Overcoming Barriers to Equality
and Diversity Representation
on Public, Private and Third
Sector Boards in Scotland

The Scottish Government

Equalities

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OVERCOMING BARRIERS TO EQUALITY AND DIVERSITY REPRESENTATION ON PUBLIC, PRIVATE AND THIRD SECTOR BOARDS IN SCOTLAND

Dr Matthew Dutton
Professor Robert Raeside

Employment Research Institute, Edinburgh Napier University

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Table of Contents

No one should be denied opportunities because of their race or ethnicity, their disability, their gender or sexual orientation, their age or religion. This principle underpins all the work of the Scottish Government.

The Scottish Government, 2011

1   PROJECT BACKGROUND

1.1   The Employment Research Institute (ERI) was commissioned by the Scottish Government to identify ways in which equalities groups can be better represented at board level in the public, private and third sectors. The purpose of the research was to identify how barriers to equality can be overcome and to identify the potential costs and benefits of each approach.

1.2   Our society's understanding of equalities is changing. There has been a shift away from prevention of harmful behaviours towards a more positive vision of how we would like our society to be. The focus of equalities is on supporting the creation of a fair and equal society where all members have an equal chance to participate and fulfil their potential regardless of the characteristics that define them. Equalities are backed by a variety of laws that seek to ensure equal participation in society regardless of race, gender, age, religion or beliefs, disability or sexual orientation. The Sex Discrimination Act 1975, the Race Relations Act 1976, and the Disability Discrimination Act 1995 have been brought together, and in some areas extended, under the Equality Act 2010. The act places a duty of responsibility on public, private and third sector bodies to promote the active inclusion of all people regardless of their race, gender, age, religion or beliefs, disability or sexual orientation, and extended protected characteristics to gender re-assignment, marriage and civil partnership and pregnancy and maternity.

1.3   Diversity is distinct from equality but is closely linked. Diversity is about recognising that we are all different in a variety of ways and that from this we should create a culture that recognises, respects and values these differences. Diversity allows organisations to harness the potential of their employees and meet the needs of customers and clients. A workforce that is valued and respected has a greater potential to meet organisational goals[1]. Diversity is not a temporary strategy to be adopted by organisations seeking to demonstrate compliance with equalities legislation, but a long-term vision that seeks to bring about fundamental change to the way in which appointments to boards are made to ensure that all members of society have an equal opportunity to participate.

1.4   There is a well-established body of research on barriers to entry to senior positions within the public, private and third sectors for equalities groups. The purpose of this review is not to restate those barriers; it is to identify how those barriers can be overcome. A separate Executive Summary[2] accompanies this report.

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[1]The Law Society of Scotland: http://www.lawscot.org.uk/about-us/equality--diversity/general/what-are-equality-and-diversity
[2] www.scotland.gov.uk/equalitydiversityexecutivesummary

2 PROJECT AIMS AND RATIONALE

Project Aims

2.1   The purpose of the project is to identify how barriers to participation on public, private and third sectors boards in Scotland can be overcome for equalities groups.

2.2   The research is guided by three research questions:

- How have barriers to equality and diversity representation on boards been overcome? For example, what programmes / practices are being undertaken by organisations / companies to achieve representation on their boards?

- What can be learned from programmes / practices to support equality and diversity representation on boards?

- Are there potential benefits and costs of actions to organisations and society of equality and diversity representation on boards (and in employment more broadly)?

2.3   The work focuses primarily on identifying good practice in overcoming gender equality and diversity issues.

Remit

2.4   The purpose of equalities legislation is to empower public officials to act against discrimination, harassment and victimisation of people because of their equality characteristics. More broadly, equalities can ensure good relations in the management of organisations and ensure that they meet the diverse needs of their users. A workforce that has a supportive working environment is more likely to be productive. The Scottish Government recognises that in a competitive labour market, discrimination or the under-representation of specific groups will inhibit the Government's ability to attract and retain talent[3]. Compliance with equalities legislation is therefore not only about meeting legal obligations, but is also about ensuring that organisations can meet the diverse needs of its users and better represent the communities that they serve. A workforce that represents the demographic characteristics of the needs of its service users will more effectively meet the needs of those users, thereby improving public satisfaction.

2.5   The Equality and Human Rights Commission define equality as 'ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life chances because of where, what or whom they were born, what they believe, or whether they have a disability'[4].

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[3] The Scottish Government: http://www.scotland.gov.uk/Publications/2002/11/15866/14292
[4] Equality and Human rights Commission website: http://www.equalityhumanrights.com/advice-and-guidance/equal-rights-equal-respect/useful-informaiton/understanding-equality/

2.6　The Equality Act 2010 creates a duty for employers to: Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act; Advance equality of opportunity between people who share a protected characteristic and those who do not; Foster good relations between people who share a protected characteristic and those who do not[5].

2.7　The Act uses the term 'protected characteristics' to define groups that are subject to measures outlined under the Equality Act. Groups subject to protected characteristics are defined by:

- Age: Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

- Disability: A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

- Gender reassignment: The process of transitioning from one gender to another.

- Marriage and civil partnership: The Equality Act recognises marriage and civil partnerships as a protected characteristic. The Marriage and Civil Partnership (Scotland) Act 2014 extended the right of marriage to same sex couples.

- Pregnancy and maternity: Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

- Race: Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

- Religion and belief: Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

- Sex: A man or a woman.

- Sexual orientation: Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes[6].

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[5]Equality and Human Rights Commission: http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/introduction-to-the-equality-duty/
[6]Equality and Human Rights Commission: http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/protected-characteristics-definitions/

2.8   The process of appointing to boards needs to ensure that applicants from a wide range of backgrounds are inspired to apply for posts.

2.9   Whilst the primary focus of this research is on overcoming barriers to gender representation on boards of public, private and third sector organisations, where innovative and effective examples of overcoming barriers to representation of other equalities groups as defined under the Equality Act 2010 are identified, these will also be reported on.

3 METHODOLOGY

Introduction

3.1 The primary approach developed to meet the research aims was the application of a concise, systematic and relevant literature review of key issues on overcoming barriers to representation and participation on public, corporate and third sector boards of those in equality groups. The review focussed on female participation and representation on boards.

3.2 The review avoided duplication or repetition of previous work in this field and sought to provide an original approach with a Scottish dimension whilst recognising the value of learning from the experience of other countries.

3.3 Where relevant examples of good practice in overcoming barriers to equality and diversity have been identified, these are highlighted within the text.

3.4 The literature sources used in the review included: policy documents; academic publications; work commissioned by public bodies; grey literature; publicly accessible databases on organisations in the third and private sectors including the Office of the Scottish Charity Regulator (OSCR) and Financial Analysis Made Easy (FAME). Public bodies that have published material on equalities and diversity issues were targeted for relevant materials including: The Office of the Commissioners for Public Appointments in Scotland; Commissioner for Ethical Standards in Public Life in Scotland, Scottish Government research, Equality and Human Rights Commission and Audit Scotland.

3.5 A weighting system was used to ensure that the literature used in the report was credible and reliable. Research publications that had a high sample size, or were influential received a higher weighting. The established 'Journal Impact Factor' scoring system was used when considering the importance of each academic paper to the collation of evidence. A wide range of information sources were used including: ABI/INFORM Global, Expanded academic ASAP, Ingenta Connect, Sage, ScienceDirect (Elsevier) and journal publishers. Sector specific sources of information were also used including the register of Third Sector organisations (OSCR).

3.6 Each piece of identified literature was systematically appraised. An indication of the analytical framework adopted is outlined below:

- Bibliographic Details – to include basic information such as year of publication, title, area, report availability, author and sponsoring organisation;
- Research Aims – a summary of the key research aims and questions;
- Approach and Methodology – summary of the approach, methodology and research tools;
- Key Findings – summary of the key findings from the research and relevance to the research topic;

- Assessment of Quality – as well as an initial quality scan undertaken during the literature search, a more formal appraisal of the quality of research was undertaken as part of the assessment;
- Evidence of Effective Solutions – any evidence relating to successful 'solutions' to key problems will be identified.

Limitations

3.7 Despite the application of a systematic review of relevant literature sources, there are several limitations with the sources used. It is clear that in recent years there has been a significant push to improve gender equality on boards either through voluntary or statutory means. However some of the literature in this area is emerging and can, in some cases, lack the robustness associated with more established and mature social policy areas. Some of the limitations of the sources used are highlighted below:

- Where policy or academic material focuses on specific initiatives to improve gender equality on boards, these are often in specific contexts. Repetition or replication of these approaches in different sectors or settings has often not taken place. Where initiatives take place in the private sector, their suitability for the public sector has not been tested.

- There is limited data on overcoming barriers to female boardroom participation in the third sector. High profile reports have focussed on methods to address gender equalities in the private sector with limited attention to the issue of equality in the third sector. We have been unable to identify a comprehensive analysis or data set of female representation on the boards of Scottish charities.

- Most of the initiatives described within the literature are focussed on improving gender equality at board level. There is considerably less evidence of initiatives to support other under-represented groups.

- A wide range of initiatives to overcome barriers to boardroom engagement for women are described however there is insufficient comparative data to suggest which approaches are the most effective. For example, training programmes to prepare women for a board role have been applied in Europe, however it is unclear if these have been more effective at improving gender equality than other approaches.

- Initiatives to improve gender diversity in the boardroom are occasionally described without sufficient attention to the impact of wider social, economic and political factors that may also have impacted on the success or otherwise of initiatives. For example in the case of Norway, a political consensus was seen to be an important element to the successful implementation of statutory gender quotas. How studies grapple with these exogenous factors may be an important consideration when seeking to understand the impact of each initiative.

- More consideration needs to be given to measuring the impact and outcomes of the initiatives described. Do the initiatives described create sustainable, long-term change in the representation of women on boards? Much of the policy and academic literature on this area is relatively recent and longitudinal studies measuring long-term outcomes are absent.

4   BACKGROUND EVIDENCE

Chapter Summary

- There is a substantial body of evidence that demonstrates that gender diverse boards have a positive effect on corporate performance.

- Public boards have traditionally had a greater proportion of female board members than private boards.

- Private sector companies with gender diverse boards appear to perform better than those with a lower representation of female board members.

- In the international context, countries that have increasingly used legislation and / or implemented gender quotas have higher levels of female boardroom membership than those that have adopted voluntary approaches.

- A challenge is to increase the supply of women in organisations able to rise to boardroom positions – referred to as the leaking pipeline.

Introduction

4.1   There has been a shift away from the concept of gender equality in the boardroom as being the 'right' thing to do to one of emphasising instead the financial benefits of equality and the case for good governance[7]. This shift has also taken place at a time when there are increasing demands for legislation to impose change to gender diversity on boards. These demands are proposed by those who see insufficient momentum to gender equality in the boardroom. Indeed, it has been suggested that there is a possible link between the way in which the debate has shifted away from gender equality as a right to one of good governance because 'if gender diversity on the board implies a greater probability of corporate success, then it would make sense to pursue such an objective, regardless of government directives'[8]. The assumption underlying this line of thought is that if firms understand fully the economic benefits of female representation in the boardroom, then there will be no need for statutory measures to enforce compliance.

4.2   At a Scottish level, women account for 36% of Ministerial appointed, regulated public boards[9]. However this figure varies significantly by the type of public board. Health boards, Executive non-departmental public bodies (NDPBs) and Advisory NDPBs have higher rates of female representation on their boards. However public corporations and executive non-department public bodies (NDPBs) fell below 20% representation for women on their boards.

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[7]Women in the boardroom: A global perspective. Deloitte. November 2011.
[8]Gender diversity and corporate performance. Credit Suisse. August 2012.
[9]Women on Board. Quality through Diversity. Scottish Government Consultation on the Introduction of Gender Quotas on Public Boards. The Scottish Government. Available at:
http://www.scotland.gov.uk/Resource/0044/00449321.pdf

4.3   Under proposals outlined by the then Deputy First Minster, Nicola Sturgeon, an independent Scotland would introduce quotas to ensure that 40% of director level positions in large public and private organisation would be reserved for women[10]. In March 2014, the then Cabinet Secretary for Commonwealth Games, Sport, Equalities and Pensioners Rights' Shona Robison launched a consultation on the possible use of mandatory quotas to ensure at least 40 per cent of public boards are made up of women[11]. The principal driver of this change was the need to ensure that boards represent the communities they serve. The Cabinet Secretary stated that, 'a board needs to reflect the people it serves and this in turn will make it better equipped to deal with decision making and improve its performance. Our ambition is for Scotland's public and corporate institutions to properly reflect the communities they serve, which we know will contribute to moving us towards the Scotland we wish to see'[12].

