
STATES OF JERSEY



DIVERSITY OF PUBLIC SECTOR APPOINTMENTS - RESEARCH BY THE DIVERSITY FORUM

Presented to the States on 4th March 2022
by the Privileges and Procedures Committee

STATES GREFFE

REPORT

In March 2020 the States adopted [P.118/2019](#) which, amongst other things, included the following:

to request the Council of Ministers to provide the necessary officer assistance to the Diversity Forum to consider the development and options for implementation of policies which proactively encourage greater diversity (in respect of, for example, sexual orientation; race/nationality; class; disability; age and gender) in applicants wishing to sit on various States-owned or funded Boards and arm's-length bodies.

Although this work was delayed by Covid, the Diversity Forum has completed its review of best practice in this area and has approved two reports which were put together by staff from the Greffe, assisted by a colleague from the Chief Operating Office. These papers, entitled *Enhancing Diversity of Applications and Appointments to Board-level Public Sector Positions* and *Proposed Areas for Consideration to Encourage Diversity*, are published in this document.

The Diversity Forum is currently preparing a legacy report which is expected to include recommendations on how the next States Assembly and Council of Ministers should respond to the actions which are suggested are necessary to improve the diversity of public sector appointments in Jersey.

Enhancing Diversity of
Applications and
Appointments to Board-Level
Public Sector Positions

Diversity Forum: Research Paper

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Purpose

To undertake desk research of best practice in other jurisdictions to enhance the diversity of applications and appointments to States-funded boards and arm's length bodies. To gather information from a range of Jersey organisations to acquire a view on applications and appointments to States-funded boards and arm's length bodies. This paper aims to consolidate all sources of research in one document.

Note: This area of research is continuously evolving. Organisations and governments across jurisdictions continue to adapt their strategies, frameworks and policies according to changing priorities. However, both past and current research has contributed to this paper depending on relevance.

Anticipated Research Outcomes

- Policy options to encourage diversity – based on best practice in other jurisdictions
- Recruitment options to improve diversity of applications and appointments

Background and Context

The Diversity Forum was established in 2017 to implement in Jersey the principles of the [Good Parliament report](#), to work towards the States Assembly being “truly representative, transparent, accessible, accountable and effective in its many functions”. The background to the establishment of the Forum and its early work are set out in this [report](#).

As part of its work, the Diversity Forum has agreed to review the diversity of individuals on States-appointed boards and arm's length bodies. Subsequent to Deputy Jeremy Macon's Proposition [P.118/2019](#), the Diversity Forum has agreed to evaluate the development and options for implementation of policies which proactively encourage greater diversity (in respect of, for example, sexual orientation; race/nationality; class; disability; age and gender) in applicants wishing to sit on various States owned or funded boards and arm's-length bodies.

Definition and Scope of Diversity

The definition of diversity varies amongst organisations, governments and jurisdictions. Generally, differences reflect the priorities of the establishment. The definition and scope of diversity usually depicts the policy approach. Thus, it is important to define diversity in context of the goals, to approach policy development in the area more effectively. Moreover, the scope of diversity is likely to shift, as priorities change and as progress is made towards the objectives.

Diversity at its broadest scope entails valuing people on their own merit regardless of their ethnic origin, nationality, disability, age, gender, sexual orientation, and religion or belief. (PG 9 – [Fostering Diversity in the Public Service](#)).

Definitions of Diversity – Falls within Three Groups – Defined in OECD Countries

- **Diversity as equal opportunities** - mainly refers to preventing discrimination in terms of gender, age, ethnicity, religion or belief, sexual orientation, political views, disability, and physical appearance guaranteeing the neutrality of Human Resources Management (HRM) processes and that of public employers.
- **Diversity as a resource** - aims to understand, appreciate, and realise the benefits different life experiences, competencies, and socio-economic and cultural backgrounds may bring to public service performance regardless of their ethnicity, cultural background, sexual orientation, disability or age, to increase the capacity of government and the satisfaction of people employed in the public service.
- **Diversity as inclusiveness** - alludes to working in a strategic, long-term and joint manner to ensure changing structures and systems to make use of the relevant competencies that people have.

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Discrimination Legislation

Jersey’s Equality and Diversity [Policy](#) describes discrimination as occurring when an individual is treated less, or more favourably than others due to a particular characteristic they may or may not have. To avoid discrimination, it states that behaviour including direct discrimination, indirect discrimination and inaction must be avoided.

Discrimination

- **Direct discrimination** – By openly denying access or opportunities to certain groups of people
- **Indirect discrimination** – By creating conditions which will inevitably exclude certain groups of people
- **Inaction** – By not addressing situations which deny opportunities to certain groups or condoning disrespectful behaviour.

[Jersey’s Discrimination \(Jersey\) Law 2013](#) prohibits certain kinds of discrimination and sets out characteristics which are protected from discrimination under the Law including race (colour, nationality, national origins, ethnic origins), sex (man, woman, person who has intersex status) sexual orientation (whether a person is attracted to people of their own sex, the opposite sex or both sexes), gender reassignment (transgender people), pregnancy and maternity, age and disability (long-term physical, mental, intellectual or sensory impairments). Jersey’s Discrimination legislation

¹ [Fostering Diversity in the Public Service – Pg. .9](#)

outlines the prohibited acts of discrimination (both direct and indirect discrimination) as well as what is legally required under the legislation.

Amongst others, the Legislation sets out exceptions to prohibited acts of discrimination which include the use of positive action.

Positive Action – Exception to Prohibited Acts under Discrimination Legislation

- 1) An act of discrimination is not prohibited by this Law if it is a proportionate means of achieving an aim mentioned in sub-paragraph (2) because the person doing it reasonably thinks that –
 - (a) persons who share a protected characteristic suffer a disadvantage connected to the characteristic;
 - (b) persons who share a protected characteristic have needs that are different from the needs of persons who do not share it; or
 - (c) participation in an activity by persons who share a protected characteristic is disproportionately low.
- 2) The aims are –
 - (a) enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage;
 - (b) meeting those needs; or
 - (c) enabling or encouraging persons who share the protected characteristic to
- 3) This paragraph does not apply to the treating of a person ('the subject') more favourably in the decision as to whom to recruit or promote in relation to employment.
- 4) In sub-paragraph (3) –
 - (a) "recruit" means to offer employment to an individual as an employee, contract worker, voluntary worker or as a partner in a partnership;
 - (b) "promote" means to offer employment to an individual as mentioned in clause (a) that is, in the context of the employer's business, more senior than the individual's current employment, whether or not accompanied by increased remuneration.

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Considering the above, certain aspects regarding diversity are legal requirements including to not directly and indirectly discriminate in relation to characteristics that are protected under the legislation. However, positive action which could be utilised to promote diversity is not a legal requirement. Although, under the legislation positive action to encourage diversity through recruitment and promotion is not prohibited, this must not be done through treating a person or group more favourably than another.

² [Jersey Law -Discrimination \(Jersey\) Law 2013 – Pg. 33](#)

Equality Duty

In April 2011 the Public Sector [Equality Duty](#) came into force for England, Scotland and Wales requiring all public authorities to have due regard to the need to achieve the objectives set out under section 149 of the [Equality Act 2010](#) (this Act replaced the UK's anti-discrimination laws) to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- **advance equality of opportunity** between persons who share a relevant protected characteristic and persons who do not share it;
- **foster good relations** between persons who share a relevant protected characteristic and persons who do not share it.

In addition, to ensure transparency, and to assist in the performance of this duty, the Equality Act 2010 (Specific Duties) Regulations 2011 requires public authorities to publish:

- equality objectives, at least every four years
- information to demonstrate their compliance with the public sector equality duty

A [guide](#) published by the UK Government explains that the Equality Duty is a duty on public bodies and others carrying out public functions to ensure that public bodies consider the needs of all individuals in their day to day work through shaping policy, in delivering services, and in relation to their own employees.

The Equality Duty supports good decision making as it encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs.

The Equality Duty helps public bodies to deliver the Government's overall objectives for public services and is designed to reduce bureaucracy while ensuring public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all.

