



**Energy &  
Environment  
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**WOMBLE  
BOND  
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# The “S” in ESG For the Hospitality Sector





**“The “S” factor is fundamentally important to an industry sector that is a major employer with a global footprint.”**

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## Introduction

This paper provides an overview of the key social issues – the “S” in ESG – for the hospitality sector, and a summary of regulation in this area. In a quickly developing area, it is intended to provide a snapshot of the current position.

The “S” factor is about how a business manages its relationships with its workforce, customers, suppliers and the wider community.

It is central to what hospitality businesses do and is fundamentally important to an industry sector that is a major employer with a global footprint.

The advantages to a business of “S” factor compliance are manifold and include:

- Greater appeal to a more ESG-conscious consumer base
- Higher attractiveness to investors
- Improved recruitment and retention of staff
- Better guest reviews and repeat business
- A decrease in the cost of acquisition

Several events in recent times have forced “S” issues up the corporate agenda. It started with the pandemic, which shone a spotlight on the welfare of employees and guests to a greater extent than ever before. Brexit, combined with the Great Resignation, then led to a labour shortage in the sector, which highlighted the importance of recruitment, retention and staff development. This was followed by high inflation and the cost-of-living crisis, resulting in employees placing greater emphasis on their employer’s commitment to addressing social issues. The emergence of ‘Generation Z’ as a consumer base has also resulted in greater scrutiny of “S” credentials in the sector.

It is therefore now more important than ever that businesses in the hospitality sector deliver on social values that make a real difference to their workforce, their supply chain and the wider community.

Some of the challenges for businesses in this space are how to decide what to include under the “S” heading, how to measure it and how to assess progress. It is such challenges that may result in greater emphasis being placed on the “E” and “G” factors. In this paper, we examine the main “S” issues for the hospitality sector and the industry’s approach to these matters. We include examples from the ESG reports of some leading hotel groups to demonstrate what businesses in the sector are doing in this area. In Appendix 1, we summarise likely UK legislation relating to the “S” factor; Appendix 2 contains a list of likely EU legislation in this area and Appendix 3 sets out a useful checklist for businesses.



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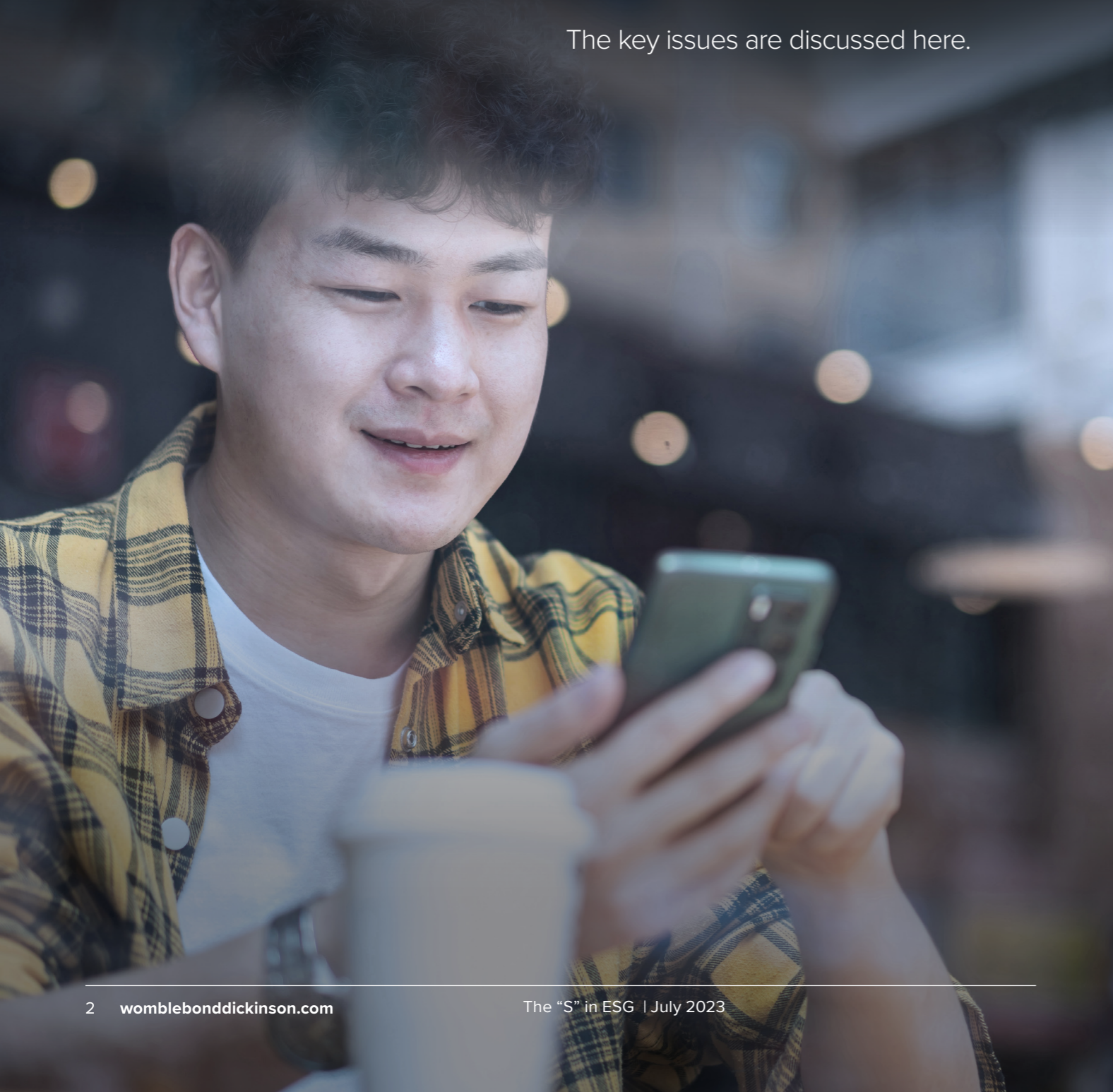