4.4   As of November 2014, Nicola Sturgeon as the new First Minister, with Scotland's first ever 50/50 gender balanced cabinet, will launch early next year a "Partnership for Change Pledge" to achieve a 50/50 split on boards by 2020 ("50:50 by 2020"). Further, post-Referendum, the Smith Commission Report[13] has recommended that Scottish Parliament's powers will include the introduction of gender quotas in respect of public bodies in Scotland.

4.5   The UK government is aspiring to appoint women to half of all new appointments to the boards of public bodies. Progress towards this aspiration appears well advanced. Between April and September 2014, the percentage of new public appointments achieved by women in England reached 44%[14].

4.6   In 2011, a UK Government commissioned review of boardroom diversity by Lord Davies of Abersoch – using the number of women on FTSE 350 corporate boards - noted that 'boards perform better when they include the best people who come from a range of perspectives and backgrounds'. Since 2011, the proportion of women on boards of the FTSE 100 companies has increased from 12.5% to 22.8% in 2014. In the same period there has been an increase from 7.8% to 17.4%[15] among FTSE 250 boards.

4.7   In the UK and internationally, the rationale for improving gender representation on corporate boards is based on evidence that suggests inclusive and diverse boards are more likely to be effective boards, are better able to understand their customer needs, able to develop new ideas and possess a broad range of experience. The business case for improved female representation on boards states that: strong stock market growth

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[10]The Scotsman. Scottish independence: Female director quota plan. 27th January 2014. Available at: http://www.scotsman.com/news/politics/top-stories/scottish-independence-female-director-quota-plan-1-3281872
[11]http://www.scotland.gov.uk/Publications/2014/04/1438
[12]The Scottish Government. Calls to close gender gap on public boards. 12th March 2014. http://news.scotland.gov.uk/News/Calls-to-close-gender-gap-on-boards-a4d.aspx
[13] https://www.smith-commission.scot/
[14]Diversity in public appointments. Gov.Uk: http://goo.gl/adTyiS
[15]Women on boards. Davies Review Annual Report 2014: https://www.gov.uk/government/collections/women-on-boards-reports

among European companies is most likely to occur where there is a higher proportion of women in senior management teams. Companies with more women on their boards were found to outperform their rivals with a 42% higher return in sales, 66% higher return on invested capital and 53% higher return on equity. Data from the Harvard Law School Forum on Corporate Governance and Financial Regulation notes that: 'the results of a 2012 study of nearly 2,400 companies showed that from December 2005 to December 2011, large-capital companies with women directors outperformed peers with no women directors by 26% and small to mid-capital companies with women on the board outperformed their peers with all male boards by 17%'[16].

4.8   Carter, et al[17] and Lockwood[18] found a positive relation between gender and ethnic diversity of the board and corporate performance. Slater et al.[19] in a study comparing the financial performance of the Diversity Inc. Top 50 Companies for Diversity to a matched sample found evidence that firms with a strong commitment to diversity on average outperformed their peers. Dalton and Dalton[20] suggest that having diverse viewpoints represented in boardroom discussions ultimately benefits shareholders since each board member can make a unique contribution based on having different backgrounds and perspectives. If boards have members from diverse backgrounds then they are thought to be more transparent by Upadhyay and Zeng[21]. However, those from diverse backgrounds are poorly represented on many boards. Daily et. al.[22], Domhoff[23], Zweigenhaft and Domhoff[24], and from a large-sample quantitative research Hillman, Cannella, and Harris[25], suggest that ethnic minorities and women are generally disadvantaged in obtaining board positions at large firms.

4.9   Forbes and Milliken[26] and Milliken and Martins[27] define diversity as 'visible' and 'less visible'. Visible diversity includes observable attributes (race, ethnic

[16]Harvard Law School Forum on Corporate Governance and Financial Regulation.

[17]Daily, C. M., Dalton, D. R., and Certo, S. T.,(2004). Women as directors: the inside story. Directors and Boards 29, 36–39.

[18]Lockwood, N. (2005).Workplace diversity: Leveraging the power of difference for competitive advantage. HR Magazine, 50(6), 1–10.

[19]Slater, S. F., Weigand, R. A. and Zwirlein, T. J. (2008). The business case for commitment to diversity, Business Horizons, 51, 201–209.

[20]Dalton, C., & Dalton, D. (2005). In defense of the individual: The CEO as board chairperson. Journal of Business Strategy, 26(6), 8–9.

[21]Upadhyay, A., and Zeng, H., (2014). Gender and ethnic diversity on boards and corporate information environment, Journal of Business Research, doi.org/10.1016/j.jbusres.2014.03.005.

[22]Daily, C., Certo, S., & Dalton, D. 1999. A decade of corporate women: Some progress in the boardroom, none in the executive suite. Strategic Management Journal, 20: 93–99.

[23]Domhoff, G. W., 2002 Who Rules America? Power and Politics, 4th ed. New York: McGraw Hill.

[24]Zweigenhaft, R. L., & Domhoff, G. W. (1998). Diversity in the Power Elite: Have Women and Minorities Reached the Top? New Haven, CT: Yale U Press.

[25]Hillman, A. J., A. Cannella, Jr., and I. C. Harris 2002 "Women and racial minorities in the boardroom: How do directors differ?" Journal of Management, 28: 747–763.

[26]Forbes, D.P. and Milliken, F.J. (1999), ''Cognition and corporate governance: understanding boards of directors as strategic decision-making groups'', Academy of Management Review, Vol. 24 No. 3, pp. 489-505.

background, age, gender) while less visible diversity relates to underlying attributes (education, technical capabilities, functional background, board tenure, socioeconomic background, personality characteristics, values, skills, knowledge, occupational background, range of industry experience). Carpenter and Westphal[28] refer to these two types as demographic diversity and functional (job-related) diversity. Singh and Vinnicombe[29] found that women are frequently absent from very senior positions in the FTSE 100 companies, and argued that 'male directors form the elite group at the top of the UK's corporate world, and few women break through this glass ceiling into this elite, despite making inroads into middle management'.

4.10   Several studies[30,31,32,33,34] show that social network ties are important in accessing seats on boards. From a US study of 500 CEO's drawn from Forbes 500 companies, Westphal and Stern show the 'ingratiatory behaviour directed at individuals who control access to board positions can provide an alternative pathway to the boardroom for managers who lack the social and educational credentials associated with the power elite'. For these authors ingratiatory behaviour includes flattery, opinion conformity, and favour rendering. They found that people engaging in this were more likely to receive board appointments at other firms where their CEO serves as a director and at boards to which the CEO is indirectly connected to. Therefore Westphal and Stern[35] argue that inter personal influence can substitute for not being of the socio economic and demographic characteristics that typify the elite. This implies that those of minority status are discriminated against because 'they must engage in a higher level of interpersonal influence behaviour in order to have the same chance of obtaining a board appointment'. Given monitoring by the board, potentially entrenched CEOs like to recruit people they personally know and are comfortable with to serve

[27]Milliken, F. J. and Martins, L. (1996), "Searching for common threads: understanding the multiple effects of diversity in organizational groups", Academy of Management Review, Vol. 21 No. 2, pp. 402-43.
[28]Carpenter, M.A. and Westphal, J.D. (2001), The strategic context of external network ties: examining the impact of director appointments on board involvement in strategic decision making, Academy of Management Journal, Vol. 44 No. 4, pp. 639-60.
[29]Singh, V., & Vinnicombe, S. (2004). Why so few women directors intop UK boardrooms? Evidence and theoretical explanations. Corporate Governance: An international Review, 12(4), 479—488.
[30]Davis, G. F. 2003: "American Cronyism: How executive networks inflated the corporate bubble". Contexts 2(3): 34-40.
[31]Domhoff, G. W., 2002 Who Rules America? Power and Politics, 4th ed. New York: McGraw Hill.
[32]Mizruchi, M.S., & Bey, D.M. (2005). Rule Making, Rule Breaking, and Power. In T.A. Janoski, A.M. Hicks, & M.A. Schwartz (Eds.), Handbook of Political Sociology: States, Civil Societies, and Globalization (310-330). Cambridge, UK: Cambridge University Press.
[33]Neary, C., McFarland, J., & Gillis, D. (2009, November 24). What can be done to address the gender gap on today's boards? Retrieved from: http://www.coveritlive.com/index2.php?option=com_altcaster&task=viewaltcast&altcast_code=b53b 4b3b7b&ipod=yNielsen, S., & Huse, M.
[34] Rink, F., Ryan, M. K., & Stoker, J. I. (2012). Influence in times of crisis: Exploring how social and financial resources affect men's and women's evaluations of glass cliff positions. Psychological Science, 23, 1306–1313.
[35]Westphal, J. D and Stern, I. (2010). Stealthy Footsteps to the Boardroom: Executives' Backgrounds, Sophisticated Interpersonal Influence Behavior, and Board Appointments, Administrative Science Quarterly, 55 (2010): 278–319.

on boards[36]. Studies on group behaviour have shown that socially homogeneous groups have greater transparency among members as the communication barriers are low and communication is impeded when there is ethnic and gender diversity[37]. Hence, there is a need to allow people from diverse backgrounds to access networks to connect to the organisational elite and to improve communication between them. However, conformity should not be encouraged as it is associated with 'groupthink' and directors of socially homogeneous boards face peer pressure to conform to groupthink, which favours setting a lower monitoring norm as the benefits of a greater level of monitoring are to be shared by people outside that group[38]. Non-diverse boards are also less likely to communicate effectively with external stakeholders[39].

4.11   International evidence on addressing barriers to gender equality at board level points to a range of arguments developed to support greater equality – these are summarised below[40].

A Signal of a Better Company

There is a significant body of research that supports the idea that there is no causation between greater gender diversity and improved profitability and stock price performance. Instead the link may be the positive signal that is sent to the market by the appointment of more women: first because it may signal greater focus on corporate governance and second because it is a sign that the company is already doing well and is confident in the capacity and ability of its employees.

Greater Effort across the Board

Greater team diversity (including gender diversity) can lead to better performance. There is evidence to suggest that where there is greater gender diversity individuals are, on average, likely to do more preparation for any exercise that they know is going to involve working with a diverse rather than a homogenous group. It is not necessarily the performance of the minority individuals that have enhanced the result. Rather, it is the fact that the majority group improves its own performance in response to minority involvement. Simply put, nobody wants to look bad in front of a stranger[41].

Access to a Wide Pool of Talent

Across the majority of labour markets, women now account for the greater proportion of graduates. By 2010, the proportion of female graduates across the world came to a median average of 54%. This compares with a median average of 51% female

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[36]Westphal, J.D., & Milton, L. P. (2000). How experience and network ties affect the influence of demographic minorities on corporate boards. Administrative Science Quarterly, 45, 366–398.

[37]Lang, K. (1986). A language theory of discrimination. Quarterly Journal of Economics, 101, 363–382.

[38]Kandel, E., & Lazear, E. P. (1992). Peer pressures and partnerships. Journal of Political Economy, 100, 801–817.

[39]Brickley, J. A., & Zimmerman, J. L. (2010). Corporate governance myths: Comments on Armstrong, Guay and Weber. Journal of Accounting and Economics, 50, 235–245.

[40]Credit Suisse. Gender diversity and corporate performance. August 2012.

[41]Credit Suisse. Gender diversity and corporate performance. August 2012.

graduates in 2000. A company that achieves greater gender diversity is more likely to be able to tap into the widest possible pool of talent.

International Comparison

4.12   Change to gender representation on boards is taking place at different rates in each of the countries we looked at. In countries that have implemented quotas there is, as one would expect, higher levels of female boardroom representation than in those that have adopted a voluntary approach. However regardless of the pace at which change is taking place, there is a consistent trend for female representation in the corporate boardroom to be significantly lower than their public sector counterpart. It should however be noted that international comparisons are problematic because the availability of information varies by country but also the methodologies used to calculate and define equality varies. The table below gives an overview of variation in the proportion of women on private and public sector boards for selected countries.