The [Equality and Human Rights Commission](#) is responsible for assessing compliance with and enforcing the Equality Duty. It has powers to issue compliance notices to public bodies that have failed to comply and can apply to the courts for an order requiring compliance. The Equality Duty can also be enforced by judicial review. This can be done by the Commission or any individual or group of people with an interest.

The commission has produced [best practice guidance](#) to improve diversity of boards within the frameworks set out by the Equality Act 2010. Further detail for each step is outlined in the published [guidance](#) demonstrating what is required by the Equality Law and recommends good practice for recruiting without discriminating.

Key Points – Appointment to Boards – In Accordance with Equality and Human Rights

- Appointments must be made on merit, demonstrated through fair and transparent criteria and procedures.
- Organisations can enable or encourage applications from disadvantaged or underrepresented groups, provided selection is made on merit.
- Individuals responsible for appointments must avoid making unwarranted assumptions through selection criteria and procedures which result in one group being favoured over another.
- Selecting a candidate for appointment to a board based on encouraging diversity should only be done when the individual is objectively assessed as being equally qualified as any other candidate.

Jersey's public sector bodies are **not** subject to an Equality Duty as is enforced in England, Scotland and Wales.

Reference Framework to Advance Diversity through Policy

Research based on the OECD countries' experience is outlined in the [OECD Paper](#), Fostering Diversity in Public Services. The Paper incorporates common elements in diversity policies which have been used by the OECD to propose a [general reference framework](#)³ to advance diversity policies when pursuing diversity in different contexts.

The framework is based on the policies and practices that appear to be providing effective results in advancing diversity in the OECD countries involved. The research is founded on the contributions of 14 OECD member countries including Australia, Belgium, Finland, Greece, Ireland, Japan, Korea, Mexico, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the United Kingdom, and a non-member economy, Israel.

Although the Paper was published in 2009, the framework forms a good foundation on which other jurisdictions could develop or expand their diversity policies.

³ [OECD – Fostering Diversity in the Public Service – Pg. 38](#)

Policy Reference Framework to Foster Diversity in the Public Service

Basic elements of equality and diversity policies

- **Define a vision of the type of public service required for the future.** A common vision is essential to coordinate works, to obtain political commitment to the initiative, and to help to stay the course over for the long-term. The vision must be based on a diagnostic of the current situation and the identification of areas of adjustment. The establishment of a clear conceptual framework is crucial.
- **Regard diversity as a resource and a priority.** Diversity is a pre-requisite for governmental efficiency and the promotion of good governance practices. Therefore, to attract, use and retain a mixture of backgrounds, competencies, and experiences of members of society is paramount to this purpose.
- **Integrate diversity principles into broader strategic policies.** Diversity is a means towards broader general governance purposes. Thus, diversity principles need to be integrated into broader policies of management reform and defined from a whole-of-government approach.
- **Define a strategy from a participative-joint approach.** To maximise the effectiveness of diversity policies, their goals should be based on the inputs from a wide variety of actors (agency managers, members of NGOs, trade unions, members of the target population). This contributes to ensure ownership, facilitate implementation and strengthen cohesiveness in the public service.
- **Counteract and prevent discrimination.** Fighting and preventing discrimination is considered as the basic underpinning of diversity. Thus, human resource management processes and instruments must be designed and used in a way to prevent a discriminatory, hostile or intimidatory working environment or harassment. Efforts should be made to build a culture of toleration and respect towards diversity in terms of gender, age, religion or beliefs, sexual orientation, physical or mental disability, ethnic or foreign background, political views, or physical appearance. Provide applicants and employees with the possibility to make a formal complaint or ask for the revision of recruitment and promotion processes when discrimination it is believed to have occurred.

Management measures

- **Leadership and commitment** are required at political and managerial levels to ensure policy success. Working towards building a representative public workforce demands managing change and leaders are in a strategic position to keep the focus, correct deviations, motivate people, and seek further support and commitment for the initiative.
- **Central co-ordination.** Establishing a central co-ordination unit serves to have a focal point for promoting diversity, provide support and guidance to line ministries and agencies, monitor progress, share information, facilitate co-operation, and strengthen coherence. This implies that line ministries and agencies should have their own initiatives based on their own needs, priorities and strategic goals but based on central guidelines and vision.
- **Inter-organisational collaboration.** Enabling inter-organisational co-ordination and collaboration through networks is an effective way of working together towards a common goal and keeping a whole of government approach. Networks make possible sharing expertise, knowledge, save resources, renew organisational commitment to diversity, and maintain diversity.
- **Make diversity principles part of the HRM system.** Diversity principles should be regarded as integral part of the HRM system from strategic workforce planning to recruitment, training, promotion and evaluation. This is a visible part of the diversity strategy as it has to do with the daily business of personnel management within an organisation. The HRM processes and practices should enable attracting and retaining a representative workforce with the competencies, backgrounds and experiences that contribute to organisational and broader national goals.

Evaluation and accountability

- **Monitoring and evaluation.** Evaluating diversity programmes on a regular basis provides with the necessary information to determine progress, identify deviations and propose changes. Evaluation results may also be used to keep momentum to sustain reform.
- **Accountability.** The legal framework should clearly specify who the ultimate responsible for the initiative as a whole and within individual organisations is. It is crucial to establish what is expected from managers and public employees in pursuing diversity to then assess their contribution to the initiative.

Policy Development – Approach by Jurisdiction

United Kingdom

A research document [Reforming Public Appointments](#) (published in 2013) outlines the complexity and advancement of the UK's policy development in this area since 1995 up to the more recent challenge of policy development to encourage diversity.

The [Government of the United Kingdom](#) offers guidance for ministerial appointments to public bodies to ensure a fair, open and transparent process. Guidance for '[Increasing Diversity in Public Appointments](#)' outlines an action plan to overcome the potential barriers to appointments. Including measures to raise awareness to encourage applications from candidates, measures to ensure job advertisements and specifications are clear and accessible, measures to encourage diversity within the recruitment process, as well as measures for progress monitoring.

The Centre for Public Appointments (CPA) and Commissioner of Public Appointments

The establishment of the [Centre of Public Appointments \(CPA\)](#) co-ordinates across Government and promotes roles to a range of candidates with diverse skills and backgrounds. The CPA works with [The Commissioner of Public Appointments](#), the independent [regulator](#). The Commissioner is committed to increasing diversity of public appointments through its regulatory role, while ensuring that ministerial appointments are made in accordance with the Principles of Public Appointments and the [Governance Code](#). The Principles of Public Appointments include Merit (skills, experiences and qualities to meet the needs of the public body), Diversity (candidates should reflect the diversity of society) and Fairness (the use of fair and impartial selection processes).

The Commissioner of Public Appointments has devised [practices](#) to encourage a diverse field of candidates for public appointments for generating interest, planning and advertising, encouraging and managing applications and sifting and interviewing.

Appointments Process

In the United Kingdom, typically, Government Ministers make appointments, however, the recruitment process is set out in the [Governance Code for Public Appointments](#) and the [Commissioner for Public Appointments](#) ensures the compliance of the process.

The Cabinet Office Public Appointments Policy Team provides leadership and guidance to departments both to improve the quality of the appointments process and to widen the pool of candidates applying for vacancies. Thereby, increasing the diversity of public boards. The UK has highlighted barriers to increasing diversity in public appointments and has put actions in place to overcome them.

UK- Practices to Encourage Diversity in Public Appointments

The Centre for Public Appointments:

- The Government established the Centre for Public Appointments (CPA) in the Cabinet Office to co-ordinate across Government and promote roles on Public Boards to a range of candidates with diverse skills and backgrounds.
- The CPA works with the Commissioner for Public Appointments who is committed to increasing the diversity of appointments through his role as regulator and his work with Public Appointments Assessors.

Raising Awareness:

The CPA is encouraging applications from candidates by:

- Contacting potential candidates about suitable opportunities;
- Advertising all opportunities on the public appointment's website, Twitter and distributing a fortnightly newsletter on upcoming appointments;
- Simplifying adverts and using language which will encourage candidates to apply;
- Working with both the executive search industry and representative networks to encourage prospective applicants from diverse backgrounds;
- Providing a dedicated resource to help potential candidates understand and prepare for the application process; and
- Raising awareness of public appointments by hosting events and raising the profiles of existing role models.

