Scottish Government – Women on Board July 2014

Response from ICAS Consultation Questionnaire

Question 1:
Voluntary measures to increase gender diversity on public boards have been in place for some time. Why do you think they have not lead to the achievement of the 40% Diversity Delivers target?

Please provide further comments:

We are not aware of specific evidence based research which fully answers why but we agree with the statement made by the 30% club "*to get more women on boards, we need more women in senior management*". Achieving the necessary step change requires work on various levels:
1. Developing the pipeline - a diversity strategy which addresses diversity at all levels of the organisation including board level to widen the pool of women who can be considered.
2. Addressing any aspects of the application process which may present an obstacle and reduce the volume of female applicants.
3. More transparent reporting of how the organisation is developing its diversity and level of achievement against targets.
4. Sanctions such as 'naming and shaming' for those organisations not demonstrating progress against targets within a reasonable timescale.

Further explanation is provided in our response to question 16.

Question 2:
Do you think that before gender quotas are introduced to public boards, they should be given the opportunity to achieve a voluntary target for gender diversity on their board first? *(please tick Yes, No or Don't Know)*

☐Yes   ☐No   ☐Don't Know

Please provide further comments: for example, if no, why not?

The question does not provide an opportunity to express an opinion on mandatory quotas per se. An additional question to ascertain the level of support for mandatory quotas would have been helpful to obtain a more accurate view from consultees of the preferred approach.

We do not believe that a one-size fits all mandatory quota is the best way to achieve sustainable and effective change but do support voluntary targets and other non-regulatory means to achieve the outcome of balanced boards. Achieving genuine diversity on boards is too important to address with a numbers tick box exercise or one size fits all approach just to achieve the required numbers of women on boards. This risks unintended consequences and undermines the objective of balanced boards.

Please provide further comments: for example, if no, why not?
(*response to question 2 continued*)

Quotas are fixed and do not reflect variety whereas a target is flexible and aspirational. A quota-based approach risks generating a token response focused on meeting the numbers rather than the desired outcome of an effective balanced board. Intervention should focus on encouraging those who have made the least change and not overlap with those organisations who are successfully making changes without regulation.

From the statistics provided in your consultation paper, Scottish public boards show significant progress achieving a better gender balance (page 4) with a total of 35% of public board members being female. This is comparatively stronger progress than corporate boards (21.6% FTSE 100 against a target of 25%) per Boardwatch and the public sector's achievements should be recognised. We agree that more progress is needed across the different categories listed on page 6 but the evidence presented is not sufficient to support the introduction of mandatory quotas.

The variety of gender composition across public boards with Non-Ministerial Departments and Health Bodies meeting or exceeding 40%, suggests that a more proportionate and targeted approach rather than the one size fits all quota would be more appropriate. Our preference is for minimal intervention to avoid any unintended consequences, particularly given the progress achieved in the past few years both in the public and private sectors (see the rate of improvement recorded by Boardwatch from 2011 to 2014 copied in **question 15**). There are various non-regulatory approaches which could be pursued to build on this success and trigger a step change in those other boards. We believe this would be more effective to achieve the outcome of balanced boards. **Please see further details and examples in our response to question 16**. We have also suggested sanctions in response to **question 14**.

Question 3:
If you answered 'yes' to question 2, what is a realistic timescale for boards to reach voluntary targets, after which quotas would be introduced?

Please provide further comments:
N/A

Question 4:
What difficulties, if any, do you think there will be in introducing gender diversity quotas for public boards?

Please provide further comments:
A mandatory quota risks diverting organisations attention to achieving the quota rather than developing the pipeline and achieving genuine diversity on boards. As stated in question 2, we are not convinced that mandatory quotas are the most effective means to achieve diverse boards but do support voluntary targets for all public boards.

Question 5:
What support, if any, do you think public bodies will require in order to introduce quotas effectively?

Please provide further comments:
N/A. See response to question 4.

Question 6:
Which bodies should quotas apply to? For example those with: Ministerial appointments only; Ministerial and non-regulated appointments; Neither Ministerial nor non-regulated?

Please provide further comments:
See response to question 4.

Question 7:
Which other public boards, if any, should be included? Please give reasons for your answer

Please provide further comments:
See response to question 4.

