

# Ethical Standards Commissioner

July 2024

**Closing Date for Submissions –  
Friday 30 August at 12 noon**



## Invitation to Tender

# Diversity Strategy Refresh

REVIEW OF DIVERSITY DELIVERS AND DEVELOPMENT  
OF REPLACEMENT STRATEGY

# Contents

1. Introduction
2. The Commissioner
3. Diversity Delivers
4. Requirement for Project
5. Scope for the Project
6. Considerations and Deliverables
7. Stakeholders
8. Budget, timescales, support available and contract
9. Tender Process
10. Key Contact Information

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# Introduction

**This invitation to tender is in regards to the Commissioner's statutory requirement to publish and promote a strategy to encourage increased board diversity.**



The Ethical Standards Commissioner is responsible for overseeing how the Scottish Ministers appoint people to the boards of public bodies. We also investigate complaints about the conduct of MSPs, Councillors and the board members of public bodies.



In relation to public appointments, the statutory role of the Ethical Standards Commissioner involves ensuring that the appointments (recruitment) process to select board members to sit on public body boards is fair and transparent. These public bodies (100 bodies in total) have responsibility for providing the governance oversight of vital services that affect us all. These touch every aspect of our lives; from health to housing, the environment to education, the economy to enterprise, the creative and cultural sectors to crofting, or policing to public transport.

This regulation is done by:

- publishing a code of practice to be followed when making non-executive appointments to the boards of public bodies
- examining the practices used during appointment rounds with a view to ensuring they comply with the code of practice
- **encouraging increased board diversity by publishing and promoting a strategy to that end**
- working to ensure that appointments are made fairly and openly and that everyone who may be interested in an appointment has the opportunity to apply
- investigating complaints about the public appointments process.



# The Commissioner

The current Commissioner, **Ian Bruce**, was appointed in March 2023. In his capacity as acting Commissioner shortly prior to his appointment, he published a revised [Code of Practice for Ministerial Appointments to Public Bodies in Scotland \(the Code\) in October 2022](#). The Commissioner and his team of staff and consultant Public Appointments Advisers (PAAs) continue to work with the Scottish Government to encourage innovation in appointment practices, and specifically to increase the diversity of the people who serve on the boards of Scotland's public bodies.

The Commissioner has also recently published his [Strategic Plan for 2024-28](#) which includes the work to refresh the diversity strategy. Core to the strategic plan are the values under which the office operates. This is that every individual who comes into contact with the office will be treated with kindness, empathy and respect. It is expected that anyone who contracts with and carries out work on behalf of the Commissioner will hold the same values. More information about the Commissioner, the work of his office and the Code of Practice can be found at [www.ethicalstandards.org.uk/public-appointments](http://www.ethicalstandards.org.uk/public-appointments).



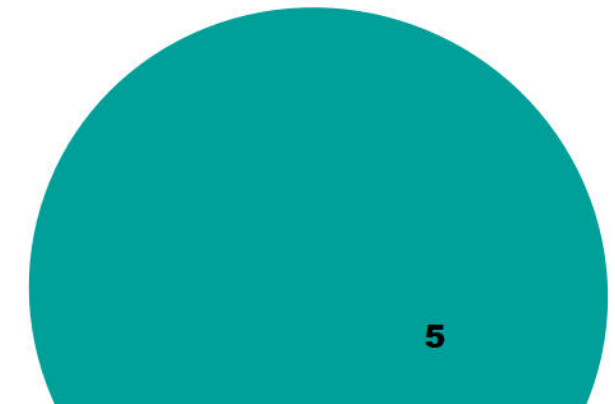
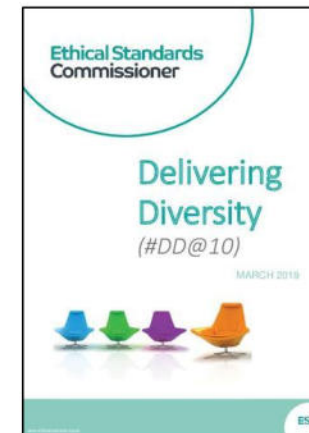
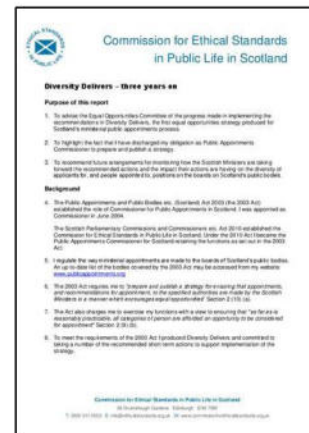
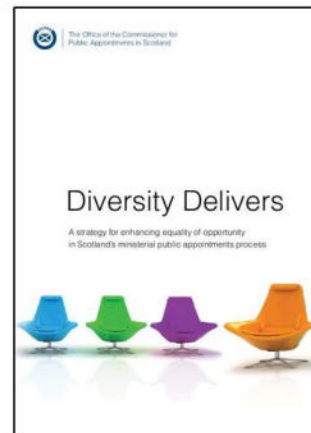
Ian Bruce, Ethical Standards Commissioner