Job adverts and specifications:

In order to make job adverts and specifications clear, concise and accessible, the CPA is ensuring that:

- Job adverts and specifications use plain English and avoid jargon to appeal to the widest field of applicants;
- Job adverts and specifications promote diversity by emphasising, where possible, a candidate's ability rather than previous experience;
- Job specifications should focus on key skills and should not rule out or deter potential candidates by being too restrictive in the criteria; and
- Applications must request CVs and supporting statements rather than lengthy forms;

Diversity within the recruitment process:

In order to reinforce the need for diversity throughout the process, the CPA is ensuring that:

- Ministers are aware of the diversity of the existing Board at the start of a campaign;
- Ministers meet with those involved in the campaign, including the Chair of the panel and executive search firm (if used) to ensure that all parties are clear on the requirement to find a diverse field of candidates;
- Ministers see details of the field before competitions close, to decide if they are content with the diversity of applicants;
- Ministers are reminded of the diversity of the existing Board when given details of all candidates who were deemed appointable at interview;
- Ministers agree panels with independent panel members who will provide an external perspective;
- Feedback is provided to candidates
- Strong candidates who are not appointed are encouraged to apply for other roles; and
- Reappointments are the exception rather than the rule, to encourage greater diversity in new appointments.

Monitoring progress:

- Publishing six monthly reports on Departments' performance on appointing women to public appointments.

Selection and Recruitment Process

Based on the recommendations made by the [Lord Davies report](#) February 2011 - Women on Boards, search firms have drawn up [a voluntary code of conduct](#) to address the challenges. The key findings and recommendation could be considered for broader diversity challenges.

Good Practices Established by Search Firms:

- Proactively putting diversity on the agenda in the appointment process.
- Challenging Chairs and Nomination Committees when defining the brief, so that more importance is given to underlying competencies as opposed to prior experience.
- Finding creative ways to expand the talent pool and reach out to female candidates.
- Ensuring female representation on the long list and the short list.
- Supporting female candidates throughout the appointment process by taking on developmental and advocacy roles.
- Supporting Chairs in handling resistance to female candidates from other Board members.

The Lord Davies Report has made recommendations for search firms to include [diversity goals in their voluntary code of conduct](#) and has set out seven key principles of best practice that should be followed by search firms.

Key Principles of Best Practice for the Selection Process

Succession planning:

- Search firms should support Chairmen and their Nomination Committees in developing medium-term succession plans that identify the balance of experience and skills that they will need to recruit over the next two to three years to maximise Board effectiveness. This time frame will allow a broader view to be established by looking at the whole Board, not individual hires; this should facilitate increased flexibility in candidate specifications.

Diversity goals:

- When taking a specific brief, search firms should look at overall Board composition and, in the context of the Board's agreed aspirational goals on gender balance and diversity more broadly, explore with the Chairman if recruiting women directors is a priority on this occasion.

Defining briefs:

- In defining briefs, search firms should work to ensure that significant weight is given to relevant skills and intrinsic personal qualities and not just to proven career experience, in order to extend the pool of candidates beyond those with existing Board roles or conventional corporate careers.

Long lists:

- When presenting their long lists, search firms should ensure that at least 30 per cent of the candidates are women – and, if not, should explicitly justify to the client why they are convinced that there are no other qualified female options, through demonstrating the scope and rigour of their research.

Supporting selection:

- During the selection process, search firms should provide appropriate support, in particular to first-time candidates, to prepare them for interviews and guide them through the process.

Emphasising intrinsics:

- As clients evaluate candidates, search firms should ensure that they continue to provide appropriate weight to intrinsics, supported by thorough referencing, rather than over-valuing certain kinds of experience.

Induction:

- Search firms should provide advice to clients on best practice in induction and 'onboarding' processes to help new Board directors settle quickly into their roles.

The UK's Action Plan

The Government of the United Kingdom has adopted the recommendations made by Lord Holmes of Richmond MBE in his independent review (2018) into [opening public appointments to disabled people](#) to develop its [Public Appointments Diversity Action Plan 2019](#) to increase levels of diversity among public appointments.

The review has made recommendations in four areas including data and transparency, attracting and nurturing talent, application process, interviews and retention. Although the Lord Holmes review focused on disabled individuals, many of the recommendations could benefit all under-represented groups.

The UK's [Public Appointments Diversity Action Plan 2019](#) confirms four objectives and the actions to achieve them.

The UK's Diversity Action Plan - 2019

- **Improving data and reporting on diversity** (strong, reliable data is required to see how groups are being impacted and where changes can be made)
- **Raising awareness and tapping into talent** (all sectors of society need to know about the opportunities to join public bodies)
- **Improving the public appointments recruitment process** (create fairer assessment processes)
- **Supporting and developing public appointees** (work with sponsor departments and external partners to keep public bodies accountable; ensuring flexible work environments, that practices are inclusive and that innovation and challenge from diverse viewpoints are encouraged)

Wales

The [Diversity and Inclusion Strategy for Public Appointments in Wales 2020-2023](#) defines five transformational goals and underlying actions and timescales in which to achieve them. The Strategy is based on the report by Lord Holmes of Richmond MBE, [Lord Holmes Review – Opening up public appointments](#) to disabled people (as it the UK action plan). Moreover, on previous initiatives to get women on boards.

The strategy was informed by officials' research, stakeholder events, interviews with those involved in the public appointment process and from the wider equality policy arena. Also, consultation with the Senior Public Services Leaders Group. This [report](#) defines the detailed Action Plan for 2020-2021 to achieve the five following goals.

Wales' Diversity Action Plan 2020-2021

Five Goals

- Gather and share consistent, reliable, qualitative & quantitative data.
- Create a robust pipeline of potential board members by making more people aware, attracting and supporting talent.
- Develop, test and establish new inclusive & transparent recruitment processes.
- Ensure all Board members are skilled & knowledgeable about equality, diversity & inclusion.
- Secure and sustain leadership commitment

Findings

- General lack of awareness and knowledge of what public bodies exist and what they do.
- No comprehensive baseline data, including location data, to agree meaningful targets for Wales.

Scotland

The Ethical Standards Commissioner has published a report in 2019 – [Delivering Diversity](#). As part of the commissioner's role, a review of the code of practice for ministerial public appointments was undertaken and a strategy published for ensuring that appointments encourage equal opportunities. The Report records the progress that has been made in widening the diversity of appointments made to public bodies' boards over the last 10 years. It demonstrates the progress that has been made using the strategy [Diversity Delivers 2008](#).

The Strategy outlines short (years 1-3)- medium (years 4-5) - and long-term (years 6+) goals and an actionable plan to achieve them. The strategy encompasses a three -fold vision which includes promoting **Awareness and Attraction, Confidence and Capacity and Education and Experience**, and includes practical recommendations and detailed action plans on how to achieve the vision and deliver diversity to board appointments.

The Ethical Standards Commissioner has published several [case studies](#) to demonstrate good practice and progress that has been made by public bodies in harnessing board diversity in Scotland.

Case Studies: Harnessing Board Diversity including:

- [The Poverty and Equality Commission](#)
- [Highlands and Islands Airport Ltd](#)
- [Scottish Housing Regulator](#)

1. Awareness and Attraction

A pool of applicants as diverse as the people of Scotland, aware of and attracted by the work of our public bodies and the opportunities to serve on their boards.

Summary of Recommended Actions

- Develop and deliver an on-going **communication campaign** to promote:
 - The diverse roles and functions of public bodies
 - The role of their board members
 - The wide range of people needed by boards
 - The opportunities to serve on them
 - The benefits of serving on a board -for the individual and their employees
- Build an accessible **hub website**, supported by personal contact, to inform everyone interested in public appointments. Provide signposts to sources of further information and support.
- Enhance the content of **publicity material** for public appointments and monitor the impact of publicity strategies on the number and diversity of applicants.
- Research the impact of
 - Board meeting times and arrangements
 - Remuneration on the number and diversity of applications

2. Confidence and Capacity

An appointments system that inspires confidence, increases capacity and embraces diversity, from the application process to the boardroom.

