

Article

Increasing Gender Diversity in Higher Education Leadership: The Role of Executive Search Firms

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Abstract: Women are under-represented in leadership roles in United Kingdom Higher Education Institutions (HEIs). Existing scholarship focuses on institutional barriers, which include cognitive bias and entrenched homosocial cultures, rather than external factors such as the use of executive search firms (ESFs) in recruitment and selection. Recent research indicates that the use of ESFs is increasing for senior HEI appointments. This analysis offers insights on these firms' involvement from a gender equality perspective, based on the results from a study that used a 'virtuous circle' approach to research and knowledge exchange. The requirement for HEIs to pay 'due regard' to equality considerations under the Public Sector Equality Duty provides a framework for analysis. This paper provides new insights on the dynamics within recruitment processes when ESFs are involved and on how a legislative approach can leverage better equality outcomes.

Keywords: gender; executive search; higher education; equality duty

1. Introduction

Women continue to be under-represented in senior leadership roles in United Kingdom Higher Education Institutions (HEIs). Only 24.3% of vice-chancellors and principals (Advance HE 2018b) 23.6% of university board chairs (Jarboe 2018) are women. Yet women represent over half of the HEI workforce (Advance HE, *ibid.*) and 56.7% of the student population (Advance HE 2018a). There is a significant body of research that has investigated the causes underlining this persistent under-representation. Key findings from these studies highlight several structural issues that can affect women's career progression. These include gendered organisational cultures (Acker 1990, 1992, 2009) and ideals of leadership (Alimo-Metcalfe 2004a, 2004b; Billing 2011; Ely et al. 2011), to cognitive bias resulting in "accumulated disadvantage" where "men are consistently overrated while women are underrated" (Valian 1998, p. 2), double standards of evaluation of men and women's competencies (Foschi 2000) and the existence of a persistent homosocial culture which influences many institutional norms and practices (Bagilhole 2007; Burkinshaw 2015; Hearn 2001; Mavin and Bryans 2002; Morley 2013; O'Connor 2012). Most research however, has focused on the institutional level but overlooked the role of external agents such as Executive Search Firms (ESFs) that are often hired by HEIs to assist with recruitment and selection at senior levels. The number of ESFs working with the Higher Education (HE) sector is expanding rapidly: in 2008, Breakwell and Tytherleigh highlighted that only a small number of firms, about six, worked with the HE sector to assist with appointments at the vice-chancellor and principal level, while the authors' more recent work shows that the number has at least doubled. This demonstrates that HEI demand for their services has increased significantly to cover a wider range of senior appointments to include pro-vice chancellors (PVCs), registrars, heads of departments or function and key professorial roles as shown by the research discussed in this article. Yet, ESF's degree of involvement in senior recruitment and, more specifically, their role in

helping institutions to achieve greater gender diversity in senior roles seem to have passed under the radar with very little research undertaken about this topic.

This paper addresses this gap and offers new insights about both the interaction of these firms with their HE clients and their involvement in recruitment and selection from a gender equality perspective. For this purpose, we present the results from a study on HEIs and ESFs that used a 'virtuous circle' approach (Manfredi and Vickers 2015) between research and knowledge exchange through engaging with a range of non-academic actors to develop the research design and resulting impacts to improve practice. As a framework for the analysis of our findings, we use provisions from the 2010 Equality Act, the Public Sector Equality Duty (PSED) and positive action, which represents key legislative structures to advance the equality of opportunity in higher education.

The PSED requires public authorities and HEIs to pay 'due regard' to equality considerations in relation to all their policies and practices in order to eliminate discrimination and to advance equality of opportunities. Positive action measures, within the parameters set by the 2010 Equality Act, may be taken by HEIs to realise the aims of the Duty, which are to achieve better equality outcomes. HEIs using the services of ESFs outsource part of their recruitment and selection process to a private firm, but nonetheless retain responsibility for ensuring that equality considerations are addressed throughout the process. This raises an important question of how to meet such requirements in practice when ESFs become involved in recruitment.

This paper makes several contributions. First, it brings into focus the role of ESFs in recruitment and selection for senior appointments in HE from a gender equality perspective. Through empirical findings, this paper offers new insights to gain a better understanding of the dynamics within recruitment processes at senior levels when ESFs are involved. Second, by drawing from legal theory on reflexive regulation, it provides both equality scholars and practitioners with a better understanding of how this legislative approach can be leveraged to mitigate bias and achieve better equality outcomes. Third, through an analysis of empirical findings, it identifies 'equality-sensitive' stages in the recruitment process and offers recommendations to develop an accountability framework to ensure that 'due regard' is given to equality considerations in the process. Finally, although its empirical results are UK-based, this paper makes a significant contribution internationally, as its findings and implications for practice are transferable to institutions in other countries that use the services of ESFs.

We start with a review of highlights from the literature—relating to gender bias in senior appointments in HE. We then set out the key legal provisions, which provide our framework of analysis. This is followed by an overview of literature on ESFs and their role as intermediary of the 'elite labour market' then by an outline of the research method and findings of our study. The discussion in the subsequent section draws from the research findings to highlight a number of equality-sensitive areas in the relationship between ESFs and their HE clients and points to risks and opportunities that can either hinder or promote gender equality through the different stages of the recruitment and selection process. In conclusion, drawing from empirical evidence, we propose a framework to suggest how HEIs and ESFs can work together to meet the requirements of the PSED and use positive action to advance gender equality in senior roles.

