

How can we close the gender pay gap?

GENDER PAY GAP SERIES

In this latest article in our gender pay gap series, we step outside of the law to look at how businesses can narrow their gender pay gap. There are various actions to consider, but we draw on recent evidence showing what works and our own experience of advising multinational employers and helping them achieve their diversity and inclusion goals.

Areas for action

As a reminder, the gender pay gap reflects the average difference between pay for men and women, the most common cause of which is typically lack of representation of women in senior, technical and other highly paid roles. In this article, we look at five key areas for action:



**The leaky
pipeline**



**The pay equity
issue**



**The diversity of
candidate pools**



**The employee
experience**



**The parenthood
issue**



1 The leaky pipeline

As noted, a key cause of the gap is the lack of women in senior roles. However, while many employers have focused on recruitment, recruitment alone is not the answer. Companies are now recognizing that they need to be doing more to retain women and help them progress. Yet, men currently outpace women in terms of promotion at every stage.¹

In some instances, the problem may be compounded by job moves between companies. Various studies have shown how women and men are equally likely to switch jobs but that men are more likely to move toward higher-paying jobs, whereas women are more likely to move to take a job at the same or a lower level.²

Why do women not progress through the pipeline at a similar rate? The answer is not straightforward, and in some instances, bias and discrimination still play a part. For example, there is evidence that women are still more likely to be perceived negatively for asking for promotions or pay rises – a so-called social penalty.³ It is also often said that women will tend to underrate their own performance in performance reviews that depend to some extent on self-assessment.

So fixing the leaky pipeline is not straightforward, but as a starting point, companies need to gather and analyze their own data, for example about the gender split of promotions, performance ratings and leavers, to pinpoint the leaks and start to deep dive into the underlying causes. Data collection and analyses must be handled with care and in compliance with local data protection legislation, particularly within the EU where companies are subject to the EU General Data Protection Regulation. However, it is an essential step of the path.

Having pinpointed the leaks and understood the causes, the next step is to explore which interventions may work. Popular interventions include tackling unconscious bias through raising awareness or interactive training. We are also seeing a renewed interest in programs designed specifically to advance women, such as sponsorship or development programs focused on women.⁴ Such programs should be checked with local counsel for compliance with local discrimination legislation and to ensure that they don't end up unlawfully discriminating against men. Holding managers accountable for progress is key, whatever the specific intervention.⁵

1 <https://womenintheworkplace.com/>.

2 [Barth, Goldin, Kerr & Olivetti, Harvard Business Review, 12 June 2017.](#)

3 [The Myth of the Ideal Worker, Catalyst, 2011.](#)

4 Interestingly, [research by the Boston Consulting Group](#) contrasts sponsorship and coaching (valued/effective) with mentorship (can descend into chats over coffee/ineffective).

5 See, for example, [McKinsey's 2017 Women in the Workplace study](#), which sets out to identify which initiatives are significantly more common in top-performing companies. One key finding was that managers are central, and that women are more likely to be promoted when managers advocate for them and advise them. McKinsey concluded that one answer is to "double down" on managers — making sure they understand why diversity matters, giving them the necessary tools and insights, and rewarding them when they make a difference.



2 The pay equity issue

Although the gender pay gap is mostly about gender representation, rather than pay discrimination, companies do still find pockets of unjustified pay disparity and discrimination. Bias still exists, and it is also worth reflecting that pay discrimination, which occurred in the past, may still show up in pay today. Some companies have found themselves under pressure from investors to carry out equal pay or pay equity audits, and others are exploring them behind the scenes. We discuss the benefits of a pay audit in another insight piece (LINK to earlier insight piece needs adding).

Companies that do not want to carry out a full audit may nonetheless take other actions aimed at understanding what is driving pay in their organizations and whether any practices may have an indirect negative impact on women.

The current global spotlight on the gender pay gap may make employees more inclined to challenge pay and bonus awards or ask for more clarity and assurances over how decisions have been reached, so now is also a good time to review and tighten policies and processes governing those awards.

If salaries between men and women are unequal on entry into an organization, it is clearly harder for women to 'catch up.' In recent years, we have seen increasing awareness of this issue and initiatives to address it. In the US, there is a trend of states passing salary ban legislation - preventing employers (and their agents) from asking about a candidate's previous salary during the recruitment process.⁶ Other regulators will be watching this approach with interest.

