

Gender diversity on boards: do quota systems work?

Background

The business case for achieving a gender balance at board level is growing. Increasing the number of women on boards is a business imperative – a good gender balance can improve decision-making and enhance company performance. While progress across the EU has been made, it remains slow. This is fuelling frustration at a political level and among women who have the talent to make it to the top but lack the necessary opportunities.

The UK Government encourages a voluntary approach to improving the gender balance in company boardrooms, but an EU initiative under negotiation in Brussels sets a minimum compulsory quota of 40% representation for each gender. These contrasting approaches raise crucial issues for female diversity: do we want or need compulsory quotas, and what are the most effective ways of improving the representation of women in senior roles?

In February 2015, we published a [survey](#) of 452 CIPD members exploring the views and experiences of HR professionals on how best to increase senior female representation. The findings indicate strong support for a voluntary, and not mandatory, process to achieving better gender balance in the boardroom.

We have also just published a [literature review](#) to evaluate the advantages and disadvantages of an enforcement approach such as that on the horizon in Brussels. The review draws on evidence about mandatory quota systems introduced in different international contexts and explores the circumstances where this kind of approach can have either positive or negative outcomes, as well as the unintended consequences that could follow.

The EU directive

The proposal in Brussels for a directive to improve female diversity on company boards sets a mandatory 'procedural quota' of 40% representation for each gender in respect of

non-executive board members. As it stands, the proposal applies to companies listed on stock exchanges in EU member states irrespective of whether they are privately or publicly owned, but it excludes SMEs even if they are listed on stock exchanges. The proposal has not yet reached agreement in Brussels but, if adopted, the directive will apply to around 5,000 listed companies across the EU. There is also the option for member states to have an overarching quota objective of 33% to include all directors (executive and non-executive) where corporate governance codes recommend a 'unitary board' system as in the UK and a few other EU countries.

The European Commission's aim for the directive is to break the glass ceiling in Europe's biggest companies. A key impetus was the slow rate of progress in improving boardroom gender diversity: at the time of initiating the legislation in 2012, in the EU 85% of non-executive board members and 91.1% of executive board members were men. Improvement over the previous decade equated to a mere 0.6 percentage point increase in female representation per year. However, there has been better progress more recently. In January 2015, the Commission reported that the share of women on the boards of the largest publicly listed companies in the EU had reached 20.2%, an increase of eight percentage points since October 2010.

The proposal provides for a 'procedural', rather than a rigid, quota system; this is effectively a preference rule designed to meet the 40% objective. In the presence of equally qualified candidates of both sexes, priority should be given to the candidate of the under-represented sex unless an objective assessment of the individual candidates tilts the balance in favour of the candidate of the other sex. Therefore, the proposal sets out a 'fair and transparent' selection process whereby priority is given to female candidates only if they are under-represented and equally qualified compared

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with their male counterparts. This procedural approach is necessary to ensure compliance with the case law of the Court of Justice of the European Union concerning positive action.

The Commission emphasises that this approach does not amount to positive discrimination, as there is no automatic promotion of the under-represented sex – qualification and merit will remain the key criteria for a job on the board.

As the proposal stands, there would be a system of sanctions that member states would need to introduce if the 40% objective is not reached by companies that fall within the directive's remit – but only if a company has not properly applied the procedural obligations set out in the regulation. Member states that already have legislative or other measures in place to ensure a more balanced representation on boards would not need to adopt the legislation – but the established provision would have to be equally effective in reaching the 40% objective.

The proposal was approved some time ago by the European Parliament but has since been a 'blocked file' since considered by the European Council, partly because several member states such as the UK are reluctant to support a system of mandatory quotas. It is due for further discussion this year and the Commission is optimistic that agreement will be reached by year-end. Compromise on the provision of the proposed regulation has already been reached in the form of a 'flexibility clause' that would allow member states *'to pursue the aims of the directive by means of their own choosing'* and a revised, longer timetable for member states to transpose the directive (three years instead of two).