2. Gender Bias in Senior Recruitment

In relation to structural constraints, several studies have focused on opening up the 'black box' of recruitment and promotion for senior appointments to expose the dynamics, which can disadvantage women in these processes. Gronn and Lacey (2006) point to the "cloning effect", where institutions seek to appoint leaders who are similar to those already in place. This phenomenon can be explained by Simon's (1987) bounded rationality theory, according to which our brains tend to look for familiar patterns to simplify the complexity of decision-making processes. Since white men represent the prevailing demographic among senior leaders in HE, it is easy to see how the "cloning effect" can become a powerful barrier. Moreover, Shepherd's (2017) research on pro vice-chancellor appointments in pre-1992 universities found that institutions tend to be averse to risk and try to minimise this by appointing PVCs who have already worked at this level in other institutions. Thus,

Shepherd argues that, “experience becomes their main indicator of quality” however, “this precludes serious consideration of a more diverse candidate pool” (p. 85). The study also indicates that women are more likely to be appointed to PVC roles via internal than external competition. This may be explained by recruitment panels’ reported tendency towards risk aversion, and likelihood of appointing women whose capabilities are already known to the institution. From a more general perspective, Bohnet (2016) provides a comprehensive assessment of how recruitment processes can be fraught with gender bias and stresses the importance of adopting more rigorous approaches.

The need for greater transparency and accountability in selection and recruitment processes is often seen as a way of reducing the risk of gender bias and discriminatory practices. Most HEIs have clear HR policies and procedures in place for recruitment and selection, often underpinned by equality training requirements for decision-makers. Nevertheless, bias persists, as demonstrated by the slow progress in closing the gender gap in senior appointments. This suggests that, although clear HR policies and processes are necessary instruments to achieve greater gender equality, these alone are not sufficient. Research by Van den Brink et al. (2010) on the recruitment and selection of professors supports this, showing that in spite of the existence of well-developed institutional policies and protocols to ensure transparency and accountability in recruitment and promotion, these, in practice, have significant limitations. They propose that protocols and processes do not address the more complex aspects of recruitment and promotion that relate to translating the criteria. Their findings show (*ibid.*, p. 1473) that decisions by recruitment and promotion committees are often “characterised by confusion, contradictions, or even conflict”. They conclude that not only is it almost impossible to formalise and make transparent all the elements in the recruitment and promotion process but that “paradoxically” the existence of policies and protocols to guide the process give spurious objectivity to a process which is still heavily biased (*ibid.*, p. 1478). To this, it can be added that the merit-based approach which institutions claim to adopt in recruitment overlooks the fact that the concept of merit is not ‘value neutral’ (Noon 2010, p. 743) though it can be measured according to different parameters. Thornton (2015) highlights that the construction of merit is based on both verifiable factors such as qualifications, and subjective ones, which instead are open to decision-makers’ own interpretation. Thus, the combination of formal policies and protocols with a merit-based approach could paradoxically act as a powerful invisible barrier to the achievement of gender equality since they legitimise a decision-making process, which is likely to be biased.

This scenario can be further complicated by the use of ESFs by HEIs for senior appointments, through adding another layer of actors who, as we will see later, are also involved in the construction and assessment of merit. As clearly articulated by Sturm (2001, p. 473) the key issue resulting from the combination of these factors is how to challenge “decisions which are formally fair but functionally biased”. This sounds almost an intractable problem however, the 2010 Equality Act contains measures such as the Public Sector Equality Duty and positive action which may help to identify equality-sensitive areas, uncovering and addressing gender bias.

3. The Public Sector Equality Duty (PSED) and Positive Action in Recruitment and Promotion

The PSED requires public authorities, which include HEIs, to pay ‘due regard’ to the need to eliminate discrimination, and to advance equality of opportunities. The key aim of the PSED is to achieve better equality outcomes, and this requires HEIs to ensure that the promotion of equality is at the centre of all their policies and practices, including those relating to employment. In order to achieve this, it is argued that the PSED must ‘bring about a cultural change so that promoting equality becomes part of public bodies’ core business’ (Hepple 2011a, p. 134). Although the ‘due regard’ standard does not require public authorities to achieve specific results or changes, it does mean that consideration must be given to those with protected characteristics. Case law, in particular, *R (Brown) v. Secretary of State for Work and Pensions*, states that decision-makers must be aware of their duty to have ‘due regard’ which is to be fulfilled with a conscious approach before and during the time policy decisions are made (Equality and Human Rights Commission (EHRC) 2014).

The Duty has been described as an example of ‘reflexive law’, and this concept can be used to explain how it might achieve the cultural change necessary for better equality outcomes. Within legal

theory, 'reflexive law' is presented as an alternative to prescriptive 'command and control' law, which is enforced through sanctions in cases of non-compliance and operates primarily on complaints-led enforcement mechanisms (Teubner 1992). The main limitation of the 'command and control' approach is that it may not be sufficient to lead systemic organisational change, or tackle institutionalised inequality (Hepple 2011b; McLaughlin 2014). It is beyond the scope of this article to examine in detail the legal theory, which underpins the concept of 'reflexive law' and here it will suffice to say that in contrast to the 'command and control' model, this regulatory approach, which underpins the Duty, is intended to stimulate self-regulation at an organisational level. It does so through prompting local actors to deliberate, and use their know-how to 'translate' the requirements of the Duty according to their own organisational requirements. Although some concerns have been raised about the effectiveness of reflexive regulation to address deep structural inequalities and power relations within organisations (Fredman 2011) a review of the evidence relating to the working of the PSED in practice suggests that it has "helped develop cultural change by embedding equality standards deeper into organizational practices" (Manfredi et al. 2018). Thus, even if far from perfect, the Duty can help tackling the complex patterns of interaction in the workplace which result in what has been defined as "second generation discrimination" involving "subtle, interactive and structural bias" (Sturm 2001, p. 463).

In the context of senior HE recruitment, therefore, those involved in the process are required to be mindful of addressing equality of opportunity in order to fulfil the requirements of the Duty. This should stimulate systematic, in-depth reflection to identify equality-sensitive stages throughout the process and result in the adoption of changes to behaviours and practices (i.e., self-regulation) to eliminate the risk of bias and direct or indirect discrimination. Moreover, if Higher Education Institutions use external agents like ESFs to help them with recruitment they need to ensure that the obligations stemming from the Duty are complied with throughout the whole process including those stages that are managed by an ESF.