Summary of Recommended Actions

- Establish a centre of expertise to advise on and administer the public appointments process for the Scottish Government
- Pilot different application and selection methods
- Provide appointment-focused diversity training for everyone involved in the selection process and for all board members
- Consider additional training for chairs to help them maximise the benefits of a diverse board.
- Revise the OCPAS Code of Practice to reflect the actions included in - and resulting from - the equal opportunities strategy.
- Increase awareness of the openness and fairness of Scotland's public appointments process

3. Education and Experience

A programme of support for our future leaders, developing and providing opportunities for all to achieve their full potential and for Scotland to draw upon its brightest talent.

Summary of Recommended Actions

- Provide an education programme for members of the public explaining the work of non-executive board members of public bodies.
- Provide workshops on how to apply for board positions.
- Pilot the use of training positions on the boards of public bodies.
- Co-ordinate the many existing opportunities for developing leadership potential in Scotland. Signpost people towards these opportunities from the hub website.

Note: Scotland's diversity plan could form a potential foundation for the formation of a Jersey diversity strategy.

New Zealand

New Zealand's board appointment process (outlined on Pg. 38 of the [report](#)) is highlighted for its comprehensive approach (Pg. 37). It combines soliciting, vetting, recommending as well as induction training after the appointment has been made. Through encompassing a broad network at the candidate search stage of the process and including diversity agencies in this network, identification of diverse candidates is further encouraged. Additionally, seeking candidate nomination from Ministries with a role in promoting the interests of diversity and equality is also used.

New Zealand's [Board Appointments and Induction Guidelines](#) updated in 2015 (most up to date version) incorporates a section on Diversity of Membership as a response to the [Cabinet Office circular -Government Appointments: Increasing Diversity of Board Memberships](#) which emphasises the government's intention to encourage a more diverse range of individuals appointed to government bodies. The Cabinet has directed those involved in the appointment processes to explore alternative means of finding candidates where existing methods were not producing a suitable balance of individuals for consideration.

Therefore, as part of the appointments process, nomination agencies are involved in the candidate identification process to assist with increasing the size and diversity of the pool of individuals to be considered. It is anticipated that these agencies could assist other agencies involved in the appointment processes through specific services and resources that they have including databases and nomination services, advice and expertise, community and professional networks, reference groups, publications, and websites. Criteria for the process involved for when engaging with nomination agencies and, for reference, a table of the New Zealand nominating agencies can be found on pg. 13-14 of the [Board Appointments and Induction Guidelines](#)

New Zealand's Approach

- Nomination agencies are involved in the candidate identification process to assist with increasing the size and diversity of the pool of individuals to be considered.
- These agencies can assist other agencies involved in the appointment processes through specific services and resources including databases and nomination services, advice and expertise, community and professional networks, reference groups, publications, and websites.

Australia

Australia's workplace diversity and inclusion [Strategy 2016-2019](#), considers factors for recruitment, inclusion, development and leadership. It outlines measures to encourage inclusion and diversity through actionable plans.

The Australian Government has set a further roadmap ([2019 -2023](#)) to assist with achieving diversity and inclusion. The approach is underpinned by four key themes including culture, capability, creativity and connection. Measures and targets are provided to facilitate each objective.

Australia's Workplace Diversity and Inclusion strategy

Actions:

- Actionable employee plans for encouraging diversity and inclusion including:
 - Multicultural Plan
 - Accessibility Plan
 - Mature Age Plan
 - Gender Equality Plan
 - Lesbian, Gay, Bisexual, Transgender and Intersex (LGBTI) Plan
- Monitoring progress against the aims of the plans

Targets, Quotas and Merit to Encourage Diversity in Appointments

The [‘Appointments to Boards and Equality Law’](#)⁵ publication by the Equality and Human Rights Commission considers the use of targets, quotas and appointment on merit as well as the potential risk these may impose to equal opportunities. It defines the terms as follows:

Target: a voluntary aspiration identified by an organisation. It is permissible to have targets which complement an open and fair recruitment process. Such targets are not backed by sanctions or penalties for failure to achieve within the timescale.

Quota: a fixed proportion for representation imposed by regulation and subject to sanction by the State (or by judicial or regulatory authorities). A quota enforced by a sanction or penalty runs the risk of promoting discriminatory treatment, if an organisation feels pressured by the threat of punitive sanctions and the risk of reputational damage if quotas are not met. To avoid this, punitive sanctions must be proportionality and effectively applied.

Merit and equal opportunities: should prevail in any recruitment and promotion process to value individuals on their own accomplishments and not as part of a disadvantaged or underrepresented group.

Appointments – Merit

In the United Kingdom, the Governance Code on Public Appointment has outlined merit as the overriding [principle](#) in the appointment process, but the selection criteria could take account of a balance of skills and backgrounds.

***Merit** - All public appointments should be governed by the principle of appointment on merit. This means providing Ministers with a choice of high-quality candidates, drawn from a strong, diverse field, whose skills experiences and qualities have been judged to meet the needs of the public body or statutory office in question.*⁶

Further, under the Code of Practice, the principles of merit must be read in conjunction with the principles of fairness and diversity amongst others.⁷

***Diversity** - Public appointments should reflect the diversity of the society in which we live, and appointments should be made taking account of the need to appoint boards which include a balance of skills and backgrounds.*

***Fairness** – Selection processes should be fair, impartial and each candidate must be assessed against the same criteria for the role in question*

⁵ [Equality and Human Rights Commission – Appointments to Boards and Equality Law – Pg.11-12](#)

⁶ [UK Governance Code on Public Appointments](#)

⁷ [UK Governance Code on Public Appointments](#)

Key Points – Appointments on Merit

- Attract as wide as possible a field of suitable candidates using an evidence-based competence approach to assist to identify merit requirements.
- Formal qualifications, traditional work experience and/or specialist knowledge form only one aspect of merit. Other aspects can include - demonstrable involvement within a community; practical experience of relevant issues; and transferable skills gained (communicating, negotiating and influencing, ability to think strategically etc).
- Set criteria which recognise non-traditional career patterns and experience, such as community involvement and voluntary work, as suitable qualifications for appointments; do not contain unnecessary requirements which might discourage or eliminate suitable applicants from under-represented groups; and avoid raising expectations that cannot be met.
- Examine the diversity of your selection panels; try to ensure that all members have undertaken diversity awareness training.
- Conduct interviews in a way that is sympathetic to those with less experience of job hunting.
- Offer training days in particular skills; hold open days for members of under-represented groups; make appropriate arrangements for disabled candidates (at the application stages as well as at formal interview) such as providing Braille and audiotaped information packs and application forms; and offering compensation for child and other care costs and make sure this is clearly referred to in the information packs.

Appointments - Targets and Quotas

A 2015 [Policy report](#) by Champion better work and working lives ([CIPD](#)), a professional body for Human Resources and people development, investigated compulsory quotas and voluntary targets (focused on gender balance on boards) and its effects on diversity progress.

The Report covers evidence from global politics, education and the workplace. It analyses the findings relating to the use of quota systems and the effects of affirmative and positive action. Additionally, it looks at how to define quotas with consideration given to the Norwegian Gender Quota Law and the use of affirmative action in the United States.

Quotas and other affirmative/positive action policies aim to address the underrepresentation of a negatively stereotyped minority group in a specific context.

Although some argue that a mandatory quota system is the only way to quickly and effectively overcome the underrepresentation of minorities others contend that it will provide unfair advantages to the minority groups that are targeted. For quotas and other affirmative action policies to reach their full potential, it is important that attitudes towards such an approach are generally positive.

Quotas and other affirmative action policies can be effective in increasing the number of minority members in the short term, although how effective they are in the long term and how long the

effect will last would depends on a variety of factors including whether or not they are voluntary, the nature of any associated sanctions, as well as the cultural factors.

The report concluded that the quick wins associated with legislating for mandatory quotas may be outweighed by the potential longer-term disadvantages.

Moreover, voluntary approaches to setting targets would be preferable to a rigid mandatory quota system.