State of play in Europe

Practice in relation to boardroom gender diversity varies across member states – encouraging consistency is another reason that has prompted the Commission to propose a regulatory approach that would apply across the EU. Quota systems have increasingly been adopted by some European countries to improve senior female representation in business and employment. For example, France, Italy and Belgium have done so for company boards, and Denmark, Greece, Austria, Slovenia and Finland have introduced gender requirements in legislation for the composition of the boards of state-owned companies. Germany has recently

agreed a new law providing for a controversial 30% quota for supervisory boards of the country's largest listed companies.

In January 2015, the Commission reported that, between October 2010 and October 2013, the share of women on boards increased in 23 of the 28 member states. The largest percentage point (pp) increases were recorded in France (+20 pp), Italy (+19.6 pp), Belgium (+11.9 pp), Germany (+11.8 pp), the UK (+10 pp) and Slovenia (+10.1 pp). Most of the significant improvements took place in countries that have taken or considered legislative action or have had an intensive public debate on the issue, says the Commission.

The Norwegian gender quota law

The Norwegian quota law was one of the first of its kind in Europe. Today, Norway has the highest proportion of female directorships in the world and has become a benchmark to influence similar activity across EU member states. As a result of its gender quota law, the representation of women on the boards of Norway's publicly listed companies increased from 3% in 1992 to 40% in 2009.

Norway's quota law was initiated in 2002 by Ansgar Gabrielsen, Norway's then secretary of state for trade and industry. Gabrielsen believed that wealth could be created with diversity and he recognised that women were more educated and increasingly qualified to become directors. The law introduced a mandatory quota of 40% representation of each gender in the boardroom. In addition, the law addresses other gender equality issues such as equal pay and skill development, albeit in more general terms.

Despite opposition from many Norwegian business representatives, the country's parliament voted in favour of the new law in 2003. If a company did not comply, a number of sanctions would come into play including, in extreme cases, the forced liquidation of the company.

The law has, so far, had a very specific effect on appointments of women to the most senior leadership positions in business. This pioneering agenda shows success for appointments at the non-executive level despite many of the women appointed taking up positions in more than one company and being described as 'golden skirts' by some commentators. Progress at

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executive board level is less impressive. While the percentage of women on boards increased to 40% by 2009, the majority of these roles were non-executive positions and women still made up only about 5% of chairs in that year.

However, the initiative is viewed by many as having been very successful and is widely supported in Norway, even by its former critics. An extension of the law to other types of companies is under discussion.

The intended – and unintended – impact of quota systems

The CIPD has just published a literature review to evaluate the advantages and disadvantages of an enforcement approach such as that on the horizon in Brussels. The review draws on evidence about mandatory quota systems introduced in different contexts (including the political and business worlds) across Europe and the US. It explores the circumstances in which this kind of approach can have either positive or negative outcomes, as well as the unintended consequences that could follow.

Our literature review says there is evidence to suggest that, in a business context, a quota system appears to have been effective for company boards in Norway. Similar positive evidence exists for ethnic minorities in higher education, such as for Arab students in Israel and for African-Americans and Hispanics in the US, and even for the number of men taking paternity leave.

However, the evidence also demonstrates that the effectiveness of a quota initiative is more complex. Studies show that the success of quotas depends on a number of factors; for example, quotas are much less effective when they aren't enforced by sanctions. One study finds that the serious sanctions (including forced dissolution of the company) associated with the Norwegian quota law were responsible for its success.

A key question is, how long do the effects of quotas last? Evidence from Italy demonstrates that the effect of quotas – in this case a quota of 33% on all political party lists which was only in place for two years – can last more than ten years after quotas have been abandoned. The last

point is especially important because it indicates that quotas do change negative stereotypes and can be used as a temporary means to change the status quo. However, there is contradictory evidence to demonstrate that, when affirmative action policies are stopped, the representation of disadvantaged minority members decreases immediately, at least in educational contexts. The effectiveness of quotas and other affirmative action policies in the long term and the length of time they need to be in place to make a difference are crucial issues that remain unclear.

Does this provision help female employees to break the glass ceiling and climb the last few steps of the corporate ladder to the top leadership positions on the board? A 2013 study by Wang and Kelan¹ investigated the issue.