Table 1: International comparison of proportions of women on private and public sector boards.   Figures from national country statistics in the period 2008 to 2009 (blank spaces where data is not available).

Country	Private	Public
Norway	40.2%	40%
USA	14.6%	-
Canada	15.1%	42%
UK	11.7%	33.3%
Europe	9.7%	-
Spain	9.1%	45%
Australia	8.3%	-
New Zealand	7%	35%

Source: UK Government Equalities Office, 2009[42].

4.13   There appears to be a trend for public sector boards to have a higher proportion of women than in the private sector. In New Zealand's public sector, 35% of board members are female in contrast to 7% of private sector boards. Similarly, in Canada women occupied 42% of board positions in the public sector and only 15% in the private sector. Suggested explanations for these differences cite: legislation to enforce gender diversity and the presence of greater family friendly and flexible working practices in the public sector.

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[42] Increasing diversity on public and private sector boards. Part 1 – How diverse are boards and why? UK Government Equalities Office. October 2009.

Pipeline Issues

4.14   As highlighted by the Lord Davies "Women on Boards" (2011) report, a challenge is to increase the supply of women in organisations able to rise to boardroom positions. The process of having more women promoted through the organisation is referred to as supply – the corporate pipeline. However, despite similar proportions of male and female graduates entering organisations, fewer women than men are coming through to the top level of organisations. The Lord Davies report refers to the leaking pipeline which is at least in part explained by high levels of female attrition caused by barriers such as the lack of flexible working arrangements, work life balance issues and/or disillusionment at the lack of career progression.

4.15   Recommendations are made in the Women on Boards 2011 report that there needs to be more investment in developing talented women. There are difficulties in doing this as stated in the report: 'Many consultation respondents told us that women with corporate experience were frequently overlooked for development opportunities and that there were differences in the way that men and women were mentored and sponsored, which gave men the edge over their female peers. Others cited gender behavioural traits as a key issue, whereby women tend to undervalue their own skills, achievements and experiences'.

4.16   In the report it is also pointed out that there are a low number of successful female role models who can inspire. This compounds stereotypes and reinforces perceived difficulties in reaching boardroom positions.   Attention is also drawn to the perception that the many women in leadership positions in academia, the arts, the media, the civil service or professional services are often overlooked because they do not have specific corporate experience, and Chairmen perceive that they will not be able to cope with corporate politics and decision making.

4.17   Ruderman, et al, (1995[43]) believed that problems in how job assignments are made contribute to the differential advancement of women compared to men. They undertook an in depth study of gender differences in the actual promotion decisions made in one American Fortune 500 company and discussed possible explanations for and implications of their findings. They found that men got promoted because senior management knew them and were "comfortable" with them. This was stated almost four times more for men than women. The next cited reason for men being chosen for promotion was their availability. This was given as a reason for male promotion almost seven times that of women. Reasons for women being promoted was stated, in order of importance, as being: desire for diversity, continuity, being pushed (i.e. self-marketing and lobbying and getting people to lobby for them) and personal strength.

4.18   Thirty-one per cent of the women were described as having pushed for the job, whereas only six per cent of the men were described this way.

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[43]Ruderman, M. N., Ohlott, P. J., and Kram, K. E., (1995). Promotion decisions as a diversity practice, Journal of Management Development, 14, 2: 6-23.

Ruderman, et al, (1995) found that this experience frustrated women and was not always appreciated by their bosses. To keep the pipeline flowing, Ruderman, et al, (1995) argue that 'promotion-decision dynamics must be made visible and discussable so that decision makers can better understand their unintended consequences and, in turn, practices can be modified truly to support managerial diversity'.

4.19   According to Vinnicombe (2011)[44] 'mentoring has almost become the ubiquitous solution for any professional woman experiencing problems with promotion'. Investigating the nature of mentoring Ibarra et al. (2010[45]) observed that although women are being widely mentored, 'the mentors offered to women, however, are significantly less senior that those offered to men. Women often lack the high-level relationships which their male colleagues find easier to foster in the male dominated executive suite'. Thus equality is needed in the mentoring process.

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[44] Vinnicombe, S., (2011). Reflections on "Locks and keys to the boardroom, Gender in Management: An International Journal, 26, 3, 196-199.
[45] Ibarra, H., Carter, M., and Silva, C. (2010). Why men still get more promotions than women, Harvard Business Review, 88, 9: 80-126.

5 OVERCOMING BARRIERS TO EQUALITY AND DIVERSITY ON PUBLIC BOARDS

Chapter Summary
- Greater public awareness on the role of public boards in society may lead to improvements in the range of people applying to be considered.

- Vacant positions on public boards should be more widely advertised to ensure that a wide range of people consider applying.

- Training, mentoring and networking opportunities between existing and potential female board members are increasingly viewed as effective approaches to improving board diversity.

- Reporting of gender equality targets and greater transparency on the gender representation of boards are effective methods for improving compliance with social expectations on improving representation of women on boards.

Introduction

5.1   This section asks, how have barriers to equality and diversity representation on public boards been overcome? It identifies programmes and practices undertaken by public sector organisations to achieve improved representation on their boards. There are two strands to this section. The first identifies recommendations that have been made by: commissions appointed by government to look at the issues of boardroom diversity; government-funded research; and academic publications. The second draws from the experience of organisations as they seek to implement strategies to improve representation of equalities groups at board level. Together, these approaches provide a comprehensive overview of key actions that can be taken to improve diversity in the boardroom.

5.2   In Scotland, appointments to public bodies are regulated by the 2013 code of practice for ministerial appointments[46]. The code is designed to ensure that the public appointments process is thorough, encourages participation and generates confidence in public appointments. Ministers are responsible for specifying members of the selection panel. In Scotland, women comprise 36% of places on public boards.

5.3   UK wide, the proportion of women appointed to the boards of public bodies has been relatively stable for a decade. The proportion of women holding board positions on public bodies was 35% in 2011-12, down from a peak of 38% in 2004[47]. Despite this fall, public boards have a significantly greater proportion of women than their private sector counterparts. Among FTSE 100

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[46]Code of Practice for Ministerial Appointments to Public Bodies in Scotland. Commissioner for Ethical Standards in Public Life in Scotland. October 2013: http://goo.gl/SE52wN
[47]Women in Public Life, the Professions and the Boardroom. House of Commons Library. 5 March 2014.

companies, the proportion of women on private boards is 22.8%. Of FTSE 250 boards, this figure is lower at 17.4%[48].

Improving Access through Awareness

5.4 If boards are to improve their equality and diversity and thereby better represent the people they serve, it is vital that they are able to draw from as wide a pool of talent as possible. This can be achieved by improving public awareness of the role of public boards and the opportunities that are available to those who serve on them. Evidence suggests that understanding within society on the role of public bodies is low[49]. Low awareness may be reducing the number of people that apply for positions on public boards. By improving awareness of the role of public boards in society, there may be an increase in awareness of their function and an increase in the number of talented individuals that may consider applying for positions on these boards. The Commissioner for Ethical Standards in Public Life in Scotland ("the Commissioner") recommends several strategies be adopted to improve public awareness of the role of boards with the aim of increasing the number of applicants to positions on boards, such as improved awareness of:

• the diverse roles and functions of public bodies
• the role of their board members
• the wide range of people needed by boards
• the opportunities to serve on them
• the benefits of serving on a board – for the individual and their employer[50].

5.5 Specifically, the Commissioner recommends that a communication campaign be mounted to inform the public of the role of public bodies and inspire people to apply. In this campaign, role models from equalities groups that are under-represented at board level should be enlisted to 'reinforce consistent, positive and encouraging messages about their work as board members'[51]. The Commissioner highlights a series of actions that can be taken to raise the profile of board members, outlined below:

- Arranging a series of features about - or interviews with - board role models in local press and in magazines connected with the work of the board on which they sit.
- Arrange a series of features about - or interviews with - board role models on national, local and community radio stations.
- Involve board role models in a promotional campaign after the television news. Use it to promote the value of their role and the opportunities to serve on the boards of our public bodies.

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[48]Women on boards. Davies Review Annual Report 2014. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/297519/bis-women-on-boards-2014.pdf
[49]Diversity Delivers. A strategy for enhancing equality of opportunity in Scotland's ministerial appointments process. The Office of the Commissioner for Public Appointments in Scotland. 2008.
[50]Diversity Delivers. A strategy for enhancing equality of opportunity in Scotland's ministerial appointments process. The Office of the Commissioner for Public Appointments in Scotland. 2008.
[51]Diversity Delivers. A strategy for enhancing equality of opportunity in Scotland's ministerial appointments process. The Office of the Commissioner for Public Appointments in Scotland. 2008:10.

- Publish profiles of the board members on each public body's website, focusing on their diversity. As well as visible diversity, highlight the differences that cannot be seen, for example in board members' backgrounds, education and experience.

5.6   Further recommendations provided by the Commissioner include: ensuring that vacant board positions are well publicised through relevant websites, personal contacts and signposting; monitoring of publicity strategies for their impact on the number and diversity of appointments; holding public events in partnership with community groups and equality networks to further inspire people about opportunities for participation on public boards.

5.7   The literature reviewed as part of this study noted that 'diverse candidates lack social capital and are often excluded from influential social networks, affecting access to boards. In addition, boardroom cultures can be inhospitable to individuals from under-represented groups'. The informal networks that form the basis for relationships between people facilitates career progression by ensuring that vital information about job opportunities can be accessed beyond formal channels. For this reason, 'developing sufficient social capital is crucial to being accepted as a potential board director'[52].

Improving Access through Training

5.8   A key strategy for improving gender equality on boards has focussed on the use of training to prepare individuals for serving on boards. Several UK based initiatives have been developed that seek to address the perceived need for women and other under-represented groups to receive training that would improve their readiness for a role on the board. These initiatives carry the assumption that a significant cause of under-representation for women on boards is skills-shortages and that training will help overcome this. This approach seeks to use training to address education and skill gaps but does not address institutional and systemic barriers to participation such as: the tendency of senior groups to hire in their own image; a lack of access to social networks through which information about job opportunities is passed. There has been a significant body of research focussing on the influence of hiring in one's own image that has undermined the boardroom aspirations of women[53] and ethnic groups[54]. Nevertheless, training for potential new board members appears to be either generic for all groups of people seeking access to board level positions or specifically targeted at women or other under-represented groups aspiring to access board positions.

5.9   Several consultancy firms specialise in creating training packages that claim to address the skills shortages for women seeking positions on public boards.

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[52]Increasing diversity on public and private boards. UK Government Equalities Office. 2009.
[53]Ibarra, H. (1997),"Paving an alternative route: Gender differences in managerial networks", Social Psychology Quarterly, vol. 60, pp. 91-102.
[54]Martins, L. L., Milliken, F. J.,Wiesenfeld, B. M. and Salgado, S. R. (2003), "Racioethnic diversity and group members' experiences:The role of the racioethnic diversity of the organizational context", Group & Organization Management, vol. 28, no. 1, pp. 75.

These packages offer support from deciding which roles to target, to leadership skills and training in governance issues. Coaching and workshops are available on: corporate governance; risk management; the role of the non-executive director; updating and rewriting CVs; targeting a public appointment; and assistance in finding an appropriate type of board related to interests and strengths[55].

5.10   A strategy proposed by the Commissioner to improve the representation of equalities groups on public boards involves the use of education programmes to improve the routes for potential board members to develop their experience. This process would initially involve identifying individuals from inside the organisation who have potential to act as full board members and whose position on the board would improve board diversity. Existing board members would act as mentors and would work within a framework to support potential new appointees.

5.11   A purpose of any training activity must be to improve the linkages between boards and women seeking to become board members. By developing strong social ties to the formal and informal network of individuals with knowledge and experience of the boardroom, social networks can be strengthened and opportunities for advancement can be identified.

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[55] Increasing diversity on public and private boards. Government Equalities Office. 2009.

6 OVERCOMING BARRIERS TO EQUALITY AND DIVERSITY ON PRIVATE SECTOR BOARDS

Chapter Summary

- The Lord Davies Report (2011) "Women on Boards" has been a key driver of change for greater gender diversity on private sector boards.

- Appointments to boards need to be transparent to ensure that powerful elites do not continue to appoint people in their own image and that information on board vacancies is widely advertised.

