under section 5(1),
 - (iii) taking any steps under section 6(2),
 - (iv) reporting under section 8(4),
- (b) a public authority’s functions in—
 - (i) encouraging applications by women under section 5(2),
 - (ii) taking any steps under section 6(3),
 - (iii) reporting under section 8(5).

1.6 To ensure that this guidance is as useful as possible, a number of additional areas are also covered, including good practice.

¹ <http://www.legislation.gov.uk/asp/2018/4/contents/enacted>

Terminology used in the Act

2.1 This section considers some of the key terms and concepts in the Act.

The gender representation objective

2.2 Section 1 of the Act sets a “gender representation objective” that a board has 50% of non-executive members who are women. Where a board has an odd number of non-executive members, the objective applies as if the board has one fewer non-executive member.

- If a board has 12 non-executive members, the gender representative objective is that the board has 6 non-executive members who are women.
- If a board has 9 non-executive members, the gender representation objective applies as if the board has one fewer non-executive member – in other words as if the board has 8 non-executive members. Consequently, the gender representation objective is that the board has 4 non-executive members who are women.

2.3 The gender representation objective is not a cap. The Act does not prevent a board having more than 50% of non-executive members who are women. A board with greater than 50% of non-executive members who are women has met the objective. For example:

Public Authorities and Appointing Persons

2.4 The Act places duties on public authorities and appointing persons to take action to achieve the gender representation objective.

2.5 For the purposes of the Act, “public authority” means an authority listed, or within a description listed, in schedule 1. This list is reproduced in the Annex to this guidance.

2.6 The “appointing person” is the person who has the function of appointing a non-executive member of a public board. In this context, the word “person” may mean the organisation or position which makes the appointment. For many public authorities, the appointing person is “the Scottish Ministers”. Annex A lists who the appointing person is for all of the public authorities covered by the Act.

Public Board

2.7 The gender representation objective applies in relation to the non-executive members of public boards. The Act defines public boards as:

“public board” means:

- if the public authority is a company, the directors;
- if the public authority has a statutory board or other equivalent statutory management body, that board or body;
- in relation to any other public authority, the membership of the authority;

Excluded Positions

2.8 The gender representation objective only covers certain non-executive members of a board. Section 2 of the Act defines “non-executive member”, in relation to a public authority, as “a position on its public board-

- (a) that is not an excluded position,
- (b) that is not held by an employee of the authority”

2.9 Section 2 of the Act defines an “excluded position”, in relation to a public authority, as “a position mentioned in the second column of the table in schedule 1 which corresponds with the public authority mentioned in the first column”.

2.10 Public authorities listed in schedule 1 of the Act and appointing persons for public authorities listed in schedule 1 of the Act, should determine which members of their board are “non-executive members” for the purposes of the Act. It is important that there is no ambiguity about whether or not an individual board member is a “non-executive member” as this forms the basis on which the gender representation objective is calculated.

2.11 Moreover, no action is required under the Act in relation to members who are not “non-executive members” for the purposes of the Act.

The definition of ‘woman’ for the purposes of this Act

2.12 [A person who has a full Gender Recognition Certificate from the UK Gender Recognition Panel recognising her acquired female gender is a woman: section 9 of the Gender Recognition Act 2004 refers.](#)

2.13. [A person who has obtained legal gender recognition as a woman in another EU Member State is a woman: section 21\(6\) of the Gender Recognition Act 2004 refers.](#)

2.14 Section 2 of the [2018 Act](#) provides that for the purposes of the Act, “woman” includes “a person who has the protected characteristic of gender reassignment

(within the meaning of section 7 of the Equality Act 2010²) if, and only if, the person is living as a woman and is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of becoming female". [The person does not need to have undergone any specific treatment or surgery³.](#)

DRAFT

² <http://www.legislation.gov.uk/ukpga/2010/15/section/7>

³ See <https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination#what>

2.153 To be included, a trans woman [without a UK Gender Recognition Certificate or without gender recognition from another EU Member State](#) must therefore meet the 3 following criteria:

1. have the characteristic of gender reassignment as defined in the Equality Act 2010.