Key Points – Reflection on Reports Evidence - Targets and Quotas

- Hastening change by reserving places for underrepresented groups could compromise employee's engagement
- Employees could perceive that individuals have been appointed because of their identity and not based on merit. Often perceived as positive discrimination.
- Compliance-based responses and sanctions can foster fear, risk-aversion and encourage a defensive reaction from companies and their leaders.
- Regulatory solutions take time and resources and stifle creative responses which encourage long-term success.
- It's believed that a compulsory quota system would not be a sustainable and long-term solution.

The [Lord Davies Report](#) highlights that Norway has achieved one of the most significant increases in representation of women on boards through its legislative quota process. However, notes that significant opposition had existed to Norway's process and that concern had existed regarding tokenism and the potential for the displacement of more highly- skilled male counterparts by women with inferior skill sets. Steps were taken to address this concern through training and networking initiatives for women. Although the actions taken by Norway drastically increased the representation of women on boards, that success has not changed the fundamentals of how women progress through organisations. Therefore, the quota system has not addressed how women come through their own organisation's pipeline and the change has remained solely at the board level.

In some countries the mere threat of legislative quotas, should a voluntary approach be ineffective, has impacted behaviour. This has been demonstrated in Australia's approach to increase the representation of women on boards.⁸

A [report](#) published by the European Parliament has reviewed evidence on the effectiveness of legislative as compared with voluntary measures to narrow the gender gap on boards. It reports on the positions and recommendations of international bodies. It has found that legislative quotas are an effective and fast means of achieving change and that voluntary measures demonstrate smaller and slower effects. Generally, it has noted a separation of legal instruments and voluntary regimes in most cases, however, that in practice there should be no reason for the mechanisms not to be combined. It found that the use of voluntary measures as an accompaniment to legal instruments to

⁸ [Report – Parliament of Australia](#)

be widely supported. In addition, some measures had overlapped, such as the threat to impose legal sanctions if voluntary measures did not achieve their targets.⁹

Approach by Jurisdiction

The [Lord Davies Report](#) – Women on Boards considers the measures that have been taken by different countries to increase the representation of women on boards which has included the use of quotas, legislation for quotas and alternative action.

Actions – Quota's, Legislation and Alternative Action - 2011

- **Norway** - In February 2002, the government provided a deadline of July 2005 for private listed companies to raise the proportion of women on their boards to 40%. The proportion of 24% was reached by July 2005. In January 2006, legislation was introduced which provided a final deadline of January 2008, after which fines would be incurred or closure of companies. As a result, full compliance was achieved by 2009.
- **Spain** - A gender equality law was passed in 2007 obliging public companies and IBEX 35-quoted firms with more than 250 employees to attain a minimum 40% share of each sex on their boards by 2015. Companies reaching this quota would be given priority status in the allocation of government contracts. No formal sanctions were utilised. Boards consisted of 6.2% women in 2006, rising to 11.2% in early 2011.
- **Iceland** - A quota law was passed in 2010 for 40% from each sex by 2013. It was applicable to publicly owned and publicly limited companies with over 50 employees.
- **Finland** - From 2008 the “comply or explain” code required that every board should have at least one man and one woman.

Action – Legislation for Quotas

- **France** - A bill applying a 40% quota for female directors by 2016 was passed. The quotas for listed companies were for 20% within three years, and 40% within six years. For non-listed companies, 40% within nine years was required. The sanctions for non-compliance included that nominations would be void and fees suspended.
- **Netherlands** - Proposals to apply a 30% quota for men and women for larger companies were made. Companies were required to explain any non-compliance. This requirement would expire in January 2016

⁹ [Report – European Parliament – Gender Quotas in Management Boards](#)

Action – Alternative Action

- **US** - the Dodd-Frank Act Diversity Offices implemented rules to ensure the fair inclusion and utilisation of minorities and women in all firms doing business with government. The disclosure of how board nomination committees consider diversity in selecting candidates for board positions was required.
- **Canada** - Quebec legislated gender parity for the boards of its Crown corporations.
- **Australia** - From July 2010 reporting guidelines required companies to disclose information about the proportion of women on boards and to provide progress reports on gender objectives.
- **Austria** - From 2009 companies were required to publish details of all measures being taken to promote women onto management boards.
- **Denmark** - From 2008 the “comply or explain” code required that diversity must be considered in all appointments.
- **Germany** - The Justice Minister threatened legislation if boards did not achieve a better balance within 12 months.
- **Sweden** - “comply or explain” code required companies to strive for gender parity.
- **Poland** - corporate governance code recommended balanced gender representation on boards.

Deciding the Value of Quotas, Targets and Merit

Numerous jurisdictions, at some stage, have introduced gender and other preferences in their board nomination process through methods including quotas, targets, active preference and affirmative action.¹⁰

Ultimately, to encourage diverse board representation, understanding the underlying issue of not having diverse board representation is pivotal. Cultural change and education are vital; however, encouragement and guidance are also necessary.

When deciding on the approach to follow, it is important to first determine the focused objectives for utilising merit, quotas (legislative or other) or targets (voluntary) in the approach. Considerations should be made with regards to whether, for example, fast and effective increase is needed, or avoiding negative outcomes of stigmatisation of members or targeted groups is a priority, as well as the percentage improvement being aimed for. Additionally, for beneficial change, tokenism should be avoided and the diversity within the population should be mirrored.

Diversity preferences may add value to boards but should not rise to the level where the ability to attract candidates with the right skills and capabilities is imperilled.¹¹

¹⁰ [OECD – Boards of Directors of State-Owned Enterprises -Pg. 57](#)

¹¹ [OECD – Boards of Directors of State-Owned Enterprises -Pg. 57](#)

Merit and equal opportunities should prevail in any recruitment and promotion process to value individuals on their own accomplishments and not as part of a disadvantaged group.¹²

Ideally, the aim should be to expand a diverse pipeline of candidates and to seek a merit-based selection approach from the total diverse talent pool available. However, without that diverse talent pool, compliance as a driver could be justifiable for the short term.

An Organisation for Economic Co-Operation and Development (OECD) paper on [Fostering Diversity in the Public Service](#) concluded that promoting affirmative action may indirectly create room for discrimination towards certain groups and could be regarded as patronising to others. It explains that experts on diversity seem to share the view that diversity policies should be about designing mechanisms to empower particular people to compete for public employment on their own merit and facilitating the access of people with diverse backgrounds who may contribute to governments goals for achievement. It acknowledges that treating everyone in the same way and under the same rules would paradoxically exclude certain social groups from joining the workforce, thus different initiatives would be required to promote equality. At the time of the paper, the major impact of equal opportunities and diversity policies had been reflected in the promotion of better governance practices including fairness, equality and tolerance.¹³

Jersey

Policy and Legislation

[Jersey's Discrimination \(Jersey\) Law 2013](#) prohibits certain kinds of discrimination and sets out 'protected characteristics' including for race, sex, sexual orientation, gender reassignment, age and disability. Additionally, Jersey has an [Equality and Diversity Policy \(version 1.3\)](#) which was last reviewed in September 2019. Unlike the UK, Scotland and Wales, Jersey's public sector bodies are not subject to an Equality Duty.

Jersey Appointments Commission

The [Jersey Appointments Commission \(JAC\)](#) is an independent body that oversees the recruitment of States' employees and appointees to States supported or related bodies. Its role is to ensure that the selection is fair, efficient and conducted in accordance with best practice and procedures.

The JAC provides [recruitment guidelines](#) and [selection guidelines](#), both available on the JAC website. One of the standards within the recruitment guidelines is that appointments should be made using the 'principles of equal opportunity and diversity must be inherent within the process'. Moreover, the overriding principle of merit should apply.