# What do we mean by the “S” in ESG?

There is no universal definition of what social factors come within the “S” in ESG. However, it is generally accepted that it relates to how a business:

- manages relationships with its workforce
- treats the people it does business with such as its customers, guests and suppliers; and
- impacts the wider community in which it operates.

The key issues are discussed here.



# Human rights

The foundation of any social commitments should be based on respecting human rights.

It can be difficult to know what sources to consider when seeking to prepare corporate policies and procedures relating to these issues. There are various national and international declarations, conventions, covenants and guidelines.

The UN Guiding Principles on Business and Human Rights (**UNGPs**) is a good place to start. The UNGPs set out principles for businesses to follow when developing processes and policies to ensure that human rights are respected.

The reference to human rights in the UNGPs is to internationally recognised human rights which, as a minimum, includes the International Bill of Human Rights<sup>1</sup> and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work.

The International Bill of Human Rights includes, in summary:

- the prohibition of forced, compulsory and child labour
- the right to a safe and healthy working environment
- the right to be paid a fair salary and equal pay
- the right to be treated equally without discrimination

Businesses will need to address these issues in order to comply with the requirements of national legislation as explained more fully on the following pages.

<sup>1</sup> The International Bill of Human Rights includes the Universal Declaration of Human Rights and the main instruments through which it has been codified, namely the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, coupled with the principles concerning fundamental rights in the International Labour Organization core conventions as set out in the Declaration on Fundamental Principles and Rights at Work.





# Slavery and trafficking

‘Modern slavery’ is often used as shorthand to refer to slavery or servitude, forced or compulsory labour, and human trafficking.

The hospitality sector is a particular area of target for traffickers and organised crime groups seeking to exploit individuals, given that it employs millions of people in the UK alone. Research suggests that victims of this crime in this sector are often Eastern European men and women who are promised a job in the UK and then forced by traffickers to work for little or no money. The use of hotel rooms for sex trafficking where victims are compelled to provide sex to paying customers, or are held by their traffickers while changing location, is also a particular risk.

The Modern Slavery Act 2015 is the key piece of legislation in the UK. It is an offence under the Act to hold someone in slavery or servitude, to require someone to perform forced or compulsory labour, or to facilitate or arrange human trafficking.

The Act also requires organisations supplying goods or services with a turnover of £36 million or more and doing business in the UK to disclose each year what action they have taken to ensure there is no modern slavery in their business or supply chains.

The Act explains that such corporate statements may include information about issues such as risk assessment, due diligence, steps taken to address identified risks, policies and procedures, training and the effectiveness in ensuring that modern slavery is not taking place. The UK Government has published guidance (available online [here](#)) which expands on these issues.

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“It is crucially important to the effectiveness of any modern slavery prevention measures that staff working in the hospitality sector are able to spot the signs of modern slavery and know what to do if they have any concerns.”

Guidance specifically for the hospitality sector stresses the importance of undertaking background checks on agencies supplying labour and recommends that the following checks should be undertaken:

- Check that all staff have a written contract of employment and have not had to pay a fee to obtain work
- Check that all staff are legally permitted to work in the UK
- Check the names and addresses of staff. A high level of shared occupancy is often a factor indicating that individuals are being exploited
- Check that all staff are aware of their statutory rights, including those relating to sick and holiday pay
- Question suspiciously low quotations and fees from agencies.

It is crucially important to the effectiveness of any modern slavery prevention measures that staff working in the hospitality sector are able to spot the signs of modern slavery and know what to do if they have any concerns. Modern slavery awareness training is therefore essential to preventing these crimes, particularly as more contactless and self-service technologies gain greater traction making it more difficult to identify such concerns. A number of hotel groups have made available materials to the industry to help to develop awareness programmes including, for example, the Stop Slavery Blueprint published by the Shiva Foundation.

Proposals have been announced to amend and strengthen the provisions within the Act including, for example, the introduction of civil penalties for organisations that do not comply with the requirements of the Act and mandating the topics to be included in modern slavery statements. These proposals have not yet made their way through the parliamentary process.