- Mentoring can assist women chart a path to the board by giving legitimacy, reducing their status as an outsider and helping to form powerful alliances with influential individuals.

- Corporate Governance Codes can be used to set targets for gender diversity and monitor compliance.

Introduction

6.1 The UK Government commissioned Lord Davies to develop recommendations for increasing the number of women on corporate boards. In his report, published in 2011, Lord Davies noted that women made up only 12.5% of members of corporate boards of FTSE 100 companies. The rate of increase of female representation was slow, having been at 9.4% in 2004. Since publication of Lord Davies' report, the percentage of FTSE 100 boards with women directors has increased steadily to 22.8% in 2014. For non-executive directors, 25.7% are now female[56].

6.2 According to the report, the business case for increasing the representation of women on corporate boards was clear: 'companies with a strong female representation at board and top management level perform better than those without and that gender-diverse boards have a positive impact on performance. It is clear that boards make better decisions where a range of voices, drawing on different life experiences, can be heard. That mix of voices must include women'[57]. The report outlined several recommendations to be fulfilled to improve female representation on corporate boards. A summary of these recommendations is described below.

- All Chairmen of FTSE 350 companies should set out the percentage of women they aim to have on their boards in 2013 and 2015. FTSE 100 boards should aim for a minimum of 25% female representation by 2015 and we expect that many will achieve a higher figure.

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[56]BoardWatch. Tracking appointments of women directors to FTSE 100 and FTSE 250 companies. March 2014. Available at: http://www.boardsforum.co.uk/boardwatch.html
[57]Women on boards. February 2011

- Quoted companies should be required to disclose each year the proportion of women on the board, women in Senior Executive positions and female employees in the whole organisation.

- The Financial Reporting Council should amend the UK corporate Governance Code to require listed companies to establish a policy concerning boardroom diversity, including measurable objectives for implementing the policy, and disclose annually a summary of the policy and the progress made in achieving the objectives.

- Executive search firms should draw up a Voluntary Code of Conduct addressing gender diversity and best practice which covers the relevant criteria and processes relating to FTSE 350 board level appointments.

6.3 In April 2013, the Government introduced a 'Voluntary Code of Conduct for Executive Search Firms' as a result of recommendations made by the Lord Davies Report. The Code outlines several steps to be taken by search firms, perhaps more commonly referred to as head hunters, to improve gender diversity on corporate boards. Among the provisions of the Code are that, 'search firms should look at the overall board composition and, in the context of the board's agreed aspirational goals on gender balance and diversity more broadly, explore with the chairman if recruiting women directors is a priority on this occasion'[58]. An independent review of the Code noted that search firms should be encouraged to improve prominence of the code in their marketing, but also should ensure they have at least one women whom they strongly recommend on their shortlist of potential clients[59].

6.4 A Cranfield University study (2009) commissioned by the UK Government Equalities Office[60] identified six recommendations to improve the engagement of equalities groups at board level. The recommendations seek to address several systematic barriers to boardroom diversity, namely a lack of transparency in the appointment process and the need for targets on levels of gender representation. The recommendations of the study are described below.

- Organisations should set their own targets for gender and other under-represented groups and report on their progress in annual reports.

- The UK should emulate the Netherlands with a voluntary charter scheme, whereby chairs are invited to sponsor, for example, one of their senior women into a FTSE 100 NED position. This initiative should work on the assumption

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[58]Voluntary Code of Conduct for Executive Search Firms. Department for Business, Innovation and Skills. April 2013:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/208464/voluntary-code-of-conduct-for-executive-search-firms.pdf
[59]Department for Business, Innovation and Skills. Women on Boards: voluntary code for executive search firms - taking the next step - March 2014:
https://www.gov.uk/government/publications/women-on-boards-voluntary-code-for-executive-search-firms
[60]Increasing diversity on public and private boards. Government Equalities Office. 2009.

that women are board ready; hence the role of the chairman is to directly connect and sponsor women onto a board.

- Greater encouragement should be given to mentoring programmes and multi-dimensional programmes in both the public and private sectors.

- All directorships in the private sector should be advertised (as occurs in the public sector). The opaque nature of the appointment process, particularly in the private sector, is a considerable barrier to under-represented groups. Information about all aspects of the appointment process, including the availability of directorships, would help address this.

- The UK Government should maintain its targets of 50% female, 14% disabled and 11% ethnic minority candidates for all new Commissioner-regulated appointments by 2011, and monitor progress.

- Diversity initiatives must be politically, socially and culturally aligned to be effective.

Appointment Process

6.5   Cranfield University (2009) research described how 'the problem is not related to the lack of available candidates, but to the process by which directors are appointed on boards' [61]. This finding suggests that the current power elite are continuing to 'hire in their own image, thus failing to tap into a more diverse pool of talent'[62]. This 'groupthink' approach, where boards appoint new members in their own image, undermines the independence and oversight function of boards as new talent and fresh perspectives are squeezed out in favour of those who are most like existing members. The Association of Chartered Certified Accountants sees this 'groupthink' as particularly problematic given that the pool from which new directors is drawn is already small[63].

6.6   Addressing the institutionalised structures of power that protect the interests of those already at board level requires changes to the way in which: directorships are framed and created; the weak links between search (executive HR and head hunter firms) consultants and under-represented groups; the lack of diversity on current nomination committees; and, potential unconscious bias in the selection process.

6.7   Hurn[64] draws attention to the approach outlined by Lord Davies. Lord Davies' strategy[65] includes:

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[61]Increasing diversity on public and private boards. Government Equalities Office. 2009.
[62]Increasing diversity on public and private boards. Government Equalities Office. 2009.
[63]http://www2.accaglobal.com/databases/pressandpolicy/unitedkingdom/3421213
[64]Hurn, B. J., (2012). Removing the boardroom glass ceiling, Industrial and Commercial Training, 44, 3: 126-131.

- The long lists of potential boardroom candidates sent to FTSE chairmen must include at least three women candidates.

- Headhunters are required to check with a company's board regarding the company's position on diversity and the number of women on their board.

- Target of at least 25% of board members to be women by 2015.

- Companies had until September 2014 to produce their plans to achieve their target.

Practical Approaches

6.8   Beardwell and Claydon[66] consider that women very often need further support to improve confidence in the face of male competition. They offer some practical measures to develop women managers and therefore future potential board members. These include:

- Integrating women's career development as part of mainstream HR development.
- Providing role models and mentoring.
- Promoting the networking of women.
- Reviewing selection, promotion and appraisal procedures.
- Assertiveness training.

6.9   Hurn[67] states that 'change should be incremental, not forced by mandatory quotas, and should be backed by positive structural changes in recruitment, selection and career development within companies', he provides the following ambitions:

- Creating a corporate culture where women are involved as managers within the organisation working with their male counterparts so that their qualities are recognised early in their career.

- Developing a mentoring system within the organisation which encompasses both men and women to provide greater visibility at a crucial stage in career development.

- Taking note of the gradual changes in society where men take more responsibility for child raising and the acceptance of the need for greater work-life balance. These points have been emphasised by the Equal Opportunities Commission Briefing Series: The Work Life Balance[68].

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[65]Davies, (Lord Davies of Abersoch) (2012), "Women on Boards, Department for Business Innovation & Skills, London".

[66]Beardwell, T. and Claydon, T. (2007), Human Resource Management: A Contemporary Appraisal, 5th ed., Prentice Hall, Harlow.

[67]Brian J. Hurn, (2012) "Removing the boardroom glass ceiling", Industrial and Commercial Training, Vol. 44 Iss: 3, pp.126 - 131

[68]Equality and Human Rights Commission. Work Better research: http://www.equalityhumanrights.com/

- Women who are already in or moving into senior management posts within the organisation would benefit from more responsibility in subsidiaries for a set period of time.

- Review of the UK's Corporate Governance Code to directly encourage gender diversity.

- Encourage women with potential to take Executive MBA courses where tuition is mainly at weekends in the competitive company of male managers.

- Recruit women from senior positions in other areas, such as law, accountancy and education.

6.10 Bruckmuller et al[69] argue the need to ensure transparency on the representation of women in key positions and the implementation of gender quotas. To ensure an increase in the proportion of women on boards, more needs to be done to ensure that their role is not constrained and that they can display their full leadership potential. The following recommendations are made:

- Objective performance evaluations.
- Diversity programs and creation of a diversity culture.
- The right framing of interventions – not seeing women as add-ons and reinforcing stereotypes.

Identifying Effective Strategies

6.11 This section outlines several examples of actions taken by private sector organisations to improve access to the boardroom for women. Case studies are used to highlight examples of good practice in overcoming barriers to gender equality in the boardroom. Instead of using academic and policy literature, we used national newspapers, industry publications and information from training and consultancy firms. These sources have examples of strategies developed and applied in the corporate sector to improve the proportion of women on boards.

6.12 A weakness of using the case study approach is the transferability of findings to other situations and contexts. Strategies to improve gender equality that were seen to be successful in a large multi-national corporation may have limited relevance to a smaller organisation operating in a different industrial sector. Furthermore, the resources and culture available to one organisation to enact change at board level, may not be present in other organisations. Nevertheless, we have tried wherever possible to use examples of overcoming barriers to gender equality in the boardroom that possess some transferability and lessons that can be applied more widely.

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[69]Bruckmuller, S ., Ryan, M. K., Rink, F, and Haslam, S. A., (2014). Beyond the Glass Ceiling: The Glass Cliff and Its Lessons for Organizational Policy. Social Issues and Policy Review, 8, 1: 202—232.

Mentoring Works

6.13 There is a significant body of evidence that supports mentoring as an effective tool to overcome barriers to the entry of women to the boardroom. Mentoring is a practical way to facilitate movement from middle management to the higher echelons. An example is the development of leadership qualities in women through mentoring schemes being developed by the International Centre for Women Leaders at Cranfield School of Management. Mentoring programmes are well-established in many companies.

6.14 Dworkin et al.[70] argue that strong mentoring programmes have worked to increase the number of female senior managers and that these can be extended to boards. The lack of coaching for women who seek these positions is a major factor in their under-representation according to Fitzpatrick and Rappaport[71].

6.15 A recent report of a study[72] involving 2,252 college-educated men and women, over half of whom were in large companies, cited inadequate career development as the primary reason women have not reached the top rungs of the corporate ladder. Mentoring programs can be effective in helping women chart pathways around barriers to leadership, for a variety of reasons. Mentors, according to Ragins[73], lend legitimacy to an individual, offer inside information regarding job-related functions, and provide guidance and training in the political operation of the organisation. Additionally, mentors can buffer an individual from overt and covert forms of discrimination[74]. Mentors can compensate for exclusion from organisational networks where important information is usually found. They can also, as illustrated by Dreher and Cox[75], provide reflected power by signaling that an individual has a powerful sponsor.

6.16 Mentoring can take different forms but at its core, a professional mentoring relationship is developed between individuals, both men and women with experience in the boardroom and at executive level, offering their experience and insight to women seeking a board position. Mentoring was at the core of the recommendations identified by the Lord Davis Report in 2011 and has

[70]Dworkin, T. M., Maurer, V., and, Schipani, C. A., (2012). Career mentoring for women: New horizons/Expanded methods, Business Horizons. 55, 363—372.

[71]Fitzpatrick, D., & Rappaport, L. (2011, September 8). Financial firms' ceiling. Retrieved from http://online.wsj.com/article/ SB10001424053111904103404576557100384026220.html?mod=WSJ_topics_obama

[72]Lublin, J.S. (2011, April 4). Coaching urged for women. Wall Street Journal, p. B8.

[73]Ragins, B. R. (1999). Gender and mentoring relationships. In G. N. Powell (Ed.), Handbook of gender and work (pp. 347—357). Thousand Oaks, CA: Sage.

[74]Rhode, D. L. (2007). The subtle side of sexism. Columbia Journal of Gender and Law, 16(3), 613—619.

[75]Dreher, G. F., & Cox, T. H., Jr. (1996). Race, gender, and opportunity: A study of compensation attainment and the establishment of mentoring relationships. Journal of Applied Psychology, 81(3), 297—308.

been applied by a range of organisations[76,77], to improve the number of women holding board positions in the private sector.