¹² [OECD – Fostering Diversity in the Public Service – Pg. 31](#)

¹³ [OECD – Fostering Diversity in the Public Service – Pg. 37](#)

As part of the appointment process Standards are applied for the following reasons:

- To appoint the most appropriate person for the job on the basis of individual merit regardless of race, gender, age or any other personal factor
- To put all appointments above suspicion of patronage or prejudice
- To ensure that recruitment procedures uphold the political impartiality of the public service
- To maintain public confidence in the method of recruitment to senior appointments

Standards Against which all Appointments Should be Made

- Appointment on merit must be the overriding principle governing the appointments process. Applicants must be considered equally on merit at each stage of the selection process
- The principles of equal opportunity and diversity must be inherent within the process
- Each role will be advertised in such a way to encourage applicants from all sectors and groups, especially those who are under-represented at senior levels within public service
- Every prospective applicant must be given equal and reasonable access to adequate information about the job and its requirements and about the selection process;
- Selection techniques must be reliable, consistent and guard against bias and be in line with discrimination legislation;
- Selection must be based on robust objective criteria applied consistently to all candidates
- The application of the appointment process must be transparent. All stages of the process should be documented, and the information be readily available for audit
- Personal information about applicants and panel members must remain confidential, unless the individual concerned gives permission for its release
- Data protection legislation must be considered in relation to all recorded information
- Where a succession plan is in place it should follow guidance published by the States

Role of the Commissioner in the Appointment Process

The Commissioner who is appointed to oversee any appointment must have oversight of the following:

- Agreement of the timescales associated with the competition;
- Production of the role and person specifications;
- Advertisement and support material such as the recruitment pack;
- Choice of any search consultants;
- Shortlisting of the applicants, which the Commissioner would normally chair;
- Selection of any assessment processes to be used; and
- Assessment and selection processes, including interviews which the Commissioner would normally chair but not vote upon.

The JAC described its role as follows:

JAC:

The JAC have direct oversight of Chair and Chief Executive appointments in funded boards and arms-length bodies, and Chairs are expected to report annually that they have followed JAC guidelines where other posts have been recruited. The process for recruitment is outlined in the JAC recruitment guidance for independent bodies (attached). The JAC is also involved in Crown appointments by invitation of the Bailiff.

When asked of the JAC to comment on the best practice that was being followed to encourage greater diversity in applicants wishing to sit on States – appointed boards and arm’s length bodies, the following response was received:

JAC:

States-owned or funded Boards and arm’s length bodies should be aware of and practices should be in line with the Equality and diversity Law, however, there is currently no central GoJ oversight for all bodies/boards to ensure that the bodies/boards are encourage to have greater diversity in applicants wishing to sit on States appointed board and arm’s length bodies. The current GoJ contact who has oversight for states funded boards is Simon Hayward. The JAC believes that most bodies/boards are male dominated and suggests that initiatives could be put in place such as open days/events to encourage people to find out more about the organisation/body/boards working on the Island to encourage greater diversity.

Key Points - Highlighted by JAC

- There is currently no central GoJ oversight for all bodies/boards to ensure that the bodies/boards are encouraged to have greater diversity in applicants.
- The JAC believes that most bodies/boards are male dominated
- The JAC suggests that initiatives could be put in place such as open days/events to encourage people to find out more about the organisation/body/boards working on the Island to encourage greater diversity.
- The JAC is aware of inappropriate behaviour within some States-owned or funded Boards and arm’s length bodies (and in Crown appointments) particularly around the asking of inappropriate gender specific questions or those relating to caring responsibilities.
- The JAC also note that in Jersey being a small island community, class structures may not be recognised in the same way as in the UK but many Chair’s/NED’s have family connections and the desire to make appointments on the basis of previous knowledge or connection with applicants is not uncommon.
- There have been a number of occasions where there have been potential conflicts identified in organisations where the Chair wishes to promote if not to appoint family members.

Current Position of States funded/Owned Boards and Arm's Length Bodies

Background and Survey

In autumn 2020 a survey was distributed to around 85 States-funded and -owned Boards and Arm's Length Organisations, identified by the Jersey Appointments Commission and the Treasury and Exchequer department. The following questions were asked:

1. Can you describe how the composition of your body/board reflects the diversity of the Island's population?
2. What policies do you have in place in relation to the diversity of appointments to your body/board?
3. If you have a policy in place, how did this policy come about?
4. When you last recruited to your body/board, what steps did you take to attract the broadest range of candidates? Can you provide us with examples of how you advertised the role?
5. What is the composition of recruitment panels considering appointments to your body/board and how do they reflect the diversity of the population of the Island?

Although, the Forum is grateful to the nineteen organisations which replied and for taking the time to respond to the survey, it was striking that almost 40 bodies funded, owned or established by the States did not respond to a survey on such an important issue arising from a proposition that had been adopted in the States.

Analysis of Results

1. Fourteen organisations did provide some information about the diversity of their boards. Most could provide a gender breakdown, and some could provide information about the age profile of the board or other factors such as occupational background or whether board members were based in the Island or elsewhere. There was little information provided about race and disability and none about sexual orientation. One organisation mentioned asking board members to complete formal diversity monitoring forms, although others may also use these. In most cases, boards are too small for the results of such surveys to be made public, even in anonymised form.
2. Four organisations said they had a formal policy on ensuring the diversity of appointments to their boards. In addition, two had constitutional requirements to ensure that appointments respected diversity criteria (disability in one case, gender and age in the other). One organisation had a policy in draft. The others did not have a policy or stated that they relied on the policy of the Jersey Appointments Commission or followed guidance from the government or the Jersey Advisory and Conciliation Service. Some of the organisations without a diversity policy said that they had to meet requirements in terms of the diversity of experience or professional expertise of candidates, or other bespoke requirements of their sector.

3. Of the 5 organisations with a diversity policy, or in the process of drafting a policy, two said the policy had arisen following a board skills assessment and diversity profile. One policy was based on the policy recommended by a UK umbrella organisation.
4. Almost all of the organisations recruited openly to their boards, relying on a mix of traditional media, social media and local bodies and contacts to spread the word. A small number of organisations use professional search agencies. From the answers given it is apparent that a lot of effort is made to cast the net as wide as possible to get a good pool of potential board members. However, specific references to how messages could be tailored to appeal to a broader range of candidates were few and far between. One organisation referred to making a radio appeal for women candidates; another admitted that it only advertised in English, although that is likely to be true for most of the organisations.
5. Seven organisations provided some information about the diversity of appointment panels for board roles, usually to provide a gender split for most recent appointments. Eight organisations referred to the role played by the Jersey Appointments Commission in assisting their recruitments and six referred to the assistance of the government.

Conclusions and Findings

6. Findings to draw to the attention of the Diversity Forum are as follows:
 - Most States-funded and -owned Boards and Arm's Length Organisations did not respond to the survey, including some of the larger ones.
 - Most of those surveyed did provide some information about board diversity, but evidence for systematic monitoring of diversity across all of the protected characteristics was lacking.
 - Few of the organisations surveyed have their own diversity and inclusion policies covering recruitment and appointment. Some rely on the policies and procedures of the government or the Jersey Appointments Commission.
 - Although there was widespread commitment to open recruitment, there was limited evidence of measures to target under-represented groups.
 - Most organisations surveyed did not provide information about the make-up of recruitment panels.

Areas for Consideration

Framework for a Jersey Strategy

Scotland's [strategy](#) for enhancing equality of opportunity in the public appointments process could be a suitable foundation on which to formulate a diversity strategy for Jersey. The following

considerations are based on Scotland’s strategy to deliver diversity and could be areas to consider when developing and progressing a strategy for Jersey.

Steps towards Jersey’s Vision for Diversity

1. **Define what Diversity means** for Jersey and its population and in relation to its States-funded boards and arm’s length bodies.
2. **Determine the awareness** within the community regarding Jersey’s public bodies, roles, opportunities and the appointments process.
3. **Undertake a gap analysis** for Jersey’s states-funded boards and arm’s length bodies.
4. **Gather information** to determine the existing position regarding Diversity and the future position – the desired outcome (be realistic).
5. **Define the actions** to achieve the desired outcome.
6. **Define a realistic timescale** in which to achieve the desired outcome.
7. **Evaluate** the use of **quota, targets and merit** for a policy approach. This would be defined by the desired outcome and the time allowed to achieve the outcome.
8. Determine how to **encourage a cultural shift**, noting that a quota or system that uses sanctions often enables short-term gains at a board level, however, tends not to filter down. A cultural shift would be necessary as well as encouragement and education for longer- term benefits to be achieved and maintained.
9. **Consider the responsibilities and roles** of the entities involved in the selection, recruitment, nominations and appointment process including for Government, the Jersey Appointments Commission, Executive Search firms and other stakeholders with an interest in encouraging diversity.
10. Determine how the process could work to **foster independence and transparency** of appointments.
11. Determine how **progress could be measured, monitored and reported** upon.

