



International Women’s Day 2023 – What’s changed (and changing) in the UK and Europe

Recent evidence suggests that progress towards gender parity has slowed and that the gender gap has in fact widened since the pandemic. So, on this International Women’s Day, we highlight some key legal developments in the UK and Europe that are intended to support women in the workplace - from menstrual leave in Spain to increased redundancy protections for pregnant employees in the UK. We also consider what employers can do now to keep progress on the agenda.

Where are we with gender parity?

Unfortunately, there is evidence that the gender gap has widened since the pandemic. For example:

- According to the [World Economic Forum](#), at the current rate of progress it will take another 132 years to reach full gender parity worldwide (up from 100 years in 2020).
- Recent studies show that, despite women making up roughly 50% of the population, only one in four C Suite executives is a woman and that less than one in ten of the largest listed companies in the EU have a woman chair or CEO (see [here](#) and [here](#)).
- Women leaders are [reported](#) to be leaving their companies at the highest rate in years.

Minding the gaps

While the reasons are of course multifaceted, certain issues either solely or disproportionately affect working women. For example:

- **Gender pay gap:** Evidence suggests that there is still a significant gender pay gap both in the UK ([recently reported](#) to be 14%) and the EU (13%).
- **Gender care gap:** While of course men may also be carers, evidence (see [here](#) and [here](#)) suggests that women are far more likely to have caring responsibilities.
- **Gender health gap:** There are certain conditions that only affect people who menstruate, for example:

- **Menopause:** [evidence](#) suggests that more than 75% of women will suffer menopausal symptoms, and for 25% the symptoms will be severe. Bearing in mind symptoms may last an average of seven years.

- **Painful periods:** it is estimated that 10% of women suffer from endometriosis, which notoriously can take years to diagnose and can be debilitating.

- **Respect at work gap:** [this](#) Government study showed women were more likely to have experienced sexual harassment than men.

Legal developments

So what legislative changes have been happening or are on the horizon to help redress some of these disparities? Here are some highlights to be aware of in the UK and Europe:

Highlights from the UK

The Government pledged in 2019 to introduce a new Employment Bill, which would introduce new statutory leave entitlements to support employees in their family life. As we highlighted in our articles ([here](#) and [here](#)) in the absence of this, several Private Members' Bills have been gaining momentum in Parliament, with most of them winning (or being predicted to win) Government support indicating they are likely to become law.

This includes Bills to introduce:

- Amendments to the existing statutory **flexible working** regime to make it easier for employees to make a flexible working request.
- Entitlement to unpaid **carer's leave**.
- Entitlement to leave (and, subject to qualifying criteria, pay) for time off for **neonatal care**.
- Entitlement for paid bereavement leave for parents who have suffered a **miscarriage**.
- A right to take paid time off work to attend **fertility treatment** clinic appointments.

Other Bills and developments in this space include:

- A **Bill** to give the Government powers to extend the existing **redundancy protection** for employees during a period of maternity, adoption or shared parental leave to also cover employees during and after pregnancy, and for a period after an employee has returned to work from maternity, adoption or shared parental leave. Key detail is awaited.
- New laws proposing to impose a positive duty on employers to **prevent sexual harassment** of employees and to make employers liable for **harassment** of employees by third parties. See [here](#) for more information.
- Although the Government has rejected the suggestion that **menopause** should be a recognised protected characteristic for equalities legislation, women in England will be able to access cheaper hormone replacement therapy (HRT) (the main treatment for menopause) through a new prescription prepayment certificate from 1 April 2023, which will likely reduce annual HRT costs (often hundreds of pounds) to less than £20.

Highlights from Europe

While we are unable to cover every change and proposed change across Europe, as with the UK there is a general trend towards increasing protections.