6.17   Mentoring enables potential board candidates to envisage their own success. Mentors can link potential board candidates into social networks through which information about boardroom opportunities and contacts with existing board members are facilitated. Mentors enable women to: think through their career goal; challenge self-limiting beliefs especially for women in male dominated industrial sectors; provide an inspirational figure with a track record of success; address feelings of isolation and not being heard when operating at a senior level[78].

Case Study: The Mentoring Foundation - www.mentoringfoundation.co.uk
The Mentoring Foundation operates the FTSE 100 Cross Company Mentoring Executive and Next Generation Women Leader Programmes. The aim of the programmes is to improve the number of women operating in senior and board level positions in large organisations. Senior women are mentored by company Chairmen for 12 or 24 months. Mentees form strong relationships with a wide range of senior business figures who offer advice, support and professional experience. A crucial element of the mentoring programme is the way in which the process links mentees with networks of senior business figures. The mentoring relationship also brings women to the attention of top businessmen, offering a degree of visibility and contact which may not otherwise be afforded, particularly as data demonstrate that women frequently do not have access to powerful networks[79].

Case Study: Mentore - www.mentore.co.uk
Mentore was founded by high profile UK business figures including Sir Charles Dunstone and Sir Roger Carr to train and advise women who want to reach director level. The company offers a 12 month mentoring programme that costs around £25,000 per year. Mentore is based on the principal that equality and diversity are good for business: For years now equality and diversity have been recognised by shareholders as business imperatives. It is our responsibility as business leaders to reflect this sentiment and advocacy for women in business, and mirror this passionate belief in leveraging the best talent to serve our customers and our stakeholders"[80]. Mentore offers a range of training modules from senior one-on-one mentoring; training modules; network building and assurance and board reporting. One-on-one sessions would typically last about eight sessions over a 12-18 month period and target specific development goals and support the transition into executive roles. Mentore uses high profile mentors drawn from a wide range of corporate backgrounds.

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[76]The Mentoring Foundation. http://www.mentoringfoundation.co.uk/why-this-matters/
[77]Cranfield University School of Management. International Centre for Women Leaders. http://www.som.cranfield.ac.uk/som/p15708/Research/Research-Centres/Cranfield-International-Centre-for-Women-Leaders/About
[78]UK Parliamentary proceedings. Women in Work. Written evidence submitted by the Mentoring Foundation:
http://www.publications.parliament.uk/pa/cm201213/cmselect/cmbis/writev/womeninworkplace/m19.htm
[79]The Mentoring Foundation: http://www.mentoringfoundation.co.uk/what-we-do/
[80] Mentore. http://www.mentore.co.uk/

6.18   An indicator of the way in which social change is creating a favourable environment for the promotion of diversity in the boardroom, is evident in the proliferation of non-governmental and private sector organisations that are taking a lead in promoting gender diversity in the boardroom. The examples cited in the previous case studies are part of an increasingly large network of organisations whose purpose is to promote gender diversity across organisations. Globally, organisations such as Catalyst[81] are contributing to an international debate on promoting the representation of women at executive levels.

Improve Access to Networks

6.19   This review has identified a significant difference between the networks that men and women develop.   There is evidence to suggest that men invest time in developing an influential range of contacts through which information that helps support the transition to senior executive levels is transferred. There is evidence that men regard developing these networks as an integral part of their job. It is where contacts are established, knowledge is shared; new information is acquired; and influence is applied. Being excluded from influential social networks can mean that women are less likely to be recommended for unadvertised posts and are excluded from head-hunters list of potential board candidates. Whilst it is important not to generalise these findings to all women, the theme of exclusion from influential networks is recurring throughout the evidence. The Lord Davies commission, Women on Boards, specifically highlights the problem of 'a traditional male cultural environment, the old boy's network and a lack of networking opportunities for women'[82] as a barrier to the advancement of women into the boardroom. Research from the Harvard Business School found that almost a third of women surveyed, stated that male dominated networks were a significant barrier to them accessing the boardroom.

6.20   To address these issues, the paths that allow access to networks need to be unblocked for women.   Opportunities for women to interact with board members and senior executives can be used to develop and strengthen networks.

Case Study: Improving Access to Networks at National Grid
National Grid is an electricity and gas company that connects consumers to energy sources through its networks. To improve access to board members and create opportunities for networking, there are several structured opportunities for interaction with the board. The Chair and CEO maintain regular interaction with the top 70 staff through regular presentations to the board, invitations to pre-board dinners, to committee meetings, to regional events and to occasional social events. Board meetings are also held in regional locations to ensure that as wide a range of individuals can access board members. When promotions to the board are being

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[81]http://www.catalyst.org/
[82]Women on boards. February 2011. Available at:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf

considered, the board is better able to make a judgement having met potential board candidates personally through these opportunities for interaction. Once appointed to the board, new appointees may have less trepidation and more confidence having already met with board members[83]. Gender diversity on the Board of Directors at National Grid is higher than the 20.7% of their FTSE 100 peers. In 2014, of 15 Board members, 5 were female.

6.21   In the UK, measures to improve transparency in the appointment process would go some way to address the issue of women being locked out of powerful networks through which information about board vacancies becomes known. If directorships in the private sector were to be publically advertised, there would be greater transparency across the system and a wider number of people with different backgrounds and experience would become aware of board vacancies.

Use of Governance Codes to Set Targets

6.22   This review has identified a range of alternative approaches pursued by nations as they try to address the issue of gender diversity in the boardroom. Among those countries that have opted for a voluntary approach to change, there has been a shift to the use of reporting diversity in governance codes. The Lord Davies Review of Women on Boards has already identified the use of governance codes as a means to bring pressure on organisations to improve their gender diversity. The report states that: 'The Financial Reporting Council should amend the UK Corporate Governance Code to require listed companies to establish a policy concerning boardroom diversity, including measurable objectives for implementing the policy, and disclose annually a summary of the policy and the progress made in achieving the objectives'[84].

6.23   The Financial Reporting Council, the UKs independent regulator responsible for promoting high quality corporate governance has incorporated recommendations from the Lord Davies commission on the need for corporate reporting on diversity. The most recent UK Corporate Governance Code states that 'the search for board candidates should be conducted, and appointments made, on merit, against objective criteria and with due regard for the benefits of diversity on the board, including gender'[85]. Furthermore, the Code states that corporate annual reports should 'include a description of the board's policy on diversity, including gender, any measurable objectives

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[83]Transforming Boardroom Cultures in Science, Engineering and Technology. A good Practice Guide to Inclusive Boardrooms. UK resource centre for women in science, engineering and technology. Available at:
http://www.som.cranfield.ac.uk/som/dinamic-content/research/documents/boardroom.pdf
[84]Women on boards. February 2011:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf
[85]The Financial Reporting Council. UK Corporate Governance Code. September 2012. Available at:
https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-September-2012.pdf

that it has set for implementing the policy, and progress on achieving the objectives'[86].

6.24 As a result of this recommendation, there have been three significant changes to the Corporate Governance Code with the most recent in October 2012 requiring all listed companies to disclose their diversity policies, targets and progress to date. The code applies to the six Scottish based FTSE 100 listed companies and the 15 FTSE 250 companies based in Scotland. There is evidence that the Chairmen of FTSE 250 companies are increasingly aware of the benefits of diversity in the boardroom and that Governance codes can be used to ensure compliance with equalities targets set out by the Lord Davies commission. The UK Corporate Governance Code is overseen by the Financial Conduct Authority, and is a principles based approach that outlines examples of best practice. It is not a rules based approach enforced by statutory powers. Despite this, evidence suggests that compliance with revisions to the Corporate Governance Code is high. The Financial Reporting Council notes that, there are now high levels of compliance with the new recommendations added to the UK Corporate Governance Code in 2010. The level of early adoption of some of the changes made last year, such as having a clear policy on boardroom diversity, is also encouraging, particularly as companies have also had to implement significant new statutory requirements on reporting and remuneration this year'[87].

6.25 Research into levels of compliance among FTSE100 companies on boardroom diversity policies shows a high level of awareness of the need for greater boardroom diversity. 91% of FTSE 100 companies make some reference to boardroom diversity. However, only 37% record progress against those objectives. Findings from FTSE 250 companies were more disappointing with only 18% having a clear policy on boardroom diversity (see Table 2).

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[86]The Financial Reporting Council. UK Corporate Governance Code. September 2012: https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/UK-Corporate-Governance-Code-September-2012.pdf
[87]Development in Corporate Governance 2013. The impact and implementation of the UK Corporate Governance and Stewardship Codes. December 2013: https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/Developments-in-Corporate-Governance-2013.pdf

Table 2: Disclosure of diversity policies.

	All FTSE 100 companies	Sample of 50 FTSE 250 companies.
Does the company refer to the need for greater boardroom diversity and/or the new FRC Code?	91%	82%
Does the company have a clear policy on boardroom diversity?	65%	18%
Does the policy specifically mention gender?	61%	16%
Does the company set measurable objectives?	42%	14%
Does the company record progress against those objectives?	37%	12%

Source: Women on Boards: Benchmarking adoption of the 2012 Corporate Governance Code in FTSE 350; Cranfield University School of Management; November 2013.   Data based on the annual reports of FTSE 350 companies issued between July 2012 and July 2013.

6.26   Internationally, there has been a shift in some countries to improve gender diversity on boards through changes to governance codes. For example, in Australia, the Workplace Gender Equality Act 2012 requires private companies with 100 or more employees to report on specific gender diversity indicators including family-friendly working arrangements, consultations with employees regarding gender equality and pay equality. There are sanctions for non-compliance with these regulations. The Australian Securities Exchange requires listed companies to disclose their diversity policies, including measurable objectives and progress, or to explain why they do not disclose this information[88].

Special Measures

6.27   Although the UK government has thus far chosen to resist statutory quotas to improve gender equality on public and private boards, the Lord Davies report does not entirely exclude the possibility of such actions if voluntary approaches do not produce desired outcomes. The use of public reporting of the gender balance on boards and corporate diversity policies have contributed to an improvement in the proportion of women on boards.

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[88] The Harvard Law School Forum on Corporate Governance and Financial Regulation. Development Regarding Gender Diversity on Public Boards. November 12th, 2013:
https://blogs.law.harvard.edu/corpgov/2013/11/12/developments-regarding-gender-diversity-on-public-boards/

However Lord Davies states that government 'must reserve the right to introduce more prescriptive alternatives if the recommended business-led approach does not achieve significant change'[89].

6.28 Temporary special measures may be one route to improving gender equality on boards. Although positive discrimination in the UK is unlawful, international human rights law recognises that 'affirmative action may be necessary to overcome past discrimination'[90]. The UN Convention on the Elimination of Discrimination against Women (CEDAW) is an international human rights treaty focussing on equality between men and women. The treaty defines discrimination against women as 'any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'[91]. The UK became a signatory to the treaty in 1981[92]. The treaty requires of signatory states that they 'incorporate the principle of equality of men and women in their legal system, abolish all discriminatory laws and adopt appropriate ones prohibiting discrimination against women'[93].

6.29 The UK Equality and Human Rights Commission (EHRC) has integrated CEDAW into their work on gender equality. In 2012, the EHRC submitted a list of issues for consideration at the CEDAW working group. Among these issues was the topic of women on boards and public life[94]. In its submission to CEDAW, the EHRC noted the use of temporary special measures to increase the number of women in Parliament by extending until 2030 the provision under the Equality Act 2010 allowing political parties to adopt women-only shortlists for parliamentary candidates. The Sex Discrimination (Election Candidates) Act 2002 amended the Sex Discrimination Act 1975 to allow political parties to use all-women shortlists to select candidates for elections. The act contained a sunset clause that made the Act expire in 2015. The Equality Act 2010 extended provision for all-women shortlists until 2030, whereupon there is the possibility of a further extension[95].