An illustration of how the PSED can be used by a public authority to achieve equality even in cases where obligations are externalised, can be seen in the use of the PSED in the context of procurement. The Equality and Human Rights Commission (EHRC) (2013) has stressed that obligations under the PSED include plans and decisions about procurement, and research shows how procurement can be used as a powerful mechanism to advance gender equality in employment (Wright 2014; Wright and Conley 2018). An example of this is setting aspirational targets to private contractors through procurement to tackle underrepresentation of women in sectors of the economy which are male-dominated. The work of Wright (2014) shows how the Olympic Delivery Authority responsible for the construction of the Olympic park to host the London 2012 games, used procurement to set contractors targets for the employment of under-represented groups, including women, and how these led to some improvements. The use of the procurement function to help with the achievement of equality outcomes is an illustration of the reflexivity process under the general PSED aimed at stimulating self-regulation. As noted by McCrudden (2009) this may "encourage greater experimentation" (p. 96) among those subject to the Duty to develop the best schemes to link equality to procurement and ensure that private providers apply these standards when delivering their services (Lulham 2011). Just as the PSED can be used to promote equality through the procurement process, so the PSED may also help HEIs achieve equality even in cases where recruitment is outsourced to ESFs.

In addition, the Equality Act also contains provisions allowing employers to adopt 'positive action' measures to fulfil the requirements of the Duty and achieve better equality outcomes. Section 158, for example, provides for general types of measures, which may involve training initiatives to encourage and increase applications for jobs or promotion by under-represented groups. Furthermore, section 159 permits employers to take into account the legally protected characteristic in making decisions about recruitment or promotion, where the person belongs to an under-represented group. This applies to a tie-break situation, where the final candidates are 'as qualified as each other' preference may be given to the candidate from an under-represented group provided that there are no objective reasons which tilt the balance in favour of the other candidate. These

provide additional ways for recruiting HEIs to redress a lack of diversity at senior levels. However, employers do not appear to make use of s159 (Davies and Robison 2016) which is often misunderstood, judged to be too complex to be applied in practice or seen as a form of positive discrimination which would be unfair and run counter to the principle of merit (Noon 2010).

4. Executive Search Firms and the Gender Diversity Debate

It has been suggested that executive search consultants have emerged as a product of the knowledge economy (Michaels et al. 2001) and of the deregulation of the labour market, which is at the core of the neo-liberal paradigm. The knowledge economy relies on a supply of talented individuals to ensure that organisations remain competitive. Deregulation of the labour market has caused the decline of the 'job for life' and of long-term careers with the same employer and facilitated the free circulation of talent. These changes have created a space for ESFs to emerge to offer a service as intermediary of the 'elite labour market', seeking to match talented individuals to executive job opportunities. The way in which they exercise their function can be summarised in three key stages:

- Mapping the market and searching for candidates.
- Coordinating the recruitment process, identify and attract top talent.
- Mediating to attract candidates in a more discreet manner, without arousing competitors' attention. Enabling clients to conceal the "raiding [of] their rivals and clients for employees" (Finlay and Coverdill 1999, p. 26). Supporting candidates through the process, ultimately fostering gradual commitment between the corporate client and the candidate (Hamori 2010).

The existing literature on ESFs largely looks at their role in corporate hiring practices. Much of it is critical of their presumed ability to tackle long-existing, deep-seated, labour market discrimination. Some suggest that they can reinforce the status quo and contribute to maintaining men's over-representation in senior leadership roles in three main ways. Firstly, Faulconbridge et al. (2009) highlight that potential candidates need to be on the radar of search consultants to have a chance of competing for senior roles. In this respect, they argue that this resembles the 'the old boys' network', where access to senior and lucrative job opportunities depends on being connected to the network through either school, family or social ties. Thus the 'the old boys' network' is replaced by what is defined as the 'new boys' network' where being known to search consultants becomes instrumental in finding an executive job. Secondly, ESFs can exercise significant influence in shaping the elite labour market by contributing to the definition of talent (Faulconbridge et al., *ibid.*) and determining the key attributes of the ideal candidate, which are often gendered (Tienari et al. 2013). Thirdly, they select potential candidates through a process of 'social matching' (Khurana 2002), which is often informed by nebulous and highly subjective notions such as 'intrinsic', 'fit' and 'chemistry' which can make women candidates appear less suitable for executive roles and favour the male candidates who match the existing predominant demographic (Finlay and Coverdill, *ibid.*; Doldor et al. 2012, 2016). This may be compounded by any risk aversion from both the search firm and the client and can lead to a "usual-suspects bias" (Charam 2005) where, even if the firm has put forward women or candidates from under-represented groups, they are deemed to be more risky and the client will go for "safe bets" (Tienari et al., *ibid.*, p. 56). Similar concerns were expressed by men and women in leadership roles in HE, who felt that ESFs may be paying 'lip service' to the need for increasing gender diversity by taking a tokenistic approach of including women in long lists of potential candidates who do not, subsequently, make the short list (Manfredi et al. 2014). All this results in ESFs acting as de-facto 'gate-keepers' of the elite labour market (Faulconbridge et al., *ibid.*, p. 803). Thus, it is not surprising that their role was highlighted by the Davies (2011) review commissioned by the UK government to increase gender diversity on company boards.