Recent changes include:

- **Spain:** As we [previously reported](#), Spain has become the first European country to give workers the right to paid **menstrual leave** (potentially up to five days). This will be paid for by the Government.
- **The EU Work Life Balance Directive:** Several EU states have introduced new and extended **rights for carers and working parents**. For example, one of the key changes is the right to receive five days unpaid carer's leave per year and an extension of the right to request flexible working. We [recently reported](#) on its implementation in Ireland.

Some states have gone beyond the requirements of this Directive and provided additional rights. For example, in Belgium 'paternity leave' (which is called 'birth leave') has recently increased from 15 to 20 days.

- **Ireland:** As we [previously reported](#), Ireland has recently introduced **gender pay gap reporting** obligations for certain employers, starting with those with over 250 employees and to be extended from the fourth year onwards to apply to those with at least 50 employees. This comes ahead of a new Pay Transparency Directive.

Future changes include:

- **EU Pay Transparency Directive:** This is expected to be passed by the EU soon. Some key aspects include requiring employers with at least 250 employees to report on their **gender pay gaps** (with this threshold being **lowered** to employers with at least 100 employees five



years after the Directive is implemented) and to carry out a pay assessment in cooperation with worker's representatives if there is a pay gap of at least 5%, which the employer is unable to justify on objective gender-neutral factors.

Many EU states already require gender pay reporting but there will likely be changes to existing regimes to comply with the Directive. Changes will not be immediate as EU states will have up to three years from the date it is passed to implement the changes into local law and employers will likely have up to a year from that date to comply with this.

- **Women on Boards Directive:** This will mean that, within EU states, at least 40% of NEDS or 33% of all director positions in large, listed companies (those with more than 250 employees) must be held by the underrepresented gender. As well as these **gender quotas** this will include requiring transparent recruitment procedures and an explanation where these targets are not met.

Some EU states (like France for example) will already have provisions in place. To the extent that they do not or do not meet the new requirements, they must implement the Directive into national law by the end of 2024 and relevant companies are required to meet these targets by 2026.

While some businesses may be concerned by the prospect of quotas, it is worth stressing that this Directive is not intended to 'lower' the bar. *'Suitability, competence and professional performance, not gender'*, remain the key factors for the selection process and only when two candidates are equally qualified should the choice be made in favour of the underrepresented sex.

So, what can employers do now to keep progress on the agenda?

Whilst developments may have been slower than many would have wanted (the Women on Boards Directive was first proposed 10 years ago), the conversation on how to advance gender equality in the workplace appears to be having a renewed focus with legal developments on the horizon. In part, this may be driven by the evidence that following the pandemic and recent global crises, gender disparities appear to be increasing. It remains to be seen whether these changes will go far enough to address some of these disparities. In the meantime, what can employers be doing?

Legal compliance

Employers will of course need to ensure they are compliant with existing local law obligations and will want to keep apprised of upcoming changes. Ahead of these proposed changes coming into force, employers may also want to carry out an internal audit of how they align with any new obligations and understand what steps they would need to take to be compliant. For example, in relation to gender balance on boards, do you have gender balance? If not, consider why not and what steps you might want to take.

Beyond the law

Of course, these changes only set out minimum requirements for legal compliance and employers may want to do something sooner and/or go further to effect change. While there is no "one size fits all" approach, here are some steps for employers to consider:

- **Be curious:** Listen to employees to understand their needs and how you might be able to minimise impediments to recruitment, retention, and promotion. For example, understanding any benefits, policies or training that may help.
- **Encourage open conversations:** For example, through training and workshops to raise awareness and encourage an inclusive and supportive culture.
- **Promote policies:** So individuals can access support for themselves, signpost support for others and talk about policies knowledgeably if asked about them by applicants.
- **Train and upskill managers:** So they can identify and understand issues that may disproportionately affect women and can provide appropriate support.

For more information on women's health matters in the workplace, see our [Women's Health in the Workplace Q&A & Resources](#).

If you would like further guidance about changes affecting certain locations or are interested in how we can support your business please get in touch with your usual GQ|Littler contact or [Natasha Adom](#).