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[89]Women on boards. Lord Davies. February 2011:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf
[90]Breaking the Mould for Women Leaders: could boardroom quotas hold the key? A Fawcett Society think piece for the Gender Equality Forum. October 2008. Available at:
http://www.mbsportal.bl.uk/secure/subjareas/hrmemplyrelat/fawcettsociety/138406breakingmould08.pdf
[91]Convention on the Elimination of All Forms of Discrimination against Women. United Nations.
[92]https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#14
[93]http://www.un.org/womenwatch/daw/cedaw/
[94]Equality and Human Rights Commission. Submission of the Equality and Human Rights Commission, A status National Human Rights Institution for the United Kingdom of Great Britain and Northern Ireland on the list of issues for the Convention on the Elimination of Discrimination against Women (CEDAW) Committee pre-sessional working group meeting:
http://www.equalityhumanrights.com/uploaded_files/international/ehrc_cedaw_final_13-09-12.pdf
[95]All-women shortlists. House of Commons Library. 18 December 2012:

6.30 The use of all-women shortlists appears to have increased the proportion of women in the House of Commons: 'since the introduction of all-women shortlists there has been an increase in the proportion of female MPs returned to the House of Commons. Of 650 MPS elected in the 2010 General Election, 143 (22.0%) are women, the highest number and proportion ever'[96]. Despite the apparent success of all-women shortlists at increasing the proportion of women MPs, Rosie Campbell and Sarah Childs are critical of the relatively minor gains made using shortlists: 'the post-war average (of women elected at General Elections) until the mid-1980s was roughly 4%, but the increase from 1997 to 2010 is from 120 to 142 women MPs, a difference of just 4 percentage points (from 18 to 22%)'[97].

6.31 The EHRCs submission to the CEDAW committee working group meeting, emphasises a voluntary approach to increasing the proportion of women on boards. It states that 'the [UK] Government is confident that the voluntary, business-led approach to increasing the representation of women is working so there is no need to follow the example of Norway and others and legislate on this issue'[98]. The submission emphasises evidence from the Lord Davies report on the proportion of women on the boards of FTSE 100 and FTSE 250 companies. It suggests that the voluntary approach pursued within the UK has led to significant positive change in the proportion of women on boards, however there are opportunities for improvement specifically around the issues of recruitment and selection of board members. Research commissioned by the EHRC found that 'the appointment process remains opaque and subjective and is typically driven by a corporate elite of predominantly male Chairmen who tend to favour those with similar characteristics to themselves'[99]. This finding is consistent with other research outlined in this paper and has been found to be linked to groupthink and associated risks for corporate governance.

www.parliament.uk/briefing-papers/SN05057.pdf
[96]All-women shortlists. House of Commons Library. 18 December 2012:
www.parliament.uk/briefing-papers/SN05057.pdf
[97] Rosie Campbell and Sarah Childs, "'Wags', 'Wives' and 'Mothers' … But what about Women Politicians?", in Andrew Geddes and Jonathan Tonge (eds), Britain Votes 2010, 2010, pp185-186
[98]Equality and Human Rights Commission. Submission to CEDAW:
http://www.equalityhumanrights.com/uploaded_files/international/ehrc_cedaw_final_13-09-12.pdf
[99]Elena Doldor et al, Gender Diversity on Boards: The Appointment Process and the Role of Executive Search Firms. EHRC Research Report No. 85.(EHRC, 2012)

7   OVERCOMING BARRIERS TO EQUALITY AND DIVERSITY ON THIRD SECTOR BOARDS

Chapter Summary

- There is limited data and evidence on overcoming barriers to female boardroom participation in the third sector. Such information on boardroom equality and diversity of Scottish registered charities is not routinely collected.

- From the available evidence, third sector boards appear to be more gender diverse than private sector boards.

- The third sector has not been subject to the same level of scrutiny on board diversity as the private sector.

- The National Council for Voluntary Organisations has supported a voluntary approach to gender equality in the boardroom.

- Social enterprises appear to demonstrate good examples of women's involvement in governance compared to the private sector.

Diversity on Third Sector Boards

7.1   Data on the proportion of women on the boards of third sector organisations is not widely available.   Chapter 6 showed that the private sector has been subject to considerable scrutiny on the gender composition of their boards. The private sector has seen the introduction of benchmarking, target setting and the measurement of results on gender equality in the boardroom. A series of high profile and influential reports including the Lord Davies (2011) report "Women on Boards" and Cranfield University's International Centre for Women Leaders, have benchmarked progress towards greater gender equality in the private sector. The Boardwatch website provides an up to date record of the appointment of women to FTSE 100 and FTSE 250 companies. Similar data sources are largely absent for the third sector in Scotland.

7.2   The Women Count: Charity leader 2012 report[100] seeks to benchmark leading charities by the percentage of women on their Boards, the number of women directors and the names of the Chairs and most senior executives. The report draws from data supplied by the Charity Commission and so does not include Scottish based charities. The report is based on data from 162 separate charities based in England and Wales. Similar information is not collated by OSCR.

7.3   Data from the study shows that although charities have a higher proportion of female directors than their private sector counterparts, the proportion of women directors' remains below targets proposed by the Scottish Government but above the 25% threshold considered acceptable by Lord Davies' (2011) report into Women on Boards (see Table 3).

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[100]Women Count. Charity leaders 2012. Benchmarking the participation of women in the UK's largest charities. May 2012: http://women-count.org/Women-Count-Report-2012.pdf

Table 3: Women board members in the private and charity sectors.

Index	% Women directors	% Women chairs	% Women most senior executives
FTSE 100	15	1	4
FTSE 250	9.4	2.4	4
Charity 100 (by funds)	27	9	17
Charity 100 (by income)	32	17	25

Source: Women Count.   Charity leaders 2012.   Benchmarking the participation of women in the UK's largest charities.

7.4   The report notes that men continue to hold the majority of board seats with 68% of the top charities (by income) having male dominated boards[101].

7.5   Research conducted with English and Welsh charities has sought to demonstrate the value of ensuring that charity trustees and chairs, both male and female, are encouraged to act as mentors to develop the potential of leaders in the third sector[102]. It is stressed that private sector board members also participate in schemes to encourage access to third sector boards for female leaders in the third sector.

7.6   Cass Business School in partnership with the National Council for Voluntary Organisations (NCVO), run a seminar series designed to give access for female chief executives from the UK voluntary sector to the opportunity to serve on private sector boards. In his report on Women on Boards, Lord Davies states that: 'there is a perception that the many women in leadership positions in academia, the arts, the media, the civil service or professional services are often overlooked because they do not have specific corporate experience and Chairmen fear that they will not understand corporate issues or corporate board governance'[103]. The Cass Business School seminar series highlights how women leaders from the third sector bring a wide range of talents and abilities that are relevant in a corporate context: Women bring a wide breadth of knowledge to the table - charities are leaders in accountability, demonstrating impact, building public trust, motivating staff, stakeholder engagement, and the need to produce high quality results to a strict bottom line'[104]. By structuring the seminars around working dinners

[101]Women Count. Charity leaders 2012. Benchmarking the participation of women in the UK's largest charities. May 2012: http://women-count.org/Women-Count-Report-2012.pdf
[102]Women Count. Charity leaders 2012. Benchmarking the participation of women in the UK's largest charities. May 2012: http://women-count.org/Women-Count-Report-2012.pdf
[103]Women on boards. Lord Davies. February 2011: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31480/11-745-women-on-boards.pdf
[104]Breaking the glass silo – does the voluntary sector hold the key to reaching board gender targets? Cass Business School. City University London. February 2012: http://goo.gl/PrvV6R

attended by invited guests from the third and private sectors, Cass Business School and NCVO are seeking to build social networks and social capital across representatives from different sectors. The dinners are sponsored by executive search firms, 'who will be represented, giving the seminar participants opportunities to network with the people who fill private sector board vacancies'[105].

Reporting and Transparency of Gender Equality Goals

7.7   A central principal of the voluntary approach adopted by the UK Government to the improvement of female representation on public, private and third sector boards has been the idea of goal setting and self-reporting as a way of ensuring compliance with diversity targets. In the private sector, the UK Corporate Governance Code has built on the concept of 'comply or explain', an approach described as a 'pragmatic tool that can improve corporate governance without the need for inflexible, burdensome and misguided rules, laws or regulation'[106]. In line with this voluntary approach, the UK Government Equalities Office published a paper on addressing gender equality, supported by the National Council of Voluntary Organisations (NCVO) and targeted at the voluntary and private sectors that supports the continued use of voluntary approaches to gender equality[107]. The report sets out a 'Transparency Framework' to be used by organisations to analyse and report on gender equality issues.

7.8   The Transparency Framework includes measures of the relative seniority of men and women in the organisation. It seeks to identify: 'The proportion of men and women at different levels within the organisation e.g. board level, senior management, middle management etc.'[108]. In addition to contextualising gender pay gaps within the organisation, this information would allow for the identification of potential 'pipeline issues for getting women onto boards'[109].

7.9   In the third sector, Lyon and Humbert believe that social enterprises have the potential to encourage greater representation of women in the governance of local economies, but at present there continues to be an imbalance. Lyon and Humbert demonstrate that 41% of board members of social enterprises were women with an average board size of 7.5 people. However 10% of the social enterprises in their study had no female board members and that 19% have only one woman on their board. 71% had two or more women at board

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[105]Breaking the glass silo – does the voluntary sector hold the key to reaching board gender targets? Cass Business School. City University London. February 2012: http://goo.gl/PrvV6R
[106]Comply or Explain. 20th Anniversary of the UK Corporate Governance Code. Financial Reporting Council. 2012. Available at: https://www.frc.org.uk/Our-Work/Publications/Corporate-Governance/Comply-or-Explain-20th-Anniversary-of-the-UK-Corpo.aspx
[107]Addressing Gender Equality: Think, Act Report. Government Equalities Office. 2011.
[108]Addressing Gender Equality: Think, Act, Report. Government Equalities Office. 2011: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85569/think-act-report-framework.pdf
[109]Addressing Gender Equality: Think, Act, Report. Government Equalities Office. 2011. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85569/think-act-report-framework.pdf

level. Of UK based social enterprises with majority female boards, 73% of the workforce is female, compared to 47% female workforce in social enterprises with male dominated boards, with women making up 57% of the workforce. In sectors that have traditionally had a female gender imbalance such as youth work, childcare, counselling and health and social care, there is a higher proportion of women on boards than in occupational sectors that are seen to be more male dominated[110]. There are also higher proportions of women on boards in 'arts, culture and sports' social enterprises. In contrast, the areas of 'environmental and recycling services' have a smaller proportion of women involved in boards.

7.10 Social enterprises appear to provide a more egalitarian environment for women's involvement in governance compared to the private sector. They can therefore be considered an important potential arena within local economies providing a stepping stone for governance that challenges inequality.

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[110]Fergus Lyon and Anne Laure Humbert. Gender balance in the governance of social enterprise. Local Economy 2012 27: 831.

8 QUOTAS

Chapter Summary
- Internationally, the use of quotas to enforce gender diversity on boards has become an accepted means to address the issue of representation on boards.

- In the EU, the voluntary approach to gender diversity in the boardroom has come under attack from those who see too little change taking place.

- Norway continues to be the most high-profile example of a country where quotas, backed up with the threat of sanctions, has led to a significant increase in the proportion of women on boards.

- The gender composition of private sector boards in the UK has been subject to considerable scrutiny leading to an increase in the number of female board members.

Introduction

8.1   The purpose of this section is to look beyond current trends and see what changes are likely to affect the issue of boardroom diversity in the future. Increasingly, across European countries, the use of quotas to enforce gender diversity on boards has become an accepted means to address the issue of representation on boards.

8.2   In March 2014, the Economist looked at the issue of gender quotas for boards. One reason for the political and social shift to the increased acceptance of, and application of gender quotas, either voluntarily or as legally binding requirements, was seen to be the result of the shift in the rate of higher education amongst women. In 2014, the Economist argued that, 'one reason is a growing impatience with the glacial pace of voluntary change: women are the majority of all graduates almost everywhere in the developed world, but make up a smaller share of the workforce the further up the corporate ladder they go. Another is that Norway's quota law has not been the disaster some predicted'[111].

Quotas

8.3   Although there are some signs that public and private boards are becoming increasingly more diverse as highlighted in this report, looking ahead it is possible to see some significant policy change taking place regarding the application of quotas to enforce diversity on boards.

8.4   The Scottish Government, as outlined in section 4.3, has stated its support for a quota system to increase the number of women on public boards thereby ensuring that they reflect the communities they serve.