5. Executive Search Firms Code of Conduct

The Davies review identified ESF's important role in the selection and recruitment for executive and non-executive board roles and therefore the importance of involving them in the process of change. Thus, ESF's role changed from being part of the problem, as suggested by the existing

literature, to becoming part of the solution. This resulted in ESFs being encouraged to develop a Voluntary Code of Conduct setting up parameters to achieve greater gender diversity on company boards and establish their role as change actors rather than simply being providers of a service. The first Voluntary Code of Conduct, adopted in 2011, also represented an initial attempt to introduce some self-regulation to an otherwise largely unregulated profession. This was followed by an enhanced version of the Voluntary Code of Conduct, adopted in 2014, which provided much clearer criteria to include:

- Signalling commitment to supporting gender diversity through visibility on their websites, in marketing literature and in discussions with clients and candidates;
- Supporting initiatives to expand their databases and support aspiring women candidates to their first FTSE board position;
- Publishing relevant summary data on their track record and case studies on their website;
- Running internal training and awareness programmes to share and embed best practices within their firms and ensuring full adherence to the code by effective monitoring (BIS (Department for Business, Innovation and Skills) 2014).

This shift to becoming part of a solution is a significant step. Doldor et al. (2016) examined ESF's role as potential change actors by drawing from conceptual frameworks on institutional change and diversity management to understand how marginal actors, such as ESFs, engage with organisational change. They argue that ESFs are 'accidental activists' in promoting the change process driven by a desire to preserve legitimacy in the context of a "fashionable" debate (p. 298) on increasing women's representation on company boards and see opportunities for gaining a competitive edge in helping their clients to achieve more gender-balanced boards. This represents an incentive for ESFs to engage actively with the equality agenda, although this may be driven by business opportunities rather than a genuine desire to achieve better equality outcomes. This research also found that different ESFs have different strategies; most being short term but the more potentially transformational ones incorporating the notion of candidate development and support to affect the pipeline, instead of simply focusing on already easily-marketable candidates. This study concludes that, in the pursuit of commercial and reputational benefits, these reactive players have an instrumental role to play in contributing to institutional change.

In spite of ESF's influential role in the senior appointments—clearly brought into focus by the Davies' review—their involvement in the HE sector, and more specifically, with regard to achieving greater gender diversity in senior roles, has been under-researched. In the following section we briefly outline our research method and present the key findings from our study.

6. Method

This study was informed by Manfredi and Vickers' (2015) "virtuous circle" approach between research and knowledge exchange. This involves a research phase drawing on the knowledge and experience of key non-academic research users to identify research questions and the research sample. They included senior policy advisers from the former Funding Council for England and Wales, the Leadership Foundation for Higher Education, Equality Challenge Unit (both of which subsequently merged into Advance HE), Universities HR, Universities UK and the Committee of University Chairs. As well as providing some funding to support this research their contribution was especially valuable in identifying ESFs that undertake regular work for HEIs and providing useful insights in developing interview questions. The second phase of the "virtuous circle", that of knowledge exchange/research impact, involved drawing on our stakeholders' professional expertise, to translate our findings into a set of practical principles for ESFs and their HE clients to apply. As highlighted by Manfredi and Vickers the "interaction that this process creates with non-academic end-users help to meet the aims of ensuring that our work has impact" and that it can be used "in practical as well as academic ways" (pp. 179–80). Having identified the subject of this study as an under-researched area, the authors of this paper approached key non-academic research users in the HE sector with a research proposal on this topic. Through this, we aimed to ensure that meaningful

“due regard” is given to equality considerations in the recruitment and selection process. The resultant changes to practice may, then, lead to new research questions, which, in turn, can lead back to inform further research.

The evidence from this research was primarily obtained through 29 interviews conducted with nine senior search consultants (two women and seven men), 12 HR directors (six men and six women) and eight chairs of university boards (five men and three women) from a range of institutions broadly representative of the HE sector. These included research intense universities, known as Russell Group, more teaching oriented universities, known as post-1992 following the 1992 Further and Higher Education Act which gave the status of universities to former Polytechnics and institutions positioned in the middle (formerly known as 1994 group). The focus of our research was to gain an overview about ESFs’ interaction with their HE clients and examine this relationship through the lenses of PSED. When we started this research we were aware that ESFs would be normally used for top executive appointments, such as VC and Principals, as well as the executive layer immediately below that of PVCs as highlighted by the work of Breakwell and Tytherleigh (2008) and Shepherd (2017). However, anecdotal evidence suggested that their involvement had extended to cover other senior posts below the two top executive tiers as well as that of external board members. Therefore, we chose to include in our sample HR directors, who normally play a key role in the selection and engagement of ESFs and have an overview of recruitment practices at senior level across their institutions and chairs of university boards. The latter would normally be involved in top executive appointments and that of external board members. Moreover, as they tend to have experience of senior recruitment involving ESFs in other sectors, they could also bring a valuable external perspective. We could have considered other groups of participants for example the inclusion of candidates for senior posts who had been dealing with ESFs but due to available resources and the timeframe for this research to collect data from a larger sample would have not been practicable.

An invitation to take part in this research was sent to HR directors via Universities HR and to Chairs via the Committee of University Chairs and the sample was self-selected. In addition we wrote to 10 ESFs and, save for one, they all agreed to take part in this research. It is recognised that this type of sample may contain bias, and the results were triangulated among the different groups of participants to mitigate against this. In spite of its relatively small size, the sample provided very rich data. Rather than size, the key focus for the sample was on its adequacy, i.e., obtaining sufficient depth and breadth of experience (Bowen 2008) through contextually rich accounts. It is arguably more possible to generalize from a relatively small group where there are common environmental and organisational factors that are particular to them (Alasuutari 1995; Seale 1999).

The interview questions were organised around several areas of interest relating to: the level of involvement of ESFs in senior appointments from an equality perspective, the added value that such firms bring to the process and the drawbacks of using them; identification of equality-sensitive areas and how these are managed by ESFs and their clients; and understanding how the triangular relationship between ESFs, prospective candidates and clients is being managed. Semi-structured interviews were conducted, primarily by telephone, with all interviews recorded and subscribed and then analysed using a thematic approach. This involved concepts and issues highlighted by existing literature and informed by the PSED and positive action provisions as well as a process of inductive analysis. The research findings were grouped into the three stages of: pre-assignment, assignment, and final recruitment and selection stage.