# Diversity Delivers

The first Public Appointments Commissioner (now known as the Ethical Standards Commissioner) in Scotland developed a Diversity Strategy in 2008 which was entitled “Diversity Delivers”. Diversity Delivers was based on a vision which focussed on:

- **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.
- **Confidence and Capacity** – An appointments system that inspires confidence, increases capacity and embraces diversity, from the application process to the boardroom.
- **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.

The [full strategy](#) is available to view on our website. A [progress report](#) was published in 2011 and a [“10 years on” report](#) was published in 2019. Whilst many of the recommendations contained within the strategy are still relevant and useful today, times have also changed since the initial strategy was published and the Commissioner is keen to review and relaunch an updated version.





# Requirement for Project

In order to produce a relevant and updated strategy, there is a need to understand both the relevance and effectiveness of the current strategy, an understanding of how the landscape for public appointments has changed since the last strategy was written and an overview of the perception of public appointments by the public at large and particularly those sharing protected characteristics which are under-reflected on boards.

The Commissioner's [annual reports](#) provide statistics showing progress against diversity delivers targets as well as a wealth of other statistical information and narrative about appointments made year on year.

The revised strategy must:

- Not be limited to protected characteristics but understand the wider definition of diversity as being the value of disparate viewpoints when brought into governance and decision making
- Understand barriers to application for all those who are under-reflected and particularly for those who are disadvantaged on an intersectional basis
- Understand and build in the value of succession planning for ensuring that diversity is a continual and progressive consideration
- Include consideration of Human Rights as well as diversity.

# Scope for the Project

The project scope is two-fold:



To provide a “**state of the nation**” assessment report, analysing the current strategy, how the landscape has changed since it was implemented and how the general public (particularly interest groups and those sharing protected characteristics that are under-reflected) view public appointments and the process of applying for them;



Development of a **draft revised diversity strategy**, based on the findings of the “state of the nation” report, informed and shaped by the views of a wide range of stakeholders and including recommendations to improve the diversity of Scotland’s Public Body Boards.

Both reports will require substantial research and consultation with a wide range of stakeholders. The programme of work below provides an indicative timescale and outline for what is required.



# Indicative Timescales (Subject to tender proposals)





# Considerations and Deliverables

<b>The “State of the Nation” report Deliverable should consider:</b>	<b>The “State of the Nation” report Deliverable will contain as a minimum</b>
The history of public appointments in Scotland over the last 20 or so years – what has been done to make a difference so far, what has changed in the overall landscape and how all this will affect the future strategy and recommendations	Diversity Delivers strategy and recommendations – what has been achieved and what is still to be done
The opinions of “interested groups” – those who share protected characteristics that are currently under-reflected on public body boards and those who might bring wider diversity to such boards	What has changed in the public appointments landscape since Diversity Delivers and what this will mean for any future strategy
The general public perception about what board appointments are and the process to apply to them	Detailed consultation with “interest groups” – those who share protected characteristics that are currently under-reflected on public body boards and those who might bring wider diversity to such boards
What the enablers and barriers are to achieving diversity on public body boards	General public perception about what board appointments are and the process to apply to them
	Enablers and barriers to achieving diversity on public body boards