Analysing data from before the quota law was enforced (2001) with data available six years after its introduction (2010), they found that the quota law has indeed led to an increase of women in the most senior leadership positions of board chair and CEO in companies. In addition, they also show that a critical mass of women (that is, at least three women) on boards is positively associated with the appointment of a female board chair or CEO. The latter point is important because it shows that it is important to be ambitious if introducing a quota system: if women are appointed as a 'token' – meaning the presence of just one or two women on a board – they will find it difficult to break the glass ceiling.

Another study (Seierstad and Opsahl 2010²) has a slightly more critical view on the matter. The authors concur that the quota law has helped women break the glass ceiling, but they argue that this is mainly true for a small, elite group of women who serve on multiple boards and have a lot of social capital. They do, however, also acknowledge that this trend may be a temporal, short-term effect of the law and that more women may be able to follow in the footsteps of these so-called 'golden skirts'.

Another factor that may influence attitudes towards affirmative action policies are demographic variables. Studies from this area of research generally show two main results.

¹ WANG, M. and KELAN, E. (2013) The gender quota and female leadership: effects of the Norwegian gender quota on board chairs and CEOs. *Journal of Business Ethics*. Vol 117, No 3, pp449–466.

² SEIERSTAD, C. and OPSAHL, T. (2011) For the few not the many? The effects of affirmative action on presence, prominence, and social capital of women directors in Norway. *Scandinavian Journal of Management*, Vol 27, No 1, pp44–54. doi:10.1016/j.scaman.2010.10.002.

The evidence from our literature review shows that, on balance, the quick wins associated with legislating for mandatory quotas are outweighed by the potential longer-term disadvantages.

First, those individuals who don't benefit from the affirmative action policy (for example, men and white people) are less supportive of the policy. This makes sense, as affirmative policies can be perceived to harm one's own group, and evidence does indeed suggest that the anticipated effects for one's own group may be more important than those anticipated for the target group.

To summarise, quotas and other affirmative action policies can be effective in increasing the number of minority members in the short term, although how effective they are in the long term and how long this effect lasts depends on a variety of factors, such as whether or not they are voluntary and the nature of any associated sanctions, as well as cultural factors.

Does the end justify the means in respect of a quota imposition? The evidence from our literature review shows that, on balance, the quick wins associated with legislating for mandatory quotas are outweighed by the potential longer-term disadvantages. Attempts to hasten change by reserving seats at the top table for women could compromise employers' engagement, and even prompt a backlash for the individuals appointed if some colleagues perceive that individuals of a particular gender have been appointed because of their identity and not on the basis of merit. Compliance-based responses and sanctions can foster fear, risk-aversion and encourage a defensive reaction on the part of companies and their leaders. Regulatory solutions can absorb precious time and resources, and stifle the creative responses that are so vital to achieving long-term success.

The UK's voluntary approach to improving gender diversity at the top

Since 2011 there has been a strong government initiative in the UK led by Lord Davies to increase boardroom gender diversity by promoting the use of voluntary targets in FTSE companies. There has been good progress towards meeting the 25% target for female representation by the end of 2015. The proportion of women on the boards of FTSE 100 companies has increased from 12.5% in 2011 to 23.5% at the beginning of this year. These figures include executive and non-executive positions.

In December 2014, the CIPD surveyed 452 HR professionals drawn from the CIPD's membership of 140,000 members, one-third of whom have responsibility for HR overseas. Through this sample we explored HR practitioners' perspectives on gender diversity in the boardroom and the most effective approaches for increasing the number of women who secure a seat at the top table.

The CIPD has always advocated a voluntary approach to increasing boardroom diversity, to enable organisations to develop an appropriate and sustainable range of responses in how they develop female talent and affect cultural change. This view is backed up by our panel of HR professionals: as Figure 1 shows, more than half (55%) feel that a voluntary approach to setting organisational targets is more helpful than a mandatory quota system, while 23% think that this approach is equally helpful, 15% less helpful and 7% unsure. However, going forward, CIPD members would like to see a more ambitious target for female diversity, with the majority advocating equal representation and a 50% voluntary target for women on boards.