Question 8:
Which public boards, if any, should be exempt? Please give reasons for your answer

Please provide further comments:
See response to question 4.

Question 9:
Do you agree there should be quotas for people with other protected characteristics[1] other than gender? *(please tick Yes, No or Don't Know)*

☐ Yes   ✓ **No (quotas but yes for voluntary targets)**   ☐ Don't Know

Please provide further comments:
We agree that diversity is wider than gender. We support steps to achieve more balanced and diverse boards (not only gender but also age, ethnicity, experience, background, skills etc.). We believe that improving arrangements to ensure organisations are recruiting the best candidate from a wide and diverse pool helps to build a stronger board and in the public sector, more representative of the community it serves. What is representative for one board and one community may differ from others hence targets offer the necessary flexibility.

Question 10:
If you answered yes to question 9, do you agree with the Scottish Government's staged approach to the introduction of quotas i.e. focussing on gender first? *(please tick Yes, No or Don't Know)*

☐ **Yes**   ✓ **No**   ☐ **Don't Know**

Please provide further comments:
N/A – see response in question 4.

Question 11:
We have said that the percentage level for gender diversity quotas on public boards should be at least 40%, do you agree? YES, should be 40%; NO, should be greater than 40%, NO; should be less than 40%; or DON'T KNOW. *(please tick Yes, No or Don't Know)*

☐ **Yes**   ☐ **No**   ☐ **Don't Know**

Please provide further comments:
It is not clear if this is 40% of the full board or non-executives (which is the direction being pursued by the EC). Assuming it is the full board, the 40% is a one size fits all and notional figure which does not necessarily reflect the diversity of the communities which the public board serves (page 6 of the consultation paper). The figure may present a useful <u>target</u> for public boards to aspire to (indeed some have already met or exceeded this) but it should not be in isolation or out-with a strategy to improve the diversity of boards in the wider sense.   Public Corporations are shown to have 11% of female board members, as an example, their boards may find setting an interim target of say 25% to be more realistic in the short term. Overly focusing on a quota (which mandatory setting is likely to entail) risks sub-optimal decision making and selection to meet a notional figure. We need a policy that shows 'diversity <u>delivers</u>' (1) and is not just a number.   (1) [Diversity Delivers (The Office of the Commissioner for Public Appointments in Scotland)](#)

Question 12:
Who do you think should be responsible for enforcing quotas on public boards?

Please provide further comments:
'Who' varies depending on the means.   See our response to question 14.

Question 13:
Do you think some form of sanction should be imposed on public bodies if there is non-compliance? *(please tick Yes, No or Don't Know)*

✓ **Yes**   ☐ **No**   ☐ **Don't Know**

Please provide further comments:
See our response to question 14.

Question 14:
If you have answered 'yes', to question 13 what type of sanctions could be used?

Please provide further comments:

Some level of sustained pressure on public organisations to give some impetus to change can help achieve an impact. Even the threat of future legislation in this area if boards are not demonstrating progress against targets within a reasonable timescale is encouraging boards to look more seriously at addressing imbalances more urgently and raising the profile.

A sliding scale of sanctions from "naming and shaming" of all those who do not comply or where explanations for not achieving targets are weak (using the "comply or explain model") is our preferred option. Legal sanctions should only be considered in the most severe cases.

Question 15:
Do you think gender diversity quotas should be extended to company boards?
(please tick Yes, No or Don't Know)

☐ Yes   No (quotas but yes for voluntary targets)   ☐ Don't Know

**Please provide further comments:** for example, if your answer is no, why?

Please refer to our response to the EC Gender Imbalance in Corporate Boards in the EU 2012 . As previously stated we support voluntary targets but not mandatory quotas.

The latest progress reports by Boardwatch show that FTSE 100 boards have achieved 21.6% of female representation compared to the voluntary target of 25%. This demonstrates the rate of improvement since 2010 and that the voluntary approach in the UK is working. Copied below.