# Considerations and Deliverables Contd.

The Revised Strategy Deliverable should consider:	The Draft Revised Diversity Strategy Deliverable will contain as a minimum:
The opinions of Scottish Ministers (and civil servants on their behalf) who are responsible for making public appointments	The “State of the Nation” report and how that impacts on the revised strategy
The opinions of “interested groups” – those who share protected characteristics that are currently under-reflected on public body boards and those who might bring wider diversity to such boards. They should also be afforded clear opportunities to help shape development of the strategy	A revised vision to fit with the new strategy
Good practice that exists elsewhere in the world and in other sectors	What the definition of diversity should include and how Human Rights should intersect with diversity
What the strategy and recommendations should be, based on the “state of the nation” report	The main enablers and barriers for achieving further diversity on boards.
What review facilities should be put in place to ensure that the recommendations are met	A clear audit trail that demonstrates that a wider range of stakeholders has been engaged and been able to shape development of the strategy
	Recommendations for achieving greater diversity on boards
	Recommendations for a review function to ensure that actions and recommendations are put in place and achieved



# Stakeholders

Key stakeholders to be consulted during the project include:

- Commissioner and Public Appointment Advisers
- Scottish Government officials on behalf of Scottish Ministers
- Groups with a particular interest in public appointments (those who share protected characteristics which are under-reflected and those representing wider diversity)
- General public

# Budget, Timescales, Support available and Contract



The maximum budget for this project is **£45,000 (inclusive of VAT and any expenses)** which will be payable in 2 parts – half on provision of the “State of the Nation” report and half on provision of the draft Strategy (including informal consultation on the draft Strategy). The Commissioner reserves the right to cancel the contract following provision of the “State of the Nation” report, if the contents are not considered to be in line with the specification.



The Commissioner is able to provide some **administrative support** to the project (an average 18.5 hrs per week over the length of the contract) and the Commissioner also contracts with consultants (Public Appointment Advisers) who have a high level of knowledge in the area of Public Appointments and a wide range of specialist skills between them. There will be an opportunity to use up to 12 days of consultant time to support the project.



The Commissioner has **office accommodation** based at Haymarket, Edinburgh which includes a meeting room. Limited use of this space can be offered to support the consultation requirements of the project and likely use of this space should be outlined in the tender submission. A member of ESC staff would need to be in attendance at any such meetings arranged on the premises.



The project would be expected to commence in **November 2024** with an estimated completion date of **November 2025** (Tenderers should indicate their anticipated timescales for the project in their tender submissions)



# General Requirements for Successful Tender

A sample contract which the successful tenderer would be expected to sign is available on [our website](#) (subject to review based on the content of tenders submitted). The following general requirements should be noted:

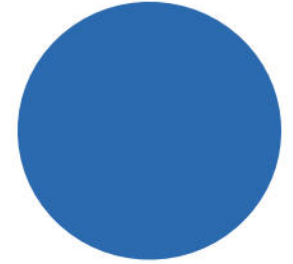
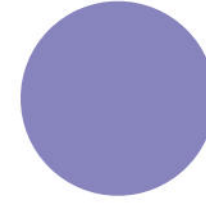
- **Information Technology** - The Commissioner's office uses MS Office software. The successful tenderer will not be supplied with hardware or software and will be expected to have access to secure systems that will enable communication with the office, including completion of MS Word documents, the sending and receipt of emails, and participation in meetings using MS Teams.
- **Applicable Policies** - The successful tenderer will be required to work to certain policies of the Commissioner. These include:
  - [Code of Conduct](#)
  - [Equality, Diversity and Inclusion Policy](#)
  - IT Policy (not held on the website)
- **Working outside the UK** – Any material gathered or generated as part of this project should not be processed outwith the UK. As such, and in compliance with the Commissioner's IT Policy, the successful tenderer will not be permitted to work on this project outside the UK.