The UK's Women on Boards initiative recognises that increasing the proportion of female *executive* directors is a tougher challenge compared with boosting the number of female *non-executive* directors in boardrooms. The 25% target recommended by Lord Davies is an overarching one and covers executive and non-executive positions. However, in the UK progress to increase the number of female *executive* directors in the boardroom has been very slow, with an increase of just two percentage points to 8.6% in 2015.

The majority of CIPD respondents would like to see a separate target to improve gender diversity in the boardroom. It is the influence of female role models in executive positions that has the potential to create the greatest sea change in organisational attitudes and practices around gender diversity and female progression. The proportion of executive director posts that are held by women is also the key litmus test of the organisation's success in developing a strong and sustainable female talent pipeline that lays the foundation for senior female succession to the top.

Developing the female talent pipeline to ensure that there is a ready supply of female candidates with the confidence and capability to move into top roles is a long-term task.

Therefore, in the UK the CIPD is calling for the introduction of a separate voluntary target of 20% aimed at improving the gender balance of executive directors in the boardroom.

How can employers build a strong female talent pipeline?

Developing the female talent pipeline to ensure that there is a ready supply of female candidates with the confidence and capability to move into top roles is a long-term task. It is also a goal that needs sustained action. This raises crucial issues about how employers – whether private, public or voluntary sector – can build a strong and sustainable framework to encourage good female representation throughout the organisation. Therefore, our research explored respondents' views about female progression at work and the kind of organisational practices considered most effective to promote gender diversity in senior roles. Although our respondents are primarily UK-based, their feedback is universal and can be applied to organisations operating across the European economy.

As Figure 2 shows, HR professionals think there is a whole raft of organisational approaches that have the potential to support the career progression of women at work.

Figure 1: The effectiveness of a company's own voluntary targets for gender diversity compared with mandatory quotas (%)

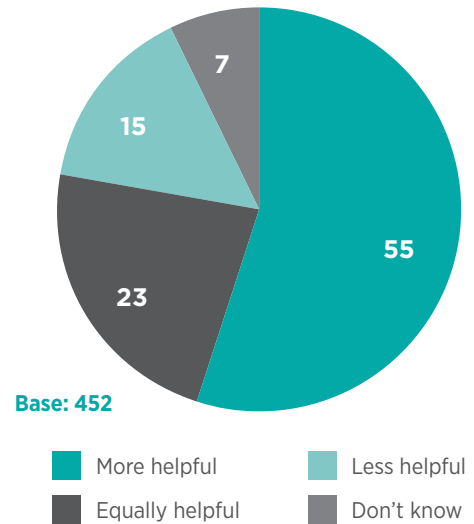
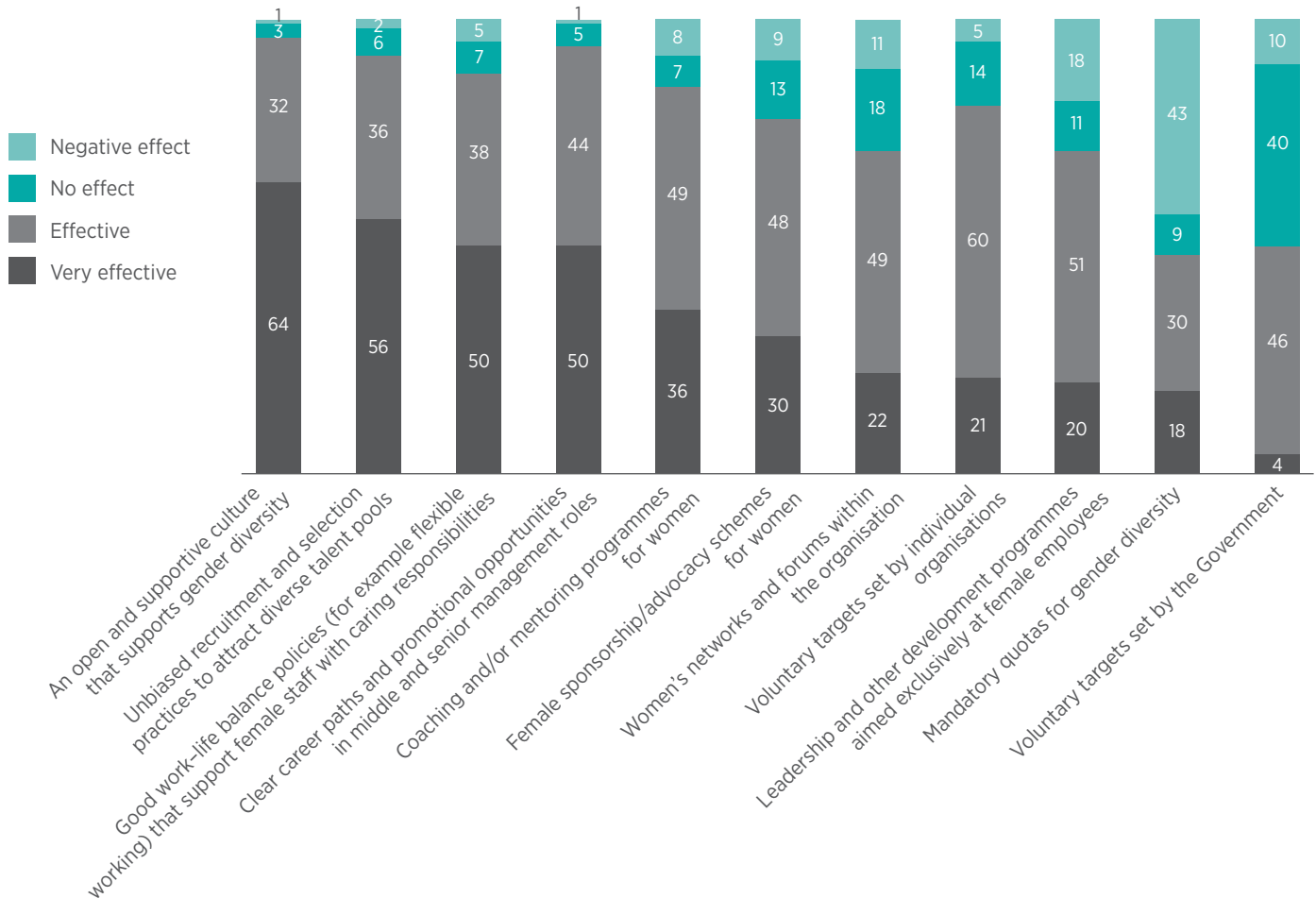