History 1999-2014
FTSE100: % women directors
%
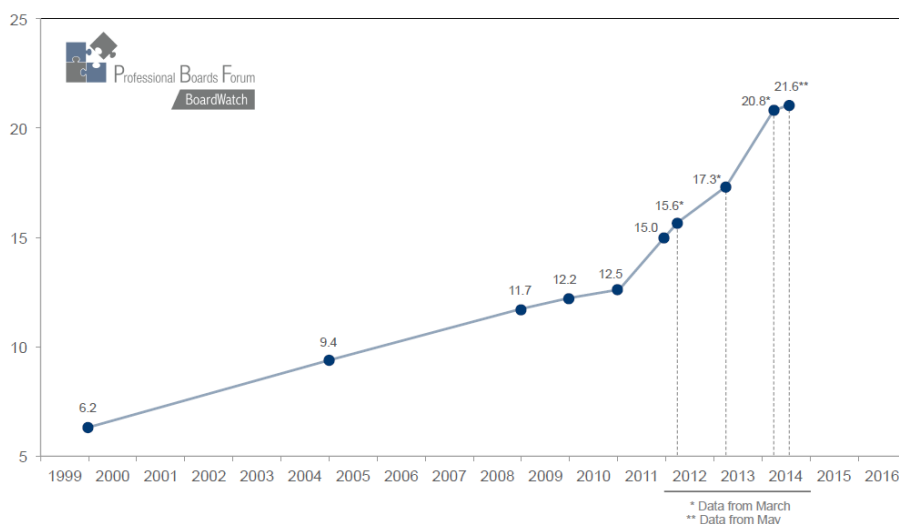
Source: Professional Boards Forum BoardWatch
Data kindly provided by BoardEx and The Female FTSE Board Report

OTHER GENERAL ISSUES NOT COVERED ELSEWHERE

Question 16:
Please provide details of any additional issues, not addressed in your other responses, that you think should be considered in relation to the introduction of gender quotas on public and company boards.

Please provide further comments: for example, please provide details on the information you think is relevant.

Our suggestions on ways to develop sustained improvement in the balance on boards

1. Developing the pipeline

The statistics in the table on page 6 show female applicants represent only 53% of male applicants. This suggests that a key action to improve diversity is for organisations to develop their pipeline and help increase the volume of female applications.

We suggest that recruitment requirements could be reviewed. There is a need to ensure that there is appropriate focus on the skills sets that are required for the particular post rather than necessarily setting a pre-requisite for previous board experience. This should help to encourage consideration of a wider range of applicants. It is recognised that candidates with appropriate board experience may entail an under representation of particular groups.

This would be consistent with the findings on page 4 of the consultation paper that women are less likely to apply if they do not fulfil all essential and desirable criteria.

2. Aligning arrangements for recruiting, identifying and mentoring (under represented) talent to provide a pipeline which is aligned with gender and diversity targets.

Organisations should have in place a wider diversity strategy which addresses diversity at all levels of the organisation, including board level. This would need to reflect the organisation's own statistics, performance and targets (for example, recruits, promotions, management team and board balance). It should seek to understand any barriers where discrepancies exist (for example 50% of recruits are female but only 10% of the management team are female with little movement over time) and identify strategies for addressing any particular difficulties.

Looking solely at board appointments fails to address that the pool of women who can be considered is smaller than it could be. A strategy should address the issue of diversity at a much earlier stage than board level.

Our view is that the diversity strategy should include flexible working arrangements to make it possible for women who choose a career break to have families to retain their seniority and maintain their trade while doing so. Adaptability at the work place is another important feature such as part time working, flexible hours, working at home, crèches, paternity/maternity leave and the understanding that sudden demands such as family sickness are a conflicting reality.

Please provide further comments:
(*response to question 16 continued*)

To help get the best out of staff, a supportive organisation would actively encourage both men and women to work in such a way that can respond to these sometimes sudden and conflicting demands of family life. Underlining this is acceptance throughout the business community of the need for, and benefits of, flexibility in the work place, to work around these obstacles so that more women choose to remain in work more men could support family needs and more women might then be available as directors. This may also help to create a more positive and motivated team.

The diversity strategy should also consider the performance criteria necessary for achieving management and board positions. If, for example, an organisation requires its board directors to have a certain level of experience, judgement and skill-set, then it needs to assess how different groups of individuals within the organisation can be provided with the opportunities that would enable them to acquire those skills so as to increase the available pool of suitably talented individuals with the required experience and skillset.