The definition of gender reassignment in the Equality Act 2010 is – “a person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex”. This definition includes those reassigning their sex from male to female as well as those reassigning their sex from female to male. A person who meets this definition is not covered by the definition of “woman” in the 2018 Act unless they also meet the following two criteria.

2. the person is living as a woman.

This would not require the person to dress, look or behave in any particular way. However, it would be expected that there would be evidence that the person was continuously living as a woman, such as – always using female pronouns; using a female name on official documents such as a driving licence or passport, or on utility bills or bank accounts; describing themselves and being described by others in written or other communication using female language.

3. the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of becoming female.

This final element of the definition means that the person has taken a decision to undergo a process for the purpose of becoming female. ~~They may also have begun the process, but this is not necessary.~~

[2.16 A trans man who has a full Gender Recognition Certificate or who has obtained gender recognition as a man in another EU Member State would not be treated as a “woman”. A trans person without a Gender Recognition Certificate and without gender recognition from another EU Member State would not be included as a woman for the purposes of the Act if they are not living as a woman and are proposing to undergo, are undergoing or have undergone a process \(or part of a process\) for the purpose of becoming male.](#)

2.174 This definition in section 2 provides clarity that, for the purposes of applying the provisions of the 2018 Act, “woman” includes a trans woman who meets the definition set out. This provision only relates to the meaning of “woman” in the 2018 Act. This does not have the effect of creating a new legal definition of woman in any other context.

2.185 The Act does not require an appointing person to ask a candidate to prove that they meet the definition of woman in the Act.

DRAFT

The appointment process

Introduction

3.1 Sections 3 and 4 of the Act set out the duties on appointing persons when appointing non-executive members under the Act.

Appointment on merit

3.2 Appointments must be made on merit and the most able candidate should always be appointed. However, in circumstances where there are two or more equally qualified candidates, at least one of whom is a woman, then section 4(2) of the Act requires the appointing person to give preference to a woman if doing so will result in the board achieving (or making progress towards achieving) the gender representation objective. This is however subject to section 4(4).

Meaning of equally qualified

3.3 Section 4(2) of the Act refers to candidates being “equally qualified”. To determine whether candidates are equally qualified the appointing person should conduct a full and objective assessment of each applicant against the objective criteria which have been determined for the role.

The ‘tie-break’ provision

3.4 If there are at least 2 equally qualified candidates, one of whom is a woman, then the appointing person must appoint the woman if doing so would result in the board achieving (or making progress to achieving) the gender representation objective. This is subject to the provision at section 4(4) of the Act which requires the appointing person to consider whether the appointment of a candidate who is not a woman would be justified on the basis of a “characteristic or situation” particular to that candidate, and allows appointment of that candidate.

3.5 The inclusion of section 4(4) in the Act, which provides that an appointing person may over-ride the requirement to give preference to a woman in the circumstances described in sections 3 and 4 of the Act, is required by the jurisprudence of the European Court of Justice which provides that such a requirement cannot be absolute.

3.6 A decision to use section 4(4) and appoint someone who is not a woman is a matter for the appointing person.

3.7 The Act does not define “characteristic or situation” but does state, at section 4(5), that a “characteristic” referred to under section 4(4) includes a protected characteristic within the meaning of section 4 of the Equality Act 2010. These characteristics are – age, disability, gender reassignment, marriage and civil

partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

3.8 This guidance does not define the term “characteristic or situation”, nor does it seek to define the circumstances under which appointing someone who is not a woman would be justified. It will be for the appointing person to determine what other “characteristic or situation” might be appropriate for any particular board at any particular point in time; and to determine what conditions might justify the appointment of a candidate who is not a woman. In line with good practice and in keeping with the Commissioner’s Code, there must be transparency at the start of the process as to what other characteristic or situation might be taken into account.