One option for companies is to be more up front about the salary range on offer when first advertising the job, instead of starting from each candidate's current salary. Although this is not a particularly common practice for senior roles, recent research cited 'showing salary ranges' (explicitly communicating the salary range on offer) as one of the six most effective actions to close the gender pay gap.

⁶ <https://www.theemployerreport.com/2019/03/salary-history-bans-sweep-the-us-while-most-global-efforts-to-close-the-gap-target-transparency/>.



3 The diversity of candidate pools

Some companies are adopting programs that ask that at least one, or a certain proportion, of the candidates to be considered for certain roles must be female.

These programs aim to ensure that women are not unfairly overlooked by recruiters when putting together a finalist pool. Interestingly, they can also affect how candidates are then evaluated. In a 2016 research study,⁷ Harvard Business Review found that the probability of hiring a woman was “statistically zero” where only one of four candidates in a finalist pool was a woman. If, however, there were two women in a four-person finalist pool, the probability of hiring a woman jumped to 50%.

It is no wonder, then, that we are seeing a marked increase in the number of companies looking at adopting such programs at various stages of their talent pipeline. They are regarded as a robust intervention that will, in time, drive up female representation. In some jurisdictions, this strategy can involve legal risk (the UK Equality and Human Rights Commission has issued warnings, for example, about guaranteeing places on shortlists for women). However, if implemented correctly, such programs can be highly effective.



4 The employee experience

Women enter the workforce with the same level of ambition as men, and women are no more likely than men to plan on giving up work to focus on their family.⁸ Yet McKinsey & Company also found that women are less interested in making it to the very top of their companies than men. In addition, they see the benefits of doing so differently; being a role model and having the chance to influence culture and have a positive impact on the world are more motivating for women than for men.⁹

We are seeing a general focus on the employee experience, and not just as part of an organization’s gender pay gap or diversity strategy. There is some particularly interesting work by the Boston Consulting Group, which implemented a strategy within its own organization focused on a positive company culture and day-to-day experience at work. Boston Consulting reported that while the strategy is gender neutral, it appears to have a significant impact on women’s retention rates.¹⁰ The program focused on three areas — connectedness, strengths-based development and coaching for a range of effective communication styles — with striking results.

7 <https://hbr.org/2016/04/if-theres-only-one-woman-in-your-candidate-pool-theres-statistically-no-chance-shell-be-hired>.

8 For just one example, see [Dispelling the Myths of the Gender Ambition Gap, Boston Consulting Group, April 2017](#).

9 <https://womenintheworkplace.com/>.

10 [How we closed the gap between Men’s and Women’s Retention Rates, Harvard Business Review, 19 May 2017](#).



5 The parenthood factor

This issue is perhaps the most challenging of all, yet it may well lie at the heart of the debate.

A recent study using data for the entire population of Denmark showed — strikingly — how having children creates a gender gap in earnings of around 20% in the long run. The study demonstrated how having children influences women’s choice of occupation, promotion to manager and choice of sector, and how it pulls them toward family-friendly employers.¹¹

Many companies already offer generous maternity benefits and incentives to return to work after maternity leave. However, the evidence suggests this is not enough. Many workplaces are simply not optimized for family life. Part-time, flexible and various forms of agile working is widespread, but is often a concession to women rather than a realistic option for men. However, it is often pointed out that men may also want flexibility, particularly millennials.

Some employers are now targeting women returning from extended career breaks to look after children with special ‘returnship’ programs aimed at refreshing their skills and easing the path back to work. Other employers are doubling down on their efforts to make agile working work. Some employers are explicitly advertising jobs as being open to flexible working from the outset. It is hard to find evidence of the effectiveness of these interventions, but employers who can truly crack the parenthood challenge may well have found a key to narrowing the gap.

¹¹ [Children and Gender Inequality: Evidence from Denmark](#) (purchase required).



Leaning in to the challenge

The research points to a wide range of possible measures, but no quick fixes. The good news is that, in just the last two years or so, we've witnessed the conversation progress from the causes of pay disparity to a more productive dialog about the commitments that must be made to correct it. There are certainly some legal issues to be considered before embracing these measures, but companies that don't lean in and adopt an action plan may well be running a bigger risk by doing nothing at all.

Our gender pay gap series

The Baker McKenzie Gender Pay Gap series will be spotlighting gender pay gap regulations in key jurisdictions and exploring the central issues, including how to narrow the gap.

For more on the global picture and how our global network of over 700 labor and employment lawyers are helping clients address this issue, see our [Gender Pay Gap Hub](#).