Copies of all relevant policies are available on request in alternative formats. The successful tenderer is welcome to work to their own policies if these equal or better the content of the Commissioner's policies. Evidence of such policies may be requested.

# General Requirements for Successful Tender Cont.

Prospective tenderers should note that they are specifically excluded from holding a role on the board of a body to which the Commissioner regulates in respect of [appointments](#) or [conduct](#).

They should also declare any significant political or other activity they are (or have recently been) involved in which could be (or be seen to be) a direct conflict with the work of the Commissioner along with any other activity whether work or personal which could have the potential to bring the reputation of the Commissioner into disrepute. We will explore all potential conflicts at interview.





# Tender Process

## Submission

- Prospective tenderers are invited to submit a quotation, including all charges, for providing the services as described in this specification.
- Potential providers must meet their own costs of responding to this invitation and any costs they incur from providing demonstrations, presentations or other activities associated with responding to this invitation.
- The provider must be willing for any quotation submitted to form part of the contractual relationship with the Commissioner.

## The submission should include:

- Your understanding of the requirement
- An outline of your proposed methodology to deliver each element of the requirement.
- Brief overview of your key skills, knowledge, and experience that you would bring to the project (If more than one person would be working on the project, this should cover everyone involved). You should refer to comparator projects to support your submission. Evidence of carrying out similar projects for a public sector or civil society organisation would be considered an advantage. Please also include your CV details along with those for any proposed project team
- Proposed cost with breakdown of activities, number of days and clear demonstration of value for money. Please note that the requirement is for a Fixed Price proposal and should include VAT and any expenses. Prices quoted should be in Pounds Sterling (£) and must be held firm for 60 days from the submission date.
- Names and contact details of 2 referees who can vouch for the exceptional level of service that they have received from you for similar work.
- Details of any potential conflicts as outlined on page 13 under “applicable policies”.
- Declaration of knowledge of any of the panel members on page 19 including a brief description of the nature of the relationship (business associate / friend etc)

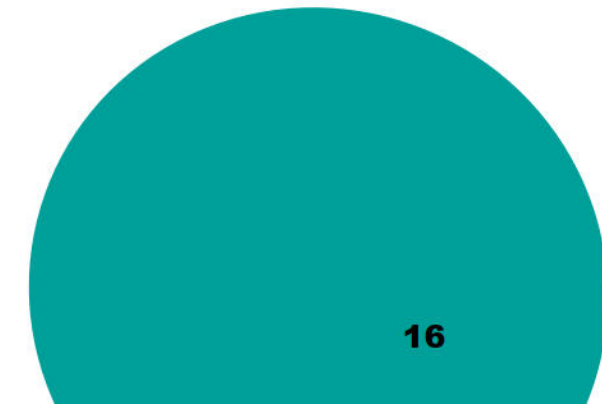
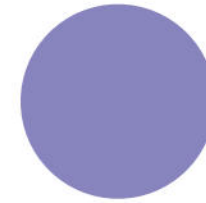
# Tender Process Contd.

## Accessing Information

Tenderers should note that, under the Freedom of Information (Scotland) Act 2002 (FOISA), information in relation to any tender may be disclosed by the Commissioner unless it is sensitive in nature and therefore exempt from release (for example because commercial interests may be harmed, or its disclosure would constitute an actionable breach of confidence). Where you provide information that you consider to be 'confidential' or 'commercially sensitive' please identify it as such, and explain why and how long it is likely to remain so. Information which is not properly so identified may be released by the Commissioner in response to an FOI request. Please note that the final decision on the release or withholding of information rests with the Commissioner.

The Commissioner will consult with a tenderer if he receives a request for any information related to this tender that has been highlighted as being confidential or commercially sensitive.

Tenderers should note that successful tenders will be retained for 7 years from the date the contract ends. Unsuccessful tenders are retained for 7 years from date the tender is submitted.