DRAFT

Encouraging applications by women

4.1 Section 5 requires appointing persons and public authorities to take such steps as they consider appropriate to encourage women to apply to become non-executive members.

4.2 The Act does not specify what steps should be taken by appointing persons or public authorities. This is because the relevant appointing person and public authority are best placed to determine the appropriate steps to take in any given appointment round. It may be that appointing persons and public authorities will take different steps given their different functions.

4.3 Ensuring that women apply for non-executive member appointments is key to the achievement of the gender representation objective. The *Good Practice* section of this guidance (pages) focusses on the practical steps that can be taken by both appointing persons and public authorities to encourage women to apply to become non-executive members. It includes examples of best practice to illustrate the kinds of steps that could be taken. A key starting point in the process may be to analyse the available data on the diversity of applicants.

4.4 The Act requires appointing persons and public authorities to take such steps *as they consider appropriate*. If it is considered appropriate that no steps need be taken, the Act allows that. However, even if the gender representation objective has already been achieved, it would be good practice to continue to encourage applications from women.

4.5 Section 5(3) states that “for the avoidance of doubt, nothing in subsections (1) and (2) prevents an appointing person or a public authority from taking such steps as it considers appropriate to encourage persons with other protected characteristics (within the meaning of section 4 of the Equality Act 2010) to apply to become non-executive members of the public board”. There is no requirement in the Act to take such steps, but appointing persons and public authorities will want to ensure that wider equality and diversity continue to be considered.

Taking other steps

5.1 If the gender representation objective has not yet been achieved, section 6 of the Act requires appointing persons and public authorities to take any other steps that they consider appropriate with a view to achieving the objective by 31 December 2022. “Other steps” means steps taken in addition to those required to meet sections 3 and 4 of the Act and any steps taken to encourage applications by women.

5.2 This requirement is in place until 31 December 2022. After that date, it no longer applies.

5.3 Any other steps taken must be lawful under equality legislation. Some examples of other steps include positive action measures such as:

- Providing training or coaching to women candidates prior to interview.
- Providing networking opportunities for women candidates and existing women board members.
- Offering opportunities to women candidates to shadow existing board members or observe board proceedings.
- Could we add something here about succession planning / reappointments? Making explicit that a powerful step would be creating more opportunities for women to apply and be successful?

5.4 The Act requires appointing persons and public authorities to take such other steps *as they consider appropriate*. If it is considered appropriate that no steps should be taken, the Act allows that. However, in order to meet the gender representation objective by 31 December 2022, appointing persons and public authorities will wish do all that they can. Additional steps taken under section 6 could have a significant impact.

5.5 The *Good Practice* section of this guidance (pages) includes more suggestions for practical steps that can be taken by both appointing persons and public authorities.

Reporting on progress

Overview

6.1 Section 8 of the Act makes provision for reporting arrangements as follows:

- Scottish Ministers must lay reports before the Scottish Parliament on the operation of the Act at intervals of no more than two years.
- Scottish Ministers must publish reports on the carrying out of their functions under the Act.
- Appointing persons must publish reports on the carrying out of their functions under sections 3-6 of the Act.
- Public authorities must publish reports on the carrying out of their functions under sections 5 and 6 of the Act.

6.2 Scottish Ministers may specify public authorities and appointing persons for the purposes of reporting and may make further provision about reports.

6.3 The arrangements for all of these reports are set out in regulations. These arrangements include details of the content, timing and frequency of reports and how they should be published. A single set of regulations sets out the arrangements for all reporting under the Act.

6.4 Public authorities, appointing persons and the Scottish Ministers must act in accordance with the arrangements set out in these regulations. They are not obliged to publish any additional material.