In addition, desk-based research was undertaken to examine whether and how our sample of ESFs communicated commitment to gender diversity and diversity in general, using the public-facing material accessible through their websites.

7. Findings

The profile of ESFs that work with HE vary from being large global firms dealing with different sectors to small boutique firms specialising in HE. Their services cover a wide range of senior roles, which range from VCs and PVCs to the next layer of management such as Deans or Heads of Functions. ESFs also help with professorial recruitment and this is probably driven by the so-called

'transfer market' created by the Research Excellence Framework. Searches for independent members of institutions' governing bodies were also identified as a growing business area by several consultants who took part in our research. The expansion of ESFs services to cover lay members of governing bodies was somewhat surprising especially as these positions tend to be unpaid. As one consultant pointed out only "five years ago" it would be unusual to get assignments for these positions while now "for governors [diversity] it is always a massive hot topic. It is the single role where we get asked the most to find a diverse field of candidates...We are asked to find board governors that represent a spread of genders, faiths, ethnic background and so on and a variety of skill sets." ESFs consultants largely perceived this as being driven by institutions wanting their board to reflect the diversity of their staff and students. Moreover, the former Higher Education Funding Council for England in its 2015–2020 Business Plan aimed at achieving 40% of women's representation on universities' governing bodies by 2020 and, although this specific target was not mentioned by consultants, it is likely to have driven demand for their services to search for external governing body members. In what follows we present our findings in relation to the three stages of: pre-assignment, assignment, final recruitment and selection stage.

7.1. Pre-Assignment Stage

We considered whether ESFs communicate their commitment to diversity to their prospective clients and candidates by looking at the publicly-facing materials available from their websites. We found that most of the firms in our sample (save for one) expressed a commitment to diversity more broadly than simply gender. However, only four of them published relevant summary data of their track record on gender diversity appointments and just two also published data on BME diversity. Two firms set out a diversity strategy and one also published diversity data relating to their own company. Moreover, only four of the nine firms, which were part of this study, were signatories to the enhanced code of conduct. This shows that although most of them 'signal' their commitment to diversity beyond gender, very few of them meet the other key criteria of the enhanced code of conduct and provide information about their track record on helping their clients to achieve greater diversity. This suggests that for some, references to diversity may not go beyond joining a 'fashionable debate' to be used as a marketing tool.

ESFs would normally be hired by HEIs through a procurement process, and participants from HEIs involved in this process were asked whether they would consider ESF's diversity credentials before hiring them. Most HR directors reported that they would ask about track record, and that this would be a consideration as to whether engage them or not. Typically they would want to know "what percentage of their appointments were from members of the protected groups" but also their understanding of diversity issues in recruitment as well as "recent experience and actual practical things that they have done". It also emerged that several institutions tend to have a favoured supplier. It is not unusual for HEIs to have favoured suppliers of services or goods. These would have initially gone through a procurement process (for high value contracts) and would become 'favoured' or 'preferred' by providing a good and trusted service. However, while this may not be of any consequence for example with a supplier of office equipment, it was acknowledged by some Chairs of Board of Governors, that, in the case of ESFs, this may lead to complacency about equality practices. Thus a few Chairs further commented that it was important to change suppliers from time to time and maintain the ESF's competitive market.

7.2. Assignment Stage

This is the stage where ESFs have most discretion on shaping the process and that presents several equality-sensitive points. As seen earlier, it has been suggested that ESFs can develop the 'elite labour market' and act as 'gate-keepers'. Our findings suggest that they are involved in the development of the job advert, description and person specification with six out of nine consultants saying that they would write or at least "sharpen up" this documentation. Consultants reported that they may be given clear constraints by clients about the type of applicants that they are looking for. The most cited constraint was about the type of institution potential candidates are working for. One

consultant felt that this was one of the biggest challenges to achieve greater diversity. He reported that some institutions are keen to attract candidates by universities which have a higher ranking in the league tables and commented that “a university which is 20 places above us in the league tables, it really does not matter what their background is and in some cases I think it really doesn’t matter what personal qualities they bring to the role as we want the coup of having someone from a Russell Group or whatever”. However, one Chair, with extensive experience of using ESFs in different sectors, commented that search consultants tend to be too “deferential” to their clients and that they should be prepared to challenge them more.

The job description and person specification are the first point in the selection process where the ideal leader for the role in question is being articulated and when the construction of merit begins. All prospective applicants are judged against the criteria formulated at this stage. Search consultants play a significant role here, as they can contribute to the definition of talent (Faulconbridge et al., *ibid.*). In formulating the job criteria, they can either reflect their own or their client’s bias or they can act as a critical friend and help to mitigate potential bias. Search consultants stressed, for example, the importance of being open to transferable skills rather than focusing on a set of rigid criteria related to experience, which might exclude women or candidates from other diverse groups. This resonates with Shepherd’s (2017) findings which highlighted the institutional expectations that prospective candidates should have prior experience of the role they are applying for can limit possibilities of reaching out to a more diverse pool of applicants. Similar considerations apply to the production of job adverts, where several search consultants said that they would advise HEIs to pay careful attention to wording to remove unintentional bias. Thus, the kind of criteria that are adopted to define the ideal candidate for the role against which potential applicants will be identified and invited to apply should, consequently, be carefully scrutinised through an equality lens to avoid bias and indirect discrimination.

The next phase involves the compilation of the long list. We found that several institutions would give search firms targets typically ranging from 30% to 50% gender balance for this list. However, some institutions may still be averse to adopting aspirational targets, as one HR director pointed out, because they can be perceived as a form of quotas. When targets are adopted, though, they can help to concentrate consultants’ efforts to seek gender-diverse candidates and our findings showed this approach generally produced more gender-balanced long lists. However, as previously discussed there is a risk that this stage is a tokenistic approach, unless women candidates progress to the short list.