Diversity and Inclusion Toolkit

The Jersey Employer Group (JEG), an independent body which brings together representatives from all industries to help ensure that the Island’s workforce is prepared and adaptable for the future, has launched a free and accessible [diversity and inclusion toolkit](#) in July 2021. JEG is working with Jersey employers to embed diversity and inclusion practices to ensure a positive workplace culture. JEG is focusing on a benchmark approach to diversity and inclusion within the workplace and aims to provide a framework to support organisations to start on or improve their diversity and inclusion journey.

The toolkit aims to help Jersey organisations to:

- Understand their minimum statutory obligations
- Provide guidance on how to exceed these requirements
- Improve the culture of their organisation for their employees, job applicants, suppliers, contractors and clients
- Make their business a better place to work and a more profitable enterprise

The toolkit encompasses the following:

- [Leadership and board's role](#)
- [Top ten reasons for diversity and inclusion in your business](#)
- [Checklist: where to start](#)
- [Diversity and inclusion roadmap](#)
- [Diversity and inclusion: culture statement](#)
- [Guidance for employees](#)
- [Recruitment: best practice guide](#)
- [Inclusive recruitment guide](#)
- [Eight powerful ways managers can support equality](#)
- [Lean In Jersey: mentoring agreement template](#)
- [How to include diversity and inclusion in your marketing campaigns](#)
- Example policies from Jersey Advisory and Conciliation Service including for [parental leave](#) and [inclusivity](#)
- Further useful business resources

Applying the Toolkit to States-funded Boards and Arm's Length Bodies

In the absence of a diversity and inclusion policy or direction within an organisation the JEG toolkit can be a useful way to encourage and assist organisations to promote diversity and inclusion within an organisation. As the toolkit consolidates in one place useful information, guides and resources that have been developed by a cross industry working group, it is anticipated to assist multiple types of organisations and industries.

The toolkit may be helpful in highlighting the foundation for the importance of diversity and inclusion and may assist in setting a general path for organisations to follow, in particular, through the help of the [Checklist](#) and the [Diversity and Inclusion Roadmap](#). However, it is important to recognise that the toolkit does not build, deliver or implement a strategy for the organisation and to achieve any change buy in and commitment from the organisation and its leadership is needed.

In respect of the goal to improve the diversity of applications to States - funded boards and arm's length organisations, the toolkit may not go far enough to achieving this goal. Research has demonstrated that the type of change being sought for public bodies requires a strategy that is Government owned and led. Moreover, central Government oversight for public boards and bodies is fundamental to encourage diversity of applicants and appointments, however, this oversight is not apparent in Jersey.

The toolkit focuses on a benchmark for diversity and inclusion in the workplace, however, for attracting a broader and more diverse range of people to States -funded boards and arm's length bodies, a Government of Jersey strategy with specific focus on the public appointment process is vital.

The appointments process for public bodies is more intricate than that of the average workplace and involves the collaboration of multiple entities including the Appointments Commission, the Government and the public sector body. Each is required to understand its role and responsibility (its duty to promoting equality and diversity) in the appointment process. This highlights the value of the [Equality Duty](#) which is enforced in England, Scotland and Wales (yet is not applicable to public bodies in Jersey).

Although the toolkit provides resources to assist organisations to improve diversity within the workplace it does not impose a duty on organisations to commit or to achieve the intended goals.

For public bodies, only encouraging diversity and good decision making to promote equality, diversity and inclusion may not go far enough. For change to happen, transparency and accountability must be demonstrated. A duty like the [Equality Duty](#) ensures that public bodies are delivering on the Government's overall objectives for public services and ensures that the public bodies, the Appointments Commission and the Government (all parties involved) are undertaking their roles and responsibilities in the agreed manner to provide equality and opportunity for all.

In respect of public bodies, research demonstrates that increasing diversity and achieving equality is a long-term project. It requires Government commitment and leadership. It involves defining the roles of Government, the Appointments Commission, and the public body in the process and the collaborative working of these entities to keep the strategy focused and to drive its successful implementation. Roles and responsibilities need to be defined and agreed within Jersey's strategy.

The toolkit should not detract from the necessity to develop and implement an actionable and quantifiable Government of Jersey strategy to enhance the diversity of applications and appointments to States-funded boards and arm's length bodies. However, in the absence of a strategy, and acknowledging that few of the organisations surveyed had their own diversity and inclusion policies covering recruitment and appointment and that some were reliant on the policies and procedures of the Government or the Jersey Appointments Commission, the toolkit may improve awareness and provide benefit to public bodies in the interim.

Key Points – JEG Toolkit for States-funded Boards and Arm's Length Bodies

- The JEG toolkit focuses on a benchmark approach to diversity and inclusion
- The appointments process for public bodies is likely more intricate than that of the average workplace and involves the collaboration of multiple entities including the Appointments Commission, the Government and the public sector body.
- Specific focus on the public appointment process is necessary.
- The toolkit can assist in promoting change, however, buy in and commitment from leadership is fundamental to achieve any change through appropriate strategy and policy development and implementation.
- The toolkit does not impose a duty on organisations to commit or to achieve the intended goals which may be required to achieve tangible change for appointments to public sector boards and bodies.
- As the change sought for public bodies depends on a Government owned and led strategy and central oversight, the toolkit should not detract from the necessity to develop and implement an actionable and quantifiable Government of Jersey strategy.
- In the absence of a strategy the toolkit may improve awareness and provide benefit to public bodies in the interim.

Diversity Initiatives in Jersey

- I WILL Board Apprentice scheme, pioneering new project to support women and their professional development.
- IOD [Jersey Diversity and Inclusion Leadership Charter](#)
- Diferia is an accreditation scheme by Liberate for employers, demonstrates to employees, to clients and suppliers that the organisation places Diversity, Inclusion, Fairness, Equality, Respect and Acceptance at the heart of what they do.
- [Diversity and Inclusion Toolkit](#)

Proposed Areas for Consideration to Encourage Diversity

Scotland's [strategy](#) for enhancing equality of opportunity in the public appointments process could be a suitable foundation on which to formulate a diversity strategy for Jersey. The following considerations are based on Scotland's strategy to deliver diversity and could be areas to consider when developing and progressing a strategy for Jersey.

Steps towards Jersey's Vision for Diversity

1. **Define what Diversity means** for Jersey and its population and in relation to its States-funded boards and arm's length bodies.
2. **Determine the awareness** within the community regarding Jersey's public bodies, roles, opportunities and the appointments process.
3. **Undertake a gap analysis** for Jersey's states-funded boards and arm's length bodies.
4. **Gather information** to determine the existing position regarding Diversity and the future position – the desired outcome (be realistic).
5. **Define the actions** to achieve the desired outcome.
6. **Define a realistic timescale** in which to achieve the desired outcome.
7. **Evaluate** the use of **quota, targets and merit** for a policy approach. This would be defined by the desired outcome and the time allowed to achieve the outcome.
8. Determine how to **encourage a cultural shift**, noting that a quota or system that uses sanctions often enables short-term gains at a board level, however, tends not to filter down. A cultural shift would be necessary as well as encouragement and education for longer-term benefits to be achieved and maintained.
9. **Consider the responsibilities and roles** of the entities involved in the selection, recruitment, nominations and appointment process including for Government, the Jersey Appointments Commission, Executive Search firms and other stakeholders with an interest in encouraging diversity.
10. Determine how the process could work to **foster independence and transparency** of appointments.
11. Determine how **progress could be measured, monitored and reported** upon.