It is also recommended that organisations should question the skill-set they need from a diverse board, as the whole point of diversity is the strength that comes from people bringing different skills, experiences and points of view to the table. As an example, a global organisation may require senior managers/directors to have worked in different countries throughout their careers. This may prove impossible if you are a female with a family which reduces the available pool of potential candidates, but are there other ways that the same skill-set can be acquired which may be more family-friendly?

3. More transparent reporting of how the organisation is developing diversity, its remuneration policy, performance against diversity targets, current diversity levels, progress against targets over time and benchmarking against peer groups in areas which are key for setting the tone at the top such as Chair, Board (exec and non-exec) as well as the bodies responsible for board nominations and remuneration. We would encourage organisations to set their own targets which reflect their circumstances.

Publication enables organisations to be held to account if they fail to meet their targets. In view of attempts to streamline annual reports, it may be more appropriate to publish details on the organisation's website, with a summary and cross reference provided in the annual report (or financial statements).

4. The "comply and explain" approach whereby an organisation is required to publish its performance (as above) and list remedial actions as to why the target has not been achieved (if appropriate).

5. A neutral, non-commercial body can help to champion the issue, gather high profile support, provide good practice examples and stimulate improvements. In the UK, achieving a voluntary 30% board share through self-regulation is supported by "The 30% Club", which is a group of Chairmen and organisations committed to bringing more women onto UK corporate boards. They also provide research and tips on how to develop a gender balanced board. BoardWatch track these improvements and publish the name of companies achieving the 25% target and above.

6. We also advocate the importance of a strong Chair who is aware of the different norms which females and males may work to and ensure each voice is heard. Indeed diversity training can be used effectively to build greater awareness across the organisation and better understanding to help get the best out of each member of the team and ultimately better board performance.

Question 17:
Will there be any resource issues for public bodies to introduce gender diversity quotas on their boards? *(please tick Yes, No or Don't Know)*

☐ **Yes**   ☐ **No**   ✓ **Don't Know**

Please provide further comments: for example, what will these resources issues be? In what areas?

Question 18:
Can the impact of any resources issues for public bodies be quantified using existing costing structures? *(please tick Yes, No or Don't Know)*

☐ **Yes**   ☐ **No**   ✓ **Don't Know**

Please provide further comments: for example, why can existing costing structures be used? Why can they not be used?

Question 19:
Will there be any resource issues for companies to introduce gender diversity quotas on their boards? *(please tick Yes, No or Don't Know)*

☐ **Yes**   ☐ **No**   ✓ **Don't Know**

Please provide further comments: for example, what will these resources issues be? In what areas?

Question 20:
Can the impact of any resources issues for companies be quantified using existing costing structures? *(please tick Yes, No or Don't Know)*

☐ Yes ☐ No ✓ Don't Know

> **Please provide further comments:** for example, why can existing costing structures be used? Why can they not be used?

Question 21:
To help with the development of a Business Regulatory Impact Assessment, please provide any other information you think is relevant

> **Please provide further comments:** for example, please provide your thoughts on what additional information should be addressed and why
>
> No comments.

EQUALITY IMPACT ASSESSMENT QUESTIONS

Question 22:
The Scottish Government wants all women in their diversity to be represented on the boards of public bodies. Do you think there are currently barriers that especially impact on certain groups of women? *(please tick Yes, No or Don't Know)*

✓ Yes ☐ No ☐ Don't Know

> **Please provide further comments:** for example, if yes, which groups of women and what are the barriers they face?
>
> Please see our answer to question 16.

Question 23:
Do you think there is additional supporting action that could be taken to help certain groups of women overcome or mitigate these barriers?

YES, NO or DON'T KNOW *(please tick Yes, No or Don't Know)*

☐ Yes ☐ No ☐ Don't Know

> **Please provide further comments:** If yes, what action and who should take it?
>
> Please refer to our response to question 16 in which we suggest ways in which such barriers can be addressed.

To help further with the development of our Equality Impact Assessment, please give any other information you think is relevant

Please provide further comments: If yes, what action and who should take it?

No further comments.