ESFs used a variety of methods to compile the long list which included using their own networks, desk-based research and asking for contacts and recommendations. This is the phase where HEIs see ESFs adding most value to the process as, for example, through reaching out to the “passive candidate”. Most HR directors as well as Chair emphasised the role of ESFs in seeking talented candidates who may not be thinking of applying, this is well summarised by one HR director who said that “[ESF] seek out talent, make the contact with individual, sell the benefits of the institution...trying to broker a level of interest...and the courtship really goes forward from there”. Another advantage identified by HEIs in using ESFs is their ability to conduct a global search since as one HR director put it “we are in a global market for talent”. Some consultants also demonstrated good practice by taking recommendations from organisations such as Women on Boards when searching for new governing body members. There is also a widespread belief that, for very senior appointments, especially Vice-Chancellors and PVCs, individuals would expect personal contact rather than being expected to make a ‘cold’ response to an advertisement. One HR director, for example, stated that “at this level, people like the personal approach and that’s what the search firms bring and that’s what we pay the search firms’ fee for”. Arguably, however, these methods can reinforce issues relating to the ‘new boys’ network’.

The following phase is to prepare a short list. This was identified as a fairly standardised process, whereby firms present the long list of candidates graded according to strengths and weaknesses. ESF consultants, together with their clients, identify about 10–15 applicants to be interviewed by consultants with a view to making recommendations to compile the short list of candidates. This

represents a crucial transition point from the long list to the short list and another phase where ESFs have a significant degree of discretion as they assess applicants and make recommendations to their clients. There appeared to be significant variations among ESFs on how these interviews were managed. Some said that they clearly explained to prospective candidates the purpose of these interviews, which would always be conducted by two consultants. Others seemed to run this process in a more informal way with only one consultant undertaking the interview. Some emphasised the importance of these interviews for better understanding what individuals could bring to the role. It was also mentioned that practical issues such as the ability of a prospective candidate to relocate may be explored. However, these types of questions may disguise possible probing about marital status, family and caring responsibility, which could be discriminatory. Moreover, this stage of the process presents the risk of reinforcing gender assumptions and bias, particularly given some consultant's focus on "cultural fit" and "being able to see people in the role" as an element for short-listing.

These findings suggest that this is an area that requires equality 'due diligence'. Some ESFs are already likely to be actioning this whereas others may be more casual in their approach. As discussed earlier, a perception has emerged from previous research that although women may be reasonably well represented in long lists they are less likely to progress to the short list (Manfredi et al. 2014). Moreover, one of the consultant taking part in this study noted that BME candidates were less likely to make the short list. As he put it "there is a hierarchy of stages, there is the field that the advertisement produces, then there is the field that the advertisement and headhunting produces, then there is the long-listed field and then there is the short-listed field" thus from an equality perspective each of these stages and the progression of women and BME candidates requires careful consideration both from HEIs and ESFs.

7.3. Final Stage

The final stage of the process involves the short-listed candidates and is mainly under the ownership of the institution. Though all the HEIs involved in our study conducted a full panel interview, there was consensus amongst search consultants (with some agreement from chairs and HR directors) that a less formal process, where candidates can meet a variety of stakeholders in a relaxed discussion, could allow more meaningful contact and discussion. As one consultant put it "I think we all know that interviews are actually lousy ways of selecting people but yet culturally they are so ingrained with, particularly in the higher education sector". There were examples of a few institutions having adopted a combination of informal meetings between prospective candidates and key institutional stakeholders with a final formal interview. One institution had established a process that involved candidates chairing a meeting around a particular theme, which was felt to have been successful. This suggests that some institutions are thinking more creatively about recruitment by adopting more diverse methods rather than relying entirely on traditional panel interviews. Overall, in the view of HR directors and chairs of university boards involved in this study, ESFs were felt unanimously to add value to the recruitment and selection processes. In particular, with regard to increasing gender diversity, they were seen as having the ability to reach out to a wider set of candidates in addition to challenging preconceptions about recruitment and, as one Chair said, "encouraging [HEIs] to think about things in a slightly different way". Furthermore, ESFs were identified as providing support to under-represented groups in two ways. Firstly, through advocacy where they can explain career gaps and non-linear career trajectories; to recruiting institutions, and secondly by supporting individual candidates through the process. Less positively, there were concerns that the consultants might 'recycle' candidates, which could impact diversity through putting forward "the usual suspects", though it was also argued that HEIs have a responsibility to manage relationships to avoid this.

Providing support to candidates from a range of backgrounds is of relevance given the factors identified by the study that could hinder or enable diversity. There were several perceptions about gendered differences in behaviour. Women, for example, were perceived as more likely to apply for senior posts only if they can "tick all the boxes" whereas men, as was stated by one HR director, would "look at the job description and look at the bits that they can do and blithely ignore the bits

that they cannot do". This was echoed by most consultants and one of them reported that their company had done some work with male and female candidates and how they read job descriptions and concluded that "in general if male applicants feel that they can do 90% of the job description...they will apply because they are confident that it's 10% they will learn or whatever, they are not bothered about it. Whereas a lot of the high profile female candidates we spoke to ...felt that they would not stand a chance of getting the job if they did not tick every single box". In addition, differences were highlighted in the way that women and men described their achievements, with women more likely to promote the team's successes than their own. Consultants, it was argued, can play a positive role by encouraging women to seek promotion and challenging these candidates when they express concerns about their readiness. Some also argued that they have a role in helping HE clients to appreciate different candidates' perspectives and experiences, though examples were still prevalent of organisations which made final selections based on "cultural fit", "chemistry" or having a more conventional CV. As one consultant said "I observe that when I'm sitting in on a panel wrap-ups that there is unstated set of assumptions about how a Vice-Chancellor or Chief Executive or leader will behave and these are implied in quite unspoken ways and I think reduces the chances of people who are not white and male being appointed".