Reporting on sections 3 and 4

6.5 Sections 3 and 4 set out obligations when selecting candidates for appointment as non-executive members. The regulations require an appointing person, including Scottish Ministers in their role as an appointing person, to publish a statement containing 3 elements:

- stating whether the gender representation objective has been met;
- confirming compliance with the requirements of sections 3 and 4; and
- providing information on any training received by an appointing person on the operation of sections 3 and 4 of the Act.

6.6 There is no requirement for appointing persons to be provided with training on the operation of sections 3 and 4, however, appointing persons will want to ensure that they are fully aware of their obligations. The term “training” here could include written, online, verbal or other approaches.

6.7 It is not necessary to publish any additional information in the statement. Publication of the number of times that the tie-break provision may have been used is not required.

6.8 Public authorities do not have functions under sections 3 and 4, so do not need to report on progress.

Reporting on section 5

6.9 Section 5 requires an appointing person and public authorities to take such steps as they consider appropriate to encourage applications by women. The regulations state that reports should include details of any steps taken.

6.10 Since the Act requires appointing persons and public authorities to take such steps as *they consider appropriate* it is possible that no steps will have been taken. In these circumstances the report should state that no steps were taken in relation to section 5.

6.11 The Act is clear that nothing in section 5 prevents an appointing person or a public authority from taking such steps that they consider appropriate to encourage applications from people with other protected characteristics (as defined in the Equality Act 2010). But there is no obligation to report on any such activity.

Reporting on section 6

6.12 Section 6 requires an appointing person, including Scottish Ministers in their role as an appointing person, and public authorities to take such other steps as they consider appropriate with a view to achieving the gender representation objective by 31 December 2022. In this section “other steps” means any steps in addition to those taken to encourage applications by women. The regulations state that reports should include details of any steps taken. Some examples of other steps are shown at para [XX] above.

6.13 Since the Act requires an appointing person, including Scottish Ministers in their role as an appointing person, and public authorities to take such steps as they consider appropriate it is possible that no steps will have been taken. In these circumstances the report should state that no steps were taken in relation to section 6.

6.14 This section applies until 31 December 2022. After this date, the requirements under section 6 will no longer apply, even where an authority has not met the gender representation objective.

Publication of reports

6.15 The regulations require reports to be published in a manner which is accessible to the public. They also make clear that reports can be published as a joint report by an appointing person and relevant public authority. It is for appointing persons and public authorities to make decisions about any joint reporting. The regulations are also clear that reports can be published within another relevant document. Again, it is for appointing persons and public authorities to make this decision themselves. See paragraph [] below for more discussion of this.

6.16 The regulations require appointing persons and public authorities to submit a copy of any report under the Act to the Scottish Ministers within one week of publication.

6.17 The submission to Scottish Ministers should be sent to [set up mailbox] and should include:

- A pdf copy of the report itself (or another format such as MS Word)
- A link to the publication on a relevant website.

6.18 Scottish Ministers will consider the content of reports when making their own reports to the Scottish Parliament on the operation of the Act across Scotland.

Connections to the Public Sector Equality Duty

6.19 Some of the public authorities subject to the requirements of the Gender Representation on Public Boards (Scotland) Act 2018 are also subject to the requirements of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012⁴. Under regulation 3 (reporting on mainstreaming) of the Equality Act 2010 specific duties regulations, public authorities must publish a regular progress report. If a public authority wishes to publish its reports on progress under the Gender Representation on Public Boards (Scotland) Act within its reports under the Equality Act 2010 specific duties regulations it can do so.

6.20 The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 were amended in 2016⁵ to include new regulation 6A on the use of member information. Under regulation 6A public authorities covered by the regulations must publish in their mainstreaming reports details of the number of men and women who have been members of the authority during the period covered by the report (“members of the authority” means non-executive members of the board).

6.21 Public authorities subject to regulation 6A must also use information provided to them from time to time by Scottish Ministers on the relevant protected characteristics of members of the authority in order to take steps to improve diversity

⁴ <https://www.legislation.gov.uk/ssi/2012/162/contents/made>

⁵ <http://www.legislation.gov.uk/ssi/2016/159/contents/made>

amongst the authority's members. This particular aspect of regulation 6A has not yet been implemented⁶ but will be in due course.