# Tender Process Contd.

Tender Submission		
Key Stage	Details	Date
Tender publicised:	The tender opportunity is publicised on our website and highlighted to selected organisations	Monday 1 July 2024
Expressions of interest:	Although expressing an interest is not obligatory, we encourage potential tenderers to find out more about our business and raise any queries about the requirements or the tendering process at this stage via email to <a href="mailto:appointments@ethicalstandards.org.uk">appointments@ethicalstandards.org.uk</a>	
Closing date for expressions of interest:		Friday 9 August 2024
Responses to queries received are circulated to those who expressed an interest:	Our responses to all queries received during the above phase are circulated to all those who expressed an interest	Wednesday 14 August 2024
Tender submission date:	Submissions should be tendered via email to <a href="mailto:appointments@ethicalstandards.org.uk">appointments@ethicalstandards.org.uk</a>	12 noon on Friday 30 August 2024

# Tender Process Contd.

Tender Assessment		
Key Stage	Details	Date
Tender submissions are assessed	The assessment panel will review the tenders submitted. Up to six organisations will be short-listed to go through to the next stage.	2-20 September 2024
Tenderers informed if short-listed	Short-listed tenderers invited to present their tender during week commencing 21 October	23 September 2024
Optional Information event	Shortlisted tenderers will be invited to attend an optional information event, with the choice of joining us in person or virtually through MS Teams. The purpose of this event will be to introduce them to the staff members working for the Commissioner in the public appointments section of the office and to provide detailed information about the work of the office.	(in person) 2 October 2024 (online) 3 October 2024
Tender presentations	Short-listed tenderers present their tenders to the assessment panel. Presentations to be no longer than 45 minutes including time for questions and answers.	23-24 October 2024
Reference requests issued	Requests for references issued to the referees of short-listed tenderers	28 October 2024
Assessment of references		28 October 2024 – 4 November
Contract awarded		4 November 2024
<b>Contract commences</b>		November 2024



# Tender Process Contd.

## Evaluation

Submitted tenders will be evaluated on the following aspects (in this order of importance):

- The level of understanding shown for what is required
- Proposed level and quality of delivery against the requirements (e.g. the level and depth of consultation undertaken, depth of public understanding that will be sought, level of research to be undertaken, detail on how the project will be delivered)
- The skills, knowledge and experience that the tenderer will bring to the project.
- The views of service delivery from those providing references
- Value for money

We will be carrying out background checks as part of our due diligence in awarding the contract. These may be explored with you as part of the assessment process.

The assessment panel shall consist of any combination of the following potential panel members:

- **Ian Bruce** (Ethical Standards Commissioner)
- **Melanie Stronach** (Public Appointments Manager)
- **Amy Smith** (Public Appointments Officer)

**Tenderers should declare if they know any members of the selection panel.**

# Key Contact

Contact details for further information or clarification are:

Public Appointments Team

(Melanie, Amy or Edith)

Ethical Standards Commissioner

Thistle House

91 Haymarket Terrace

Edinburgh EH12 5HE

E: [appointments@ethicalstandards.org.uk](mailto:appointments@ethicalstandards.org.uk)

T: 0131 347 3890

## Protecting your information

Your tender may contain personal data. We are committed to ensuring that personal data is managed safely, effectively and in line with the requirements of the Data Protection Act 2018 and the General Data Protection Regulation. All material related to unsuccessful tenders will be deleted six months after the contract is awarded. Material related to the successful tender will be transferred to our contractor records. You can find out more about how we will handle your tender in our Privacy Policy available on our website.

## Equality

The Commissioner and our staff are committed to building a culture that promotes equality and celebrates diversity. We aim to treat people as individuals and with respect and dignity. By taking this approach we commit ourselves to meeting the requirements of the Equality Act 2010 and as such will not tolerate unfair discrimination, victimisation or harassment. We will not tolerate any action the impact of which on an individual is discriminatory in nature. As an organisation who values diversity we will make reasonable adjustments for anyone who requires them in order to participate in the tendering process. All our tendering material can be made available in an alternative format if required. Our Equality, Diversity and Inclusion Policy is available to view on our website.