7.4. Positive Action

With regard to positive action measures we came across a number of initiatives taken by HEIs aimed at nurturing the pipe-line of talented women such as through secondments, shadowing senior colleagues and taking on special assignments. A few ESFs also pointed to practical interventions including running pro-bono workshops, for women and BME staff, on how to make a good application for a senior role. These types of initiative both benefitted prospective candidates from underrepresented groups and helped ESFs to identify new talent, thus widening their pipeline. Such initiatives could be framed as part of s158 of the 2010 Equality Act as a general positive action likely to pursue long-term aims.

Positive action in recruitment and promotion, s159, which, as seen earlier, allows employers in a tie-break situation to give preference to the candidate from an underrepresented group was rarely used. No search consultants had experience of this. HR directors generally held the view that it was unlikely to be helpful because there is always a clear candidate, though one had experienced using it to positive effect in the case of a split panel and two equally-talented candidates. The chairs involved, though were mostly more open to using this provision, with two having done so in other sectors.

In the final, discussion section we consider the ways in which HEIs might exercise 'due regard' under the PSED during the selection and recruitment process.

8. Discussion

Our research shows that HEIs value the help of ESFs with senior appointments and that the demand for their services is increasing and spreading to a wider range of senior roles, including those of external members of university governing bodies. Overall hardly any criticism was raised about their services and the only concern that a few HR directors expressed was around recycling candidates, especially women, and the negative effect that this may have on trying to achieve a genuinely more diverse list of candidates. Whatever we may think about the desirability of HEIs using the services of these firms, this is now a well-established practice. Therefore, it is imperative for HEIs to ensure that their obligations under the PSED to have 'due regard' for equality considerations are met throughout the recruitment and selection process, including those stages which involve ESFs.

The findings from our study highlighted a number of equality-sensitive areas in the relationship between ESFs and their HE clients, whereby a conscious effort is needed from both parties to make sure that equality considerations are taken into account. Firstly, the procurement process: this, as seen earlier, would be the normal channel that HEIs would follow to engage ESFs. As discussed earlier, a link can be made between equality and the procurement process to ensure that this is used as a mechanism to advance gender equality in employment (Wright 2014; Wright and Conley 2018).

Through procurement, HEIs can set equality parameters for ESFs and test their track record and strategy to promote greater gender diversity. Once ESFs have been engaged, institutions seem to especially value their role as ‘mediators’ and ability to attract the so-called ‘passive candidate’ who may not be considering applying for a new position. In this mediating capacity ESFs are seen as being able not only to reach out to a wider pool of potential candidates but also to keep potential candidates ‘engaged’ throughout the process. Moreover, they may be able to tackle some of the perceived gender differences and encourage women to put themselves forward for a senior role even if they feel that they do not “tick all the boxes”. They might also explore in greater depth what prospective candidates have to offer, and encourage HEIs to consider non-conventional types of CV and transferable skills, thus preventing the “cloning effect” (Gronn and Lacey 2006). However, this mediating role can also reinforce their role as ‘gate-keepers’ of HE ‘elite labour market’. It can present the risk that the “old boys network” may be replaced by the “new boys network” (Faulconbridge et al., *ibid.*) based on these firms’ contacts and who is on their radar. Therefore, there is a risk that under the pretense of reaching out to more diverse candidates they may contribute to reinforce the status quo either by promoting the “usual suspects” or recycling candidates.

We have seen that ESFs are often involved in the development of the job description and specification. These are the first points at which the ideal leader for the role in question is being articulated and where the construction of merit begins. Once again, they can act as their clients’ critical friends and help them to be vigilant about gendered constructions of leadership, support them in unpicking gender stereotypes and challenging the inclusion of unnecessary criteria that could limit the pool of suitable applicants and indirectly disadvantage women. This is an important part of the deliberative process, stimulating self-regulation at deeper organisational levels. It contributes to a ‘reflexive’ approach which accords with that required under the PSED, and addresses some of the “functionally biased” (Sturm, *ibid.*) aspects of recruitment procedures. However, the extent to which they may be prepared in practice to challenge their clients remains to be seen as ESFs are commercial firms whose main aim is the pursuit of a profitable business. Therefore, although some participants in our study have suggested that ESFs may be “too deferential” to their clients we need to be realistic that ESFs are unlikely to do anything that might jeopardise their relationship with their clients. Moreover, it is the responsibility of HEIs to be vigilant and avoid bias and gendered constructions of leadership in the development of the job descriptions and people specifications. ESFs’ deference to their clients should not be used as an excuse to exonerate HEIs from carefully considering equality perspectives at this crucial stage.

One area of the process, which appears particularly concerning from an equality perspective, is the transition of potential candidates from the long list to the short list. This involves a rather crucial intermediary process where, as seen before, ESFs agree with their client on a number of candidates to be interviewed by ESF consultants. The outcomes of these interviews will then be reported to HE clients together with recommendations about candidates to be short-listed. As seen earlier, this is a stage that on the one hand, could provide a helpful space to promote gender diversity by offering prospective candidates with an opportunity to demonstrate their skills and expertise. On the other hand it could offer the perfect opportunity for “social matching” (Khurana 2002) where candidates are being assessed against nebulous concepts of “cultural fit” and “chemistry” and this can be fraught with bias. Moreover, relying on the recommendations of only one consultant makes this stage highly subjective. Most HEIs recruitment and selection policies when short-listing candidates would require at least two people to be involved in the process. ESFs should be required by their clients to apply the same standards. Similarly it is important to agree the parameters to ensure an appropriate line of questioning during these interviews, which does not stray into potentially discriminatory questions.