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[111]http://www.economist.com/blogs/economist-explains/2014/03/economist-explains-14

8.5   The most recent high-profile UK government commissioned report on women on boards, decided against recommending the use of quotas to improve gender equality on boards. This decision was based on the small number of those surveyed as part of the report that supported quotas but also because the report's authors believed that 'board appointments should be made on the basis of business needs, skills and ability'[112]. Responsibility for improving the proportion of women at board level should, according to the report, be left to business.

8.6   In the media, there is an increasing level of discussion on the possible use of quotas to address gender imbalances in the boardroom. Articles supporting the introduction of quotas have appeared in The Guardian[113,114]. Writing for the Guardian, Richard Portes, Professor of Economics at the London Business School concludes that 'quotas simply compensate for the many barriers that impede progress' in a male dominated system that makes 'few allowances for the asymmetries in child-rearing'. The Financial Times has published evidence on the effectiveness of quotas as a means to improve gender diversity in the boardroom, noting that 'early analysis appears to show that quotas work'[115]. Meanwhile, the Telegraph has published an article outlining arguments against the introduction of such measures. The Telegraph article argues that quotas do not address the underlying causes that impede female advancement to the boardroom. To do this governments must instead focus their attention on better childcare tax breaks and the need for companies to develop and mentor their own women to help them rise to the top. Quotas, the article states, risk putting a 'sticking plaster over the real reasons why women aren't making it as much as they should be'[116].

8.7   In late 2013, the European Commission moved closer to imposing a form of gender quota on major public companies in the European Union. Two committees of the European Parliament voted in favour of a proposal by the European Commission to require certain public companies to increase the representation of women on their boards. The proposed law would apply to large public companies and would impose sanctions for those companies that failed to meet quotas.   Sanctions would be decided by member states.

8.8   The proposed law would require companies that do not have non-executive boards composed of at least 40% women to introduce selection procedures for board members that would give priority to qualified female candidates. The quota system would not apply to companies with fewer than 250 employees and revenue below 50 million Euros.

8.9   Several major EU countries have already endorsed quotas as a way of increasing the number of women in senior board positions. Germany, France,

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[112]Women on boards. February 2011.
[113]http://www.theguardian.com/women-in-leadership/2013/oct/25/comment-i-support-quotas
[114]http://www.theguardian.com/women-in-leadership/2013/sep/19/tried-persuasion-now-time-for-quotas
[115]http://www.ft.com/cms/s/0/aef9d9c4-d521-11e3-9187-00144feabdc0.html#axzz32RyPfgKW
[116]http://www.telegraph.co.uk/finance/jobs/9982622/Women-on-boards-Why-we-must-never-ever-introduce-quotas.html

Holland, Spain and Italy have systems in place to enforce compliance with quota systems.

8.10 This shift in the policy landscape has taken place partly because the voluntary approach to gender equality is not seen to be creating sufficient change at a fast enough pace. The gender gap in corporate management boards continues to be seen as an injustice to which a range of legal and voluntary approaches are currently being applied. The most high profile example of the use of quotas to enforce gender diversity on boards has taken place in Norway where mandatory quotas have increased the proportion of women on boards to 40%. Voluntary mechanisms, an approach favoured by the UK and US governments, have sought to enact change through corporate governance and codes of conduct specifically relating to gender diversity. These approaches adopt a 'comply or explain'[117] approach but carry no sanctions, unlike under mandatory quota regimes.

8.11 Quotas are perceived as initially good to increase representation, but evidence suggests that for some women their presence is considered demeaning. Hurn[118] states 'it is recognised by many companies that they cannot do without the innovation that is generated by a diverse workforce, but mandatory quotas are considered counter-productive. Many women managers see them as demeaning and patronising and would themselves prefer to gain seats on the board by merit through their own efforts, experience and qualifications'.

8.12 In the EU, Hurn points out, that there is more support for the imposition of quotas. In 2011, France introduced legislation requiring listed and unlisted companies to reserve at least 20 per cent of the seats on their boards for members of each gender by 2014 and 40 per cent by 2014. This has increased the number of women on boards from 12 per cent to 22 per cent. In Italy and Belgium, a minimum of one third female representation is required. While Spain and the Netherlands have introduced legislation setting a mandatory target of 40 per cent by 2015 for female directors of large companies. Germany is also considering setting a required quota. Norway, although not a member of the EU, brought in legislation for a quota system for listed companies in 2003.

8.13 In Norway, over 40 per cent of non-executive directors are women but less than 10 per cent are executive directors and there is little support to increase the numbers. There is also concern about the relative youth and lack of relevant experience of some of the new women appointed as directors[119]. Grosvold et al[120] examined female directors on boards and showed growth was higher in Norway with no observable negative effects prompting them to state: 'Our study, then, appears to show that affirmative action programmes

[117]http://www.catalyst.org/regulatory-board-diversity
[118]Hurn, B. J., (2013). Are cracks now appearing in the boardroom glass ceiling?, Industrial and commercial Training, 45, 4: 195-201.
[119]Grosvold,J. Stephen Brammer and, S., and Rayton, B., (2007). Board diversity in the United Kingdom and Norway: an exploratory analysis, Business Ethics: A European Review, 18, 4: 344-357.
[120]Grosvold,J. Stephen Brammer and, S., and Rayton, B., (2007). Board diversity in the United Kingdom and Norway: an exploratory analysis, Business Ethics: A European Review, 18, 4: 344-357.

may have the potential to generate a radical growth in female representation in the boardroom. A more widespread adoption of such programmes would cement the position of women in the boardroom and within wider society and, absent of evidence of harmful effects, could form the basis of good governance practice throughout western economies'.

8.14 Viviane Reding, the EU Commissioner for Justice, Fundamental Rights and Citizenship, has called for large companies to raise the proportion of female directors in EU companies to 40 per cent by 2020, saying: "I don't like quotas, but I like what quotas do". Hurn notes that a Euro Barometer poll commissioned by Ms Reding's directorate found that in 2011, 75 per cent supported the introduction of legislation to enforce the gender balance on boards and over 40 per cent of those companies surveyed considered an eventual 50 per cent share for women would be realistic[121]. A McKinsey Consultancy study[122] in 2010, of 245 large European companies showed that most of the companies surveyed take the issue seriously, with some 90 per cent claiming to have some form of diversity programme in place.

8.15 Legal enforcement of diversity legislation has been shown to be successful in the U.S. and gains in women's board representation have also been linked to the passage of the Sarbanes–Oxley Act of 2002. This federal law was in response to 'reports of corporate mismanagement, managerial excesses, and misrepresentation by corporate executives'[123]. This created changes in corporate governance structures by requiring a level of accountability among boards and a reduction in the number of insider and affiliated directors. This has created greater board diversity by pushing for broader external searches of qualified members[124].

International Approaches

8.16 There is significant variation in the way in which countries have adopted quotas. Variation in approaches can be seen in terms of: severity of sanctions (in Norway a company may be dissolved for failure to comply whilst in the Netherlands companies may be asked to explain why they have not met quotas); timescales for reaching quota targets; incentives; whether the law is temporary or permanent; the size of the companies required to enact quotas; the ownership structure of companies required to enact quotas; and the range of roles on the board that are covered by quota requirements[125]. Annex 1 has more detailed information on the legal instruments used in each country to reduce the gender gap.

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[121]European Commission (2011), Euro Barometer, European Commission, Brussels, commissioned by EU Justice, Fundamental Rights and Citizenship Directorate, March.
[122]McKinsey Consultancy (2010), Survey: Women Matter, McKinsey Consultancy, London, September.
[123]Valenti, A., (2008). The Sarbanes–Oxley act of 2002: has it brought about changes in the boards of large US Corporations? Journal of Business Ethics 2, 401–412.
[124]Daily, Catherine M., Dalton, Dan R., Certo, S. Trevis,(2004). Women as directors: the inside story. Directors and Boards 29, 36–39.
[125]Directorate-General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Quotas in Management Boards: http://goo.gl/JrET32

8.17 Countries that have opted instead for a voluntary regime have developed a range of measures that use: the 'comply or explain' principle; transparency in promotion and recruitment processes; education and training initiatives; corporate governance codes; and charters promoting women in management[126].

8.18 An alternative way in which these voluntary approaches can be understood divides them into three categories: Good practice in companies (e.g. setting targets; developing training programmes); cross-company and sector initiatives (e.g. awards, charters); and industry self-regulation instruments (e.g. Corporate Governance Codes)[127]. Examples of good practice include training and mentoring or sponsor programmes and the implementation of voluntary gender quotas at a company level[128]. Cross-company and sector initiatives, including: awards, databases of women interested in becoming board members; networks (e.g. the European Professional Women's Network); and mentoring initiatives (e.g. the FTSE 100 Cross-Company Mentoring Programme[129]). Industry self-regulation also takes the form of Corporate Governance Codes. These tend to be guidelines rather than binding measures with non-compliance requiring an account in company reports rather than external oversight as we see in the case of the statutory approaches.

8.19 It should be noted that whilst Norway is cited as an example of the impact of statutory quotas, it also introduced a series of voluntary measures in conjunction with legally binding quotas. There were efforts to select women with board potential and provide training on aspects of board membership. Norway also established a series of databases onto which women with relevant experience were invited to register. Approaches included the 'Female Future'[130] and the Network to Promote Women in Decision Making in Politics and the Economy[131]. This latter approach identified several factors that were crucial to increasing gender equality in Norwegian boardrooms. These were: the provision of training directed toward women considered likely candidates for the boardroom; stakeholder engagement with training activities; and the presence of female role models.

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[126]Directorate-General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Quotas in Management Boards.
[127]Visser, M. (2011) 'Advancing gender equality in economic decision-making', European Conference on Equality between Women and Men Brussels, Sept 19-20, 2011.
[128]European Commission (2007) Decision Making: Exchange of Good Practices. Luxembourg: Office for Official Publications of the European Communities. Available at:
http://ec.europa.eu/justice/gender-equality/document/index_en.htm#h2-5.
[129]The Mentoring Foundation. FTSE 100 Cross Company Mentoring Programmes
http://www.mentoringfoundation.co.uk/
[130]Storvik, A. and Teigen, M. (2010) Women on Board: The Norwegian Experience. Friedrich Ebert Stiftung, International Policy Analysis: Berlin.
[131]Network to Promote Women in Decision-Making in Politics and the Economy, 2011.

The Experience of Norway

8.20   In Norway, which was the first country to introduce a quota for women on boards, the proportion of women on boards has reached the 40% required by law. The Norwegian Companies Act was passed in 2003 and imposes regulation on gender composition for a wide variety of company boards, public limited companies, state and local government owned companies as well as cooperative companies. The quota regulation for state owned and inter-municipal companies became effective in 2004, for new public limited companies in 2006, and for all public limited companies in 2008, for municipal and cooperative companies in 2009[132].

8.21   It is important to note that the baseline of female representation from which Norwegian public boards were starting from was considerably lower than is currently the case in the UK. In 2002, the year before the gender quota law came into force, the proportion of women on boards stood at 6%[133].

8.22   It is useful to summarise the political and public debate that took place prior to the introduction of the law.   These arguments are focussed on social justice; skills; and democracy, as outlined below.

Social Justice Arguments
Proponents: Arguments formulated by the supporters of the quota legislation emphasised gender balance as a principle of justice. They underlined justice in the sense of redistribution of resources, claiming that positive discrimination is necessary in order to achieve gender equality. Male domination of Norwegian boards was seen as unacceptable and a possible indication of gender discrimination.

Opponents: The main counter-argument was that regulation of the gender composition of corporate boards would not be fair.   Recruitment to corporate boards should not be based on the gender of candidates. The owners should have the right to select the candidates they find most suitable to sit on the board. Quota regulations were considered to be illegitimate unequal treatment and as discrimination against men[134].

Skills Arguments
Proponents: The human capital argument claimed that, since the total talent potential of a population is distributed fairly evenly between men and women, the extreme male dominance in corporate boards indicated underutilisation of women's skills. Boards tend to recruit only from the talent pool of the male population, while qualified and competent women candidates are not seriously considered.

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[132]Exchange of good practices in gender equality. Women in decision making. Discussion Paper. European Commission.
[133]Women on Board. The Norwegian Experience. June 2010: http://library.fes.de/pdf-files/id/ipa/07309.pdf
[134]Women on Board. The Norwegian Experience. June 2010: http://library.fes.de/pdf-files/id/ipa/07309.pdf

Opponents: The skills-related argument against quota reform was primarily that it would lead to less competent women replacing more competent men. The claim was that not enough women had the relevant experience, and that the recruitment of qualified women had to start earlier and further down the organisational hierarchy to create a pool of well-qualified women. In addition, it was asserted that owners are best qualified to select the most competent board members.