Figure 2: The effectiveness of organisational approaches in improving the gender diversity of boardroom executives (%)



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Conclusion

We believe that the introduction of a compulsory quota system would not be a sustainable and long-term solution to achieving greater gender parity at the top of organisations. The CIPD has always supported a voluntary approach to improving boardroom diversity with a strong focus on building a female talent pipeline at every level in the organisation. This perspective is backed up by our panel of HR professionals, with a firm majority telling us that voluntary approaches to setting organisational targets are more helpful than a rigid mandatory quota system.

Introducing legislation to ensure that a specific percentage of women are appointed to board positions will not solve the underlying reasons for failures in boardroom gender diversity. As CIPD members told us, a quota imposition could be counterproductive and lead to a potential backlash towards those appointed as a result of what is often perceived as positive discrimination.

This indicates that there is no quick fix to boosting senior female representation in organisations and that employers need to take a holistic approach to building a strong and sustainable female talent pipeline to secure future senior appointments for women. This means developing a number of supportive and inclusive strategies that reach out to women employees across the workforce. This may take time but it will be worth it in the long term.

Further information

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About the CIPD

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The Public Policy Team at the CIPD exists to inform and shape government policy for the benefit of employees and employers, to improve good practice in the workplace and to represent our members at the highest level.

We bring together extensive research and thought leadership, practical advice and guidance, along with the experience and expertise of our diverse membership base, to engage with politicians, civil servants, policy-makers and commentators in the UK and across Europe.

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We use our substantial research, membership base and partnerships to produce EU-wide policy position statements on employment and diversity issues across Europe. Our areas of expertise include labour market forecasting, employee relations, gender equality, the ageing workforce, youth employment, pensions, labour mobility, human capital management and skills. We produce comprehensive research across the world of work to ensure that employers and employees can benefit from better workplace and workforce policy and legislation throughout Europe.

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