6.22 Given the connection between the requirements of the Gender Representation on Public Boards (Scotland) Act 2018 and the reporting requirements under the Equality Act 2010 specific duties regulations, it may be helpful to combine reporting. Doing so would provide a complete picture, in one place, of action to meet legal obligations on board diversity. But there is no requirement to publish in combination – it will be for appointing persons and public authorities to make this decision.

Scottish Ministers' reports to the Scottish Parliament

6.23 Scottish Ministers must report to the Scottish Parliament on the operation of the Act at intervals of not more than 2 years. It is for Scottish Ministers to determine the content of these reports.

⁶ August 2018

Achieving the gender representation objective

7.1 For some public boards, the gender representation objective will have been achieved prior to the provisions in the Act coming into force; others may achieve the objective in advance of 31 December 2022. It is possible that some boards will not achieve the gender representation objective until after 2022.

Requirements

7.2 When the gender representation objective has been achieved, the requirements at section 3 and 4 of the Act no longer apply. There would therefore be no obligation to appoint a woman in a tie break situation. The requirement at section 6, to take other steps towards achieving the objective, would also not apply.

7.3 However, even when the gender representation objective has been achieved, section 5 would continue to apply. Section 5 is the duty to encourage applications by women and this duty is not affected by whether or not the gender representation objective has been met. This section requires an appointing person, including Scottish Ministers in their role as an appointing person, and public authorities to take such steps as they consider appropriate. Some public authorities or appointing persons might consider that if the gender representation objective has been achieved they do not need to take any steps under section 5. However, in order to maintain the achievement of the objective it would be sensible to continue to take action under section 5.

Reporting

7.4 Reporting on progress when the gender representation objective has been achieved would relate only to section 5, since the relevant appointing person or public authority would no longer have functions under sections 3, 4 and 6. Even where an appointing person or public authority had chosen not to take steps under section 5 it would still have to report on progress in relation to its functions under section 5, so it would be required to report that it had not taken any steps. This report would be subject to the same publication requirements as any other report (see paragraphs 6.15-6.18 above).

7.5 An appointing person or public authority reporting only on section 5 would need to state that it was doing so because it had already met the gender representation objective.

Future action

7.6 Given that appointments to boards must be made on merit, and are made on a regular basis, it is possible that the gender representation objective, having been achieved, subsequently lapses. In those circumstance, section 3 and 4 of the Act would again come into effect and an appointing person, including Scottish Ministers in their role as an appointing person, would be required to appoint a woman in a tie-

break situation (subject to section 4(4)). Section 3 and 4 would apply in relation to an appointment round seeking to fill a vacancy created by a woman demitting office, if the departure of the woman resulted in the board having less than 50% of non-executive members who are women.

7.7 If an achieved gender representation objective lapses prior to 31 December 2022 then section 6 of the Act would also come into effect until that date. (After that date section 6 does not apply even when the gender representation objective has not been achieved).

DRAFT

Good practice guide

8.1 Work to improve the gender balance and diversity of Scotland's public boards has been on-going for a number of years and pre-dates the introduction of the Act. As a result, there is a wealth of evidence and good practice to support appointing persons and listed public authorities to fulfil their duties under the Act and to achieve the gender representation objective.

8.2 This section seeks to bring together evidence and good practice to provide appointing persons and listed public authorities with the tools they need to achieve the gender representation objective. It is not an exhaustive account of the information available and further reading is provided at pages **x to x**.

Listed public authorities and appointing persons are not required by the Act to take specific steps. Rather, the Act requires that they take steps which they consider to be appropriate.

How to encourage applications from women

Recommendation – Look at the available data

A first step to considering how to encourage applications from women is to assess the current available data on applications. What percentage of applications for previous appointment rounds have been from women?