The Democracy Argument
Proponents: The democracy argument was particularly prominent among the government's justifications for the quota legislation. It was argued that more gender-equal participation in economic decision-making was crucial for Norwegian democracy. A related argument concerns the importance of equal rights to participation in the boards of influential companies, where the state often is a major owner.

Opponents: A main counterargument concerned economic democracy, in the sense of shareholders' democracy. The claim was that the quota law would hinder owners' democratic right to recruit candidates and, in particular, interfere with the election process at the shareholders' meeting. Owners invest in their companies and risk their money; they should therefore have the right to decide who they want to represent them on the board. Regulation was therefore seen to challenge the owner's autonomy.

8.23 What are the lessons from the Norwegian experience? Firstly, sanctions are necessary to enforce compliance. Although no new sanctions were introduced because the law was an amendment of an existing one, it was clear that the threat of fines and company dissolution was necessary to enforce compliance: 'The successful implementation of the quota was due mainly to sanctions, the toughest of which was the forced dissolution of noncompliant companies. When there were no sanctions in the initial phase, companies did not widely implement the policy on a voluntary basis'[135]. Secondly, positive measures were also introduced to encourage companies to improve their gender representation. Several databases were established to which women could register and companies were able to search for potential candidates. The Norwegian employers association created a training programme to which companies could send their employees to improve their skills. Thirdly, quotas required the support of a wide political spectrum. The proposed legislation had the backing of a broad political alliance of centre government and left of centre parties. Fourthly, it took a decade from the introduction of the law to achieve 40% female board members.

8.24 Seierstad and Opsahl[136] indicated that the legislative mandate of the Norwegian Government was a successful enabler for improving gender

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[135]Women on Board. The Norwegian Experience. June 2010: http://library.fes.de/pdf-files/id/ipa/07309.pdf
[136]Seierstad, C., and Opsah, 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 , 27, 44—54

balance on corporate boards. However, Bøhren and Staubo[137] stated that overall, the mandatory gender balance may produce firms with inefficient organisational forms or inefficient boards.

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[137]Bøhren, O., and Staubo. S., (2013). Does mandatory gender balance work? Changing organizational form to avoid board upheaval, Journal of Corporate Finance, doi.org/10.1016/j.jcorpfin.2013.12.005.

9 LOOKING AHEAD

Potential Impact of EU Law on the UK

9.1   Although the UK position has been to support voluntary measures to improve gender equality in the boardroom, momentum is building from the European Parliament for the introduction of legislative measures to support improvements in gender balance in the boardroom. On 20 November 2013, the European Parliament introduced draft legislation to improve the gender balance among directors of companies listed on the stock exchange. The legislation would, if approved, require: openness and transparency in the appointment of non-executive board members to listed companies; listed companies take effective and binding measures to guarantee equal access for both women and men to non-executive positions on boards so as to ensure that by 2020, at least 40% of non-executive directors' positions are held by women with public companies having to reach the target by 2018[138].

9.2   Research on the impact of EU gender directives on the UK suggests that their impact could be significant.   The UK Government may have to reconsider the voluntary approach that has been the preferred method for improving gender equality in the boardroom. If the EU directive is finalised and if it appears that corporations subject to the legislative are not likely to meet gender targets by 2020 (or 2018 in the case of public bodies), then it may be necessary to redraft the provision for positive discrimination under the Equality Act 2010 applied to create all-women parliamentary shortlists:

'Once the EU directive is finalised, the UK government must consider what measures will be required to implement the directive. Women currently hold 21.5 per cent of FTSE 100 non-executive directorships so it will be a challenge to achieve 40 per cent by 2020. Specific legislation may be required to accelerate progress.   A re-drafting of the current positive action provision in the Equality Act 2010 may be necessary as the current provision is quite limited in scope' (Herbert Smiths Freehills, 2013[139]).

Support for other Equalities Groups

9.3   In 2012-13, only 5.2% of public appointments in England and Wales were made to candidates from ethnic minority backgrounds. The Commissioner for Public Appointments in England and Wales in March 2014, stated that the proportion of people from ethnic minority backgrounds being appointed to public boards needs to improve[140]. In May 2014, the chief executive of NHS England, Simon Stevens, spoke of the need for more ethnic minority representation on health boards: 'It can't be right for example that ten years

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[138] Practical Law. http://uk.practicallaw.com/8-549-6685?q=&qp=&qo=&qe=#null

[139] Board minimum quotas for women: Where would male gender discrimination start? Discrimination and Equality Law Committee Newsletter. June 2013:
http://www.herbertsmithfreehills.com/-/media/Files/PDFs/2013/Discrimination_Law_June_20131%20pg%2013-16.pdf

[140]Commissioner for public appointments holds diversity roundtable. March 26, 2014. Available at:
http://diversityuk.org/commissioner-public-appointments-hosts-diversity-roundtable/

after the launch of the NHS race equality plan, while 41% of NHS staff in London are from black and minority ethnic backgrounds (similar in proportion to the Londoners they serve) only 8% of trust board directors are, with two-fifths of London trust boards having no ethnic minority directors at all[141].

9.4   Similarly in the private sector, a study published in 2014 noted a 'diversity deficit' in the senior ranks of Britain's most important firms. The study revealed that: More than half of FTSE 100 companies have no non-white leaders at board level, whether executive or non-executive; and two-thirds have no full-time ethnic minority executives at board level. Women and ethnic minority leaders feature disproportionately as non-executive board directors: as a consequence their true level of influence is far smaller than their numbers suggest. The fifteen industrial sectors of the FTSE 100 show very different levels of diversity; strikingly, those which typically show a smaller gender deficit, such as utilities, tend to show a much larger ethno-cultural deficit; and vice versa, as, for example, in the case of natural resources[142]. As we have seen with the case of gender equality, several groups are emerging that are campaigning for better ethnic minority representation at senior organizational levels, notably Race for Opportunity[143].

9.5   Van der Walt, et al.[144] commented that pressure by institutional investors, shareholder activists and interest groups to appoint directors with different ethnic and gender backgrounds helps promote boardroom diversity. Westphal and Milton[145] also note that 'institutional investors and the popular press have routinely called for the appointment of directors who lack social ties with existing board members and can therefore be considered independent, while also strongly advocating greater board diversity with respect to functional background, industry experience, and expertise'.

9.6   Although the ethnic minority population in Scotland is less than in England, the increasing pressure for greater ethnic minority representation in England may have spillover effects in urban areas of Scotland where the ethnic minority groups are larger. 12% of the population of Glasgow are from ethnic minority groups with slightly smaller proportions in Edinburgh (8%) and Aberdeen (8%)[146]. The same arguments used to justify gender equality on public boards, that it is good for governance, leads to better decision making and provides better representation for the communities' boards serve, also apply to ethnic minority representation on boards.

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[141] http://www.england.nhs.uk/2014/05/21/simonstevens-kf-speech/

[142] http://www.green-park.co.uk/press-release-britains-competitiveness-risk-deep-diversity-deficit-says-new-study/

[143] http://raceforopportunity.bitc.org.uk/

[144] Van der Walt, N., Ingley, C., Shergill, G. S., and Townsend, A. (2006), Board configuration: are diverse boards better boards?, Corporate Governance, 6 , 2:. 129-147.

[145] Westphal, J.D., & Milton, L. P. (2000). How experience and network ties affect the influence of demographic minorities on corporate boards. Administrative Science Quarterly, 45, 366–398.

[146] Scotland's Census 2011. Available at: http://www.scotlandscensus.gov.uk/census-results

APPENDIX ONE: ADDITIONAL MATERIAL

Legal instruments to narrow the gender gap in corporate management boards in European and OECD countries.

Country	Applicability	Target for female representation	Year to be reached	Legal instruments	Penalties for non-compliance
Austria (2011)	Companies owned 50%+ by state.	2 phases: 25% 35%	2 phases: 2013 2018	National law to achieve quota targets for boards of state owned companies. Self-regulation: Corporate Governance Code of 2009 recommends representation of both genders in appointments to supervisory boards.	No sanctions.
Belgium (2011)	Phased timing by company legal status: State-owned companies Listed companies Small and medium sized listed companies; companies with less than 50% shares listed.	1/3	Phased timing by company legal status: 2012 2016 2018	Domestic legislation introduced a new article to Belgian Companies Code: http://goo.gl/7NEfgj	Temporary loss of financial and non-financial benefits by board members.
Denmark (2000)	State-owned companies.	30%	Immediate	Boards in state-owned companies should 'as far as possible' have an equal gender balance; a man and a woman nominated for every vacancy (executives and non-executives);	

				domestic legislation obliges around 1100 of Denmark's largest companies to set voluntary targets for the proportion of the under-represented sex in the board.	
Finland (2004)	State-owned companies.	40%	2005	Change to national equalities policies; corporate governance code for listed companies contains recommendation that 'boards shall consist of both sexes' (executives and non-executives).	
France (2011)	Listed companies; companies with 500+ employees or turnover/asset of €50m+.	2 phases: 20% 40%	2 phases: 2013 2016	National law of 27 January 2011. Self-regulation: AFEP/Medef corporate code: recommendation containing same quotas as in the law of 2011, applicable to all board members.	Annulment of board appointments
Iceland (2006)	State-owned and municipal-owned companies	50% (or as close as possible)	Immediate	Amendment to national Companies Law stipulating the 40% requirement.	
Iceland (2010) employees.	Public and private limited companies with 50+	40%	2013	See above. For further information see: http://goo.gl/JfBomv	
Ireland (2004)	State-owned companies.	40%	No deadline	No legislation. Absence of any sanctions means that it is more of an awareness raising tool than an actual	This quota is a programme for government and does not have a legal

				quota system.	standing.
Israel (1993)	State-owned companies	30%	No deadline	National government legislation to enforce mandatory enforcement of quotas for state owned companies	
Italy (2011) .	Listed companies; companies with public participation and state-ownership.	2 phases: 20% 30%	2015	National law introduced to ensure that public limited companies and state-owned companies have at least 33% of each gender on their boards (executives and non-executives) by 2015 (with a target of 20% for the transitional period).	Verbal sanction by regulatory body (Consob); fine; voiding of board's actions
Norway (2003)	Public limited companies; state owned companies; intermunicipal companies.	40%	2008	Amendment to national Company law but had considered using Equality law	Official warning; fines; ultimate delisting and dissolution.
Spain (2007)	Public limited companies with 250+ employees.	40%	2015	National law recommends gradual modification of board composition of big companies until gender balance is reached. Self-regulation: Corporate Governance Code of 2006 recommends adequate gender diversity on board. The rule is applicable to all	No penalties; incentive: potential priority status for government contracts.

				board members (executives and non-executives).	
Switzerland (2006)	State-owned companies.	30%	2011	In 2011, the Swiss House of Representatives struck down a motion for gender quotas, a move supported by The Swiss Business Federation which instead recommends voluntary targets for boards. EU quota regulations would not affect Switzerland. Switzerland close to UK and Germany in its soft approach to quotas.	
The Netherlands (2010)	All companies (regardless of listing, ownership, private/public) with 250+ employees (or turnover criteria).	30% in boards and senior management	2016	National law creates an obligation for large companies to strive to achieve a gender balance (30% for each sex) in the executive board and supervisory board; 'comply or explain'; measure to expire in 2016. The rule is applicable to both executives and non-executives. Self-regulation: diversity clauses in the Dutch Corporate Governance Code of 2009, applicable to both executives and	No sanctions in law. Comply or explain in annual report and publish action plan to address.

				non-executives; voluntary Charter with targets for more women in management.	
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Sources: Directorate-General for Internal Policies. Policy Department C: Citizens' Rights and Constitutional Affairs. Quotas in Management Boards. Women on Boards - Factsheet 2. Gender equality in the Member States. European Commission. Available at: http://ec.europa.eu/justice/gender-equality/files/womenonboards/factsheet-general-2_en.pdf

For an overview of gender equalities legislation in EU member states see: http://ec.europa.eu/justice/newsroom/gender-equality/news/121114_en.htm

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