Note: The Below is founded on [Scotland's Strategy](#)

	Goal	Action
Part One - The Strategy		
The Vision	Encourage a diverse pool of candidates <ul style="list-style-type: none"> ➤ Create awareness and attraction ➤ Create an all-encompassing appointment system (from application to boardroom) that inspires confidence, is transparent and 	

	<p>embraces diversity that mirrors the community of Jersey</p> <ul style="list-style-type: none"> ➤ Educate, encourage and support 	
Steps to Achieve the Vision	<ul style="list-style-type: none"> ➤ Increase awareness amongst the general public of the role, value and diversity of public bodies ➤ Increase awareness amongst the general public of the role of board members and the wide range of people we need to serve on the boards of public bodies. ➤ Attract interest, create enthusiasm and encourage action by the widest appropriate pool of potential applicants 	<ul style="list-style-type: none"> ➤ Develop and deliver a continuous campaign to promote diversity ➤ Recruit role models from a diverse background ➤ Build an accessible hub/website/portal that is designed to engage a diverse audience and target a diverse group ➤ Develop and enhance content and publicity and promotional material ➤ Consider impacts of board meeting times and intervals and remuneration options ➤ Public events, workplace events, social networking ➤ Partner with bodies that have links and Insite into diverse talent ➤ Application packs ➤ Monitor progress
Instil Confidence and Create Capacity	<ul style="list-style-type: none"> ➤ Create a centre of expertise ➤ To advise on and administer the public appointments process ➤ Additional support to Government through resource-effective central source of professional advice and guidance ➤ Update the code of practice/legislation/policy 	<ul style="list-style-type: none"> ➤ Must have expertise in diversity ➤ Must have expertise senior level recruitment and understanding of the role ➤ Pilot approaches to applications and selection process ➤ Provide diversity training to all selection panel members
Facilitate and Improve Education and Experience	<ul style="list-style-type: none"> ➤ Provide relevant, effective and easily accessed development opportunities for the 	<ul style="list-style-type: none"> ➤ Provide and promote an education scheme for members of the public explaining the

	<p>next generation of board members</p> <ul style="list-style-type: none"> ➤ Provide a pool of potential board members with the necessary expertise and experience, whose members reflect the diversity of the people of Jersey. 	<p>work of non-executive board members of public bodies.</p> <ul style="list-style-type: none"> ➤ Provide workshops on how to apply for board positions. ➤ Pilot the use of training positions on the boards of public bodies. ➤ Mentorship schemes ➤ Enable people to gain experience on Charity boards, community councils, tenant committees etc ➤ Encourage volunteering on boards to gain experience ➤ Shadow board schemes ➤ Use the hub/portal/website to make people aware of the opportunities
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Part Two - Implementation

	<ul style="list-style-type: none"> ➤ Define the role of the Jersey Appointments Commission to enhance diversity of appointments) ➤ Define the Government's role to enhance diversity of appointments ➤ Define the Public body's role ➤ Define the makeup of the selection Panel 	<ul style="list-style-type: none"> ➤ Consider and determine who is responsible for what action to uphold equality and diversity (policy and law and public/societal obligation) ➤ Consider how the duties will be met and transparency maintained
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The Public Appointments Process

<h3>The Commissioner's Role</h3>	<ul style="list-style-type: none"> ➤ Define the Jersey Appointment Commissioners role to encourage diverse appointments ➤ Define the Code of Practice for public appointments ➤ Define a strategy to ensure public appointments are made in a way that encourages equal opportunities and diversity 	<ul style="list-style-type: none"> ➤ Consider the public code of practice ➤ Encourage transparency ➤ Encourage fair appointments bases on merit ➤ Consider how to undertake scrutiny of public appointments ➤ Consider methods to monitor and measure progress
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	<ul style="list-style-type: none"> ➤ Monitor the progress of public bodies and Government in implementing the diversity strategy 	
The Government's role	<ul style="list-style-type: none"> ➤ Define the Jersey Governments role to encourage diverse appointments 	<ul style="list-style-type: none"> ➤ Consider how the Government can demonstrate equality is met at each stage in the appointment process. ➤ Consider publicity or advertising Materials and approach ➤ Consider job specification formulation to encourage equality and diversity ➤ Consider the interview process ➤ Consider transparency and keeping a transparent record of the process and decisions made in relation to recruitment/candidates
The Public Body's Role	<ul style="list-style-type: none"> ➤ Define the public body's role in the appointment process 	<ul style="list-style-type: none"> ➤ Consider how candidates are shortlisted ➤ Consider how recommendations of candidates are made ➤ Consider the selection/recruitment process undertaken by the board
Responsibility for Equality and Diversity	<ul style="list-style-type: none"> ➤ Define who is responsible and the role each body plays to ensure equality and diversity is achieved in the appointment process 	<ul style="list-style-type: none"> ➤ Consider Commissioner's responsibility ➤ Consider the Government's responsibility ➤ Consider the public Body's responsibility
How Equality and Diversity Applies to Public Appointments	<ul style="list-style-type: none"> ➤ Show a positive and proactive approach to equality and diversity that permeates the culture of their board 	<ul style="list-style-type: none"> ➤ Consider induction, training and support of board members and Chairs

	<ul style="list-style-type: none"> ➤ Define/publish a diversity scheme appropriate to the public body and actions to implement the strategy 	<ul style="list-style-type: none"> ➤ Consider how diversity recommendations (strategy) can be implemented
Responsibility for Implementing the Strategy	<ul style="list-style-type: none"> ➤ Government's role ➤ Commissioner's role ➤ Public Body's role 	<ul style="list-style-type: none"> ➤ Define roles and responsibilities
Implementation Group	<ul style="list-style-type: none"> ➤ Define and appoint an implementation group to encourage focus and progress. ➤ To provide ownership and leadership for the strategy. ➤ To convert recommendation into action 	<ul style="list-style-type: none"> ➤ Consider individuals from Human Resources, the Commissioner, Government representative, Diversity Lead/Champion, Recruitment/resourcing expertise and Public Body representatives (Chair of Boards)
Action Plan	<ul style="list-style-type: none"> ➤ Define a detailed, costed action plan ➤ Activity updates (quarterly) ➤ Review of progress (annual) 	<ul style="list-style-type: none"> ➤ To be approved by implementation group ➤ Consider publishing reports for updates and reviews
Permanent Advisers	<ul style="list-style-type: none"> ➤ Obtain Independent expert advice on diversity issues 	<ul style="list-style-type: none"> ➤ Consider support for implementation group
Reference Groups	<ul style="list-style-type: none"> ➤ Define and set up reference groups 	<ul style="list-style-type: none"> ➤ To provide input and support ➤ Representatives could include - Chairs of non-departmental public bodies, from across industry sectors (private, public and voluntary), youth (16-25), recent applicants/appointments (successful and unsuccessful)
Part Three - Measuring Progress		
	<ul style="list-style-type: none"> ➤ Depends on strategy approach – whether appointment on targets/merit is used as the foundation 	<ul style="list-style-type: none"> ➤ Consider troubleshooting mechanisms ➤ i.e. If strategy works at the application level but no change is seen

	<ul style="list-style-type: none"> ➤ Define how progress can be measured at different stages in the process ➤ Monitor outcome of recommendations in the strategy. (e.g. How has training/education changed things) 	<p>at a board level – steps that should be taken</p> <ul style="list-style-type: none"> ➤ Consider the barriers that may persist in the process to propose adjustments
Progress Reports	<ul style="list-style-type: none"> ➤ Quarterly reports compiled and published 	<ul style="list-style-type: none"> ➤ Examples of key areas: <ul style="list-style-type: none"> – public awareness of the appointments process – public confidence in the appointments process – the number and diversity of applicants – the appreciation of diversity throughout the process – awareness of, and access to, development opportunities.
Aspirational Targets and Ambitions	<ul style="list-style-type: none"> ➤ Define aspirational targets and ambitions and a timeline to achieve them by ➤ Define the current position, the target, and a means to measure improvement (gap analysis) ➤ Could be a quantified - number or percentage 	<ul style="list-style-type: none"> ➤ Consideration for areas include <ul style="list-style-type: none"> – % Increase Awareness in the appointments process – % Increase confidence in the appointments process – % increase in diversity groups underrepresented – % increase in appreciation for diversity throughout the process. The understanding of diversity and intentions regarding it. – % access to and awareness of development opportunities