Other steps to achieve the gender representation objective

[needs input from Public Appointments colleagues]

Further reading

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. It is the intention that Scottish Ministers' guidance on the operation of the Gender Representation on Public Boards (Scotland) Act 2018 align with these. The draft guidance on the operation of the Act cross refers to this other guidance where appropriate, including:

- The Commissioner for Ethical Standards in Public Life in Scotland – 2013 Code of Practice⁷ and Revised Guidance on Application of the 2013 Code of Practice⁸;
- The Commissioner for Ethical Standards in Public Life in Scotland – Diversity Delivers⁹;
- The Scottish Code of Good Higher Education Governance¹⁰;
- 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.

The Commissioner for Ethical Standards in Public Life in Scotland will update his Guidance on the Application of the 2013 Code of Practice in order to reflect the requirements of the Gender Representation on Public Boards (Scotland) Act 2018

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

⁸ <http://www.publicappointments.org/publications/publication/781/revised-guidance-on-application-of-the-2013-code-of-practice>

⁹ <http://www.publicappointments.org/site/uploads/publications/9081470494a9d103ac08481.79691631.pdf>

¹⁰ <http://www.scottishuniversitygovernance.ac.uk/wp-content/uploads/2013/07/Scottish-Code-of-Good-HE-Governance.pdf>

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>

List of public authorities with appointing person and excluded positions

Schedule 1 of the Gender Representation on Public Boards (Scotland) Act 2018 lists the public authorities covered by the Act and provides details of any excluded positions. This Annex lists public authorities and also states who the appointing person is for each authority.

Public Authority	Appointing Person	Excluded positions
Accounts Commission for Scotland		
Architecture and Design Scotland (company number SC267870)		
Board of Trustees for the National Galleries of Scotland		
Board of Trustees of the National Museums of Scotland		
Board of Trustees of the Royal Botanic Garden, Edinburgh		
Bòrd na Gàidhlig		
British Waterways Board		
Cairngorms National Park Authority		Members elected under article 5(2) of the Cairngorms National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2003 (S.S.I. 2003/1)
		Members nominated under article 5(4) of that Order
Caledonian Maritime Assets Limited (company number SC001854)		
Children's Hearings Scotland		
A college of further education other than a regional college (within the meanings given to those terms by the Further and Higher Education (Scotland) Act 1992)		All members other than those appointed under paragraph 3A(2)(a) and (f) of schedule 2 of that Act
A regional college (within the meaning given by the Further and Higher Education (Scotland) Act 1992)		All members other than those appointed under paragraph 3(2)(a) and (f) of schedule 2 of that Act

Common Services Agency for the Scottish Health Service		
Community Justice Scotland		
Creative Scotland		
Crofting Commission		Members elected by virtue of paragraph 7 of schedule 1 of the Crofting Reform (Scotland) Act 2010
Crown Estate Scotland (Interim Management)		
David MacBrayne Limited (company number SC015304)		
Food Standards Scotland		
A Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978		Councillors appointed under paragraph 2(1)(b) of schedule 1 of that Act
		Members of Health Boards mentioned in regulation 3 of the Health Boards (Membership and Procedure) (Scotland) Regulations 2001 (S.S.I. 2001/302) who hold a post in a university with a medical or dental school
		Members appointed only by virtue of being nominated for membership
Healthcare Improvement Scotland		The member mentioned in paragraph 2(1)(b) of schedule 5A of the National Health Service (Scotland) Act 1978 (the person appointed to chair Social Care and Social Work Improvement Scotland)
A higher education institution (within the meaning given by the Higher Education Governance (Scotland) Act 2016)		All members other than those appointed by the governing body (which has the same meaning as in Part II of the Further and Higher Education (Scotland) Act 1992) (for this purpose a member is not appointed by the governing body if that member is appointed only by virtue of being the winning candidate in an election for membership or by virtue of being nominated for membership by another person)
Highlands and Islands Airports Limited (company number SC097647)		
Highlands and Islands Enterprise		