This study also raised some questions as to whether prospective candidates should be given the option to ask for their applications to be considered directly by hiring institutions without going through ESFs and whether institutions should offer an appeal process to applicants who may feel that had been discriminated against by ESFs. This is an important point, as in the event of alleged discriminatory practices by an ESF, depending on the circumstances; the commissioning institution may be liable.

Through the lens of the PSED and its requirement to have ‘due regard’ for equality considerations, our findings have identified key stages in the relationship between ESFs and their HEIs clients where equality ‘due diligence’ ought to be exercised to achieve better equality outcomes. These are summarised in Table 1, overleaf.

Table 1. Equality ‘due diligence’ framework.

	Paying ‘Due Regard’ to Equality Considerations	Risks of Reinforcing Bias/Direct and Indirect Discrimination
Pre-assignment Stage		
	Higher Education Institutions (HEIs) drive equality standards through procurement and require ESFs to demonstrate their equality track record	Overlooking equality standards, becoming complacent through the use of ‘preferred’ suppliers
Assignment Stage		
Drafting the job description, specification and advert	The construction of merit begins: Use inclusive language, avoid unnecessary requirements, consider transferrable skills, unconventional curriculum vitae (CV)	Biased definitions of leadership, using prior experience as an indicator of quality
Compiling the long list	Set an aspirational target for a gender-balanced long list and reach out as widely as possible	‘New boys network’, limiting searchers to potential candidates from elite universities, recycling candidates
From the long list to the short list	Clearly communicate the nature of the interview with executive search firms (ESFs) to prospective candidates; ensure that they are undertaken by two equality-trained consultants; set parameters around the questions; aim for a gender-balanced short list	Purpose not clear; interview undertaken by only one consultant; potentially discriminatory questions relating to family status being asked; not enough female candidates make it to the short list
Appeal process	Offer candidates who feel they may have been unfairly treated by ESFs the possibility of appealing to the recruiting institution	No clear routes for prospective candidates to raise concerns about unfair treatment from ESFs
Final Stage		
Final interview	Complement formal final interview with less formal processes involving a range of stakeholders; ensure a diverse interview panel and that decision-makers are equality-trained	Lack of diversity in the interview panel, decision-makers have not received equality training; lack of diversity in assessment methods

Finally, with regard to positive action we found examples of a general types of long-term positive action initiatives which, without deducting from the good intentions of those pursuing them, appeared to be predicated on a deficit model of ‘fixing the women’, rather than addressing institutional structural issues. It was not surprising though to find very little use of positive action in a tie-break situation. As discussed earlier, this type of measure appears to be poorly understood and seen as a form of positive discrimination that would undermine a merit-based approach. Moreover, several HR directors doubted the usefulness of this measure as they felt that in practice there is always a “clear winner”. The findings from research on cognitive bias and double standards discussed earlier, and those from Van den Brink et al. (2010) which highlighted how decisions by appointment panels can be “characterised by confusion, contradictions or even conflict”, call into question the assertion that there is always a “clear winner”. In contrast, in the very few examples that we found where this measure had been used either in HE (just one example) or in other sectors, it was deemed to have been helpful. This suggests that there is scope for HEIs to engage more with the idea of using positive action in a tie-break.

9. In Conclusions: Completing the “Virtuous Circle”

The research was followed by the knowledge-exchange phase of the “virtuous circle” when the new knowledge generated by this study was presented in a policy-oriented report aimed at key stakeholders (Tester and Manfredi 2018). Based in this, two roundtable discussions with ESF consultants and HEI HR Directors were convened by Advance HE (former LFHE), who offered their professionally-based knowledge to translate the research findings and recommendations into a set of guidelines and principles to improve practice from an equality perspective. This led to the adoption of a Diversity Principles Framework (DPF) which as stated by the document itself was produced based on the recommendations from this research (p. 3). This Framework follows “the life-cycle of a typical search” and identifies areas of responsibilities for both HEIs (or Higher Education Providers as referred to in the document) and ESFs where they need to have ‘due regard’ for equality considerations as required by the PSED. The detailed content of the DPF is accessible on-line and here we shall only mention that it covers all the equality sensitive areas identified by this research and highlighted in table one. It also encourages the use of positive action by short-listing candidates from under-represented groups where panels may be split and to develop initiatives to nurture the pipeline. Although the DPF are framed as guidance for HEIs board appointments, they are equally applicable to all senior appointments. The development of the Diversity Principles Framework can be seen as an example of self-regulation stimulated by the reflexive, deliberative approach which underpins the PSED aimed at ensuring that equality considerations are been taken into account when ESFs are involved in the recruitment process for senior roles. Moreover, it is argued that when working with HEIs by virtue of extending the PSED ‘due regard’ to the work undertaken by ESFs they can assume a full equality activist role, as opposed to an “accidental” one as described by Doldor et al. (2016) in the context of the debate of women on company boards. In their full equality activist role they can take positive action initiatives, as shown by our research, to nurture a more diverse pipeline and widen their contacts to include diversity focused networks and generally use their experience to challenge bias when working with their clients and achieve better equality outcomes. However, we should not lose sight that they are commercial organisations and ultimately their equality activism will be driven by their clients’ genuine commitment to achieve greater diversity.

Finally, to complete the virtuous circle process of research, knowledge exchange and impact new questions will arise from the work done so far which will need to be addressed by future research.

It will, therefore, be important to monitor the application of the Diversity Principles Framework in practice. Further research in this area could investigate its possible extension to other equalities but also the experiences of prospective candidates for senior roles from under-represented groups of dealing with ESFs.

In summary, this research has provided a detailed insight into the interaction between ESFs and their HE clients and for the first time analyses this relationship through the lenses of the PSED. Based on our findings we conclude that ESFs have a significant role in increasing gender diversity in HEIs, not least through the requirements of the PSED within which these institutions must show ‘due regard’ for equality considerations and, in addition, the positive action which the Equality Act can facilitate.

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