Historic Environment Scotland		
ILF Scotland (company number SC500075)		
Judicial Appointments Board for Scotland		
Local Government Boundary Commission for Scotland		
Loch Lomond and the Trossachs National Park Authority		Members elected under article 5(2) of the Loch Lomond and The Trossachs National Park Designation, Transitional and Consequential Provisions (Scotland) Order 2002 (S.S.I. 2002/201)
		Members nominated under article 5(4) of that Order
Mental Welfare Commission for Scotland		
Mobility and Access Committee for Scotland		
National Confidential Forum		
National Library of Scotland		The member mentioned in paragraph 2(2) of schedule 1 of the National Library of Scotland Act 2012 (the member who is selected from persons nominated by the Dean of the Faculty of Advocates)
Newbattle Abbey College (company number SC262968)		A director nominated by the University of Aberdeen, the University of Edinburgh, the University of Glasgow or the University of St. Andrews
		A director who is also a member of the college
Quality Meat Scotland		
Regional Board for Glasgow Colleges		All members other than those appointed under paragraph 3(2)(a) and (f) of schedule 2B of the Further and Higher Education (Scotland) Act 2005
A regional Transport Partnership created under section 1(1) of the Transport (Scotland) Act 2005		Councillor members (mentioned in section 1(2)(b) of that Act)
		Members appointed only by virtue of being nominated for membership by a Health Board mentioned in section 6(1)(a)(ii) of that

		Act
		A member appointed only by virtue of being nominated for membership by Highlands and Islands Enterprise
		A member appointed only by virtue of being nominated for membership by Scottish Enterprise
Revenue Scotland		
Risk Management Authority		
Sabhal Mòr Ostaig (company number SC361752)		A director who is also a student of Sabhal Mòr Ostaig
Scottish Advisory Committee on Distinction Awards		All members other than the Chair, the Medical Director and the lay representatives
Scottish Agricultural Wages Board		Persons nominated or elected under paragraph 1(a) of schedule 1 of the Agricultural Wages (Scotland) Act 1949 (persons representing employers and workers)
Scottish Charity Regulator		
Scottish Children's Reporter Administration		
Scottish Commission for Human Rights		The member appointed to chair the commission under paragraph 1(1)(a) of the Scottish Commission for Human Rights Act 2006
Scottish Courts and Tribunals Service		The Lord President
		The Lord Justice Clerk
		The President of the Scottish Tribunals
Scottish Criminal Cases Review Commission		
Scottish Enterprise		
Scottish Environment Protection Agency		
Scottish Fire and Rescue Service		
Scottish Fiscal Commission		
Scottish Further and Higher Education Funding Council		

Scottish Futures Trust Limited (company number SC348382)		
Scottish Housing Regulator		
Scottish Land Commission		
Scottish Legal Aid Board		
Scottish Legal Complaints Commission		
Scottish Natural Heritage		
Scottish Police Authority		
Scottish Qualifications Authority		
Scottish Social Services Council		The member mentioned in regulation 2(3) of the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001 (S.S.I. 2001/303) (the person who is the chair or a member of Social Care and Social Work Improvement Scotland)
Scottish Sports Council		
Scottish Water		
Skills Development Scotland Co. Limited (company number SC202659)		
Social Care and Social Work Improvement Scotland		The member mentioned in paragraph 2(1)(b) of schedule 11 of the Public Services Reform (Scotland) Act 2010 (the person appointed to chair Healthcare Improvement Scotland)
		The member mentioned in paragraph 2(1)(c) of that schedule (the person appointed as convener of the Scottish Social Services Council)
A Special Health Board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978		Councillors appointed under paragraph 2(1)(b) of schedule 1 of that Act
		Members appointed only by virtue of being nominated for membership
Standards Commission for Scotland		
VisitScotland		

Water Industry Commission for Scotland		
West Highland College UHI (company number SC153921)		A director who is also a student of the college

DRAFT