# Health, safety and welfare

Providing a safe working environment is essential to the wellbeing of employees and addresses basic human rights. There is also a close link between employee wellbeing and guest satisfaction.

## Employees

There has traditionally been a focus on managing *physical wellbeing*. This focus has broadened over recent years. A greater emphasis is now placed on managing wider wellbeing factors, notably financial wellbeing and mental health.

The Health and Safety at Work Act 1974 is the key piece of health and safety legislation in the UK. It places employers under a duty “to ensure, so far as is reasonably practicable, the health, safety and welfare at work” of all employees – and that duty encompasses mental health and wellbeing as well as physical health.

The Health and Safety Executive (HSE) estimates that 17 million working days were lost due to work-related stress, depression or anxiety in 2021/22. This is over half of all working days lost due to work-related ill health. It therefore comes as no surprise that one of HSE’s key priorities is to improve mental health in the workplace. To this end, HSE has published a set of Management Standards to help businesses to manage the risk of work-related stress.



Businesses in the hospitality sector have sought to address mental health issues via a variety of initiatives, including:

- training mental health first aiders
- mental health awareness programmes
- wellbeing days
- providing access to external employee support programmes.

In relation to financial wellbeing, businesses in the hospitality sector have helped employees to cope with the current cost of living crisis by introducing initiatives such as:

- hardship funds
- providing access to discounted goods and services
- subsidising meals
- increasing pay
- providing bonuses during particularly busy or challenging circumstances.

## Guests

The wellbeing and welfare of guests is an equally important consideration. Consumers are increasingly conscious of making greener and healthier choices. Initiatives within the sector to meet these demands include making available healthier menus (with reduced fat, salt and sugar and affordable meals for children, offering a wider selection of meat free and alcohol free options, and providing more detailed information to consumers to enable them to make healthier choices such as information regarding calories.

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## Diversity, equity and inclusion (DEI)

DEI has come to the fore in the last few years as a result of increased social awareness following campaigns such as Black Lives Matter and #MeToo. It is a core component of the social aspect of ESG.

In the UK, businesses are required to comply with various legal requirements relating to non-discrimination and equal pay but DEI goes further than that. Managing these issues supports recruitment, retention, productivity and development.

### Diversity

Diversity relates to characteristics that differentiate people from each other and is not limited to the protected characteristics set out below under "Discrimination". It can include other aspects, such as gender, ethnicity, and social, demographic and cultural background, as well as cognitive and personal strengths such as neurodiversity.

### Equity

This is the means by which individuals are treated fairly based on each person's needs. It recognises that they may need different resources and opportunities allocated to them in order to thrive. It is often confused with equality, which provides everyone with the same treatment regardless of their needs or opportunities.

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"Inclusion is the actions taken to ensure that staff have a sense of belonging in the workplace and feel their differences are respected so that they can be their whole selves at work."

### Inclusion

This is the actions taken to ensure that staff have a sense of belonging in the workplace and feel their differences are respected so that they can be their whole selves at work. Measures that can be taken to develop an inclusive culture include having a zero-tolerance approach to discrimination, harassment and victimisation, together with a non-retaliation policy so that staff are able to raise concerns without worrying about the consequences, and setting up mentoring and reverse mentoring programmes.

Employers can also encourage the use of internal and external networks aimed at supporting those with particular protected characteristics (see below) and support inclusive external initiatives such as Pride Month, Black History Month and the International Day of Persons with Disabilities. Having visible role models from diverse backgrounds and appointing workplace equality champions can also help.

### Inclusion examples

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Whitbread amplifies the voices of all its minorities through the sponsorship of networks and forums eg enable, Gender Equality network, GLOW and Race, Religion and Cultural Heritage Network.

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Whitbread also celebrates key cultural events throughout the year, eg LGBTQ+ History Month, German Diversity Day, International Non-Binary Day, Black History Month, Eid al-Fitr and World Menopause Day.

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Hilton celebrated Hispanic Heritage Month with a virtual discussion and a live cocktail and salsa class.



# Diversity, equity and inclusion (DEI) (continued)

## Discrimination

In the UK certain characteristics are protected characteristics under the Equality Act 2010: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. Broadly speaking, the Equality Act prohibits discrimination based on any of these protected characteristics.

Discrimination can take many forms, such as direct discrimination, indirect discrimination, discrimination arising out of a disability, a failure to make reasonable adjustments, harassment and victimisation. The anti-discrimination laws protect job applicants, workers and former workers. Individuals who believe they have suffered unlawful discrimination can bring a claim in the employment tribunal and there is no maximum award of compensation. Management and staff should undergo regular training on avoiding and dealing with discrimination.

## DEI examples

Wyndham carries out mandatory unconscious bias training in the workplace and diversity, equity and inclusion training.

Wyndham also celebrated International Pronoun Day and hosted a guest speaker, empowering team members to learn new ways to support transgender and non-binary communities. The use of preferred pronouns in email signatures has been embraced by many Wyndham team members.

## Discrimination in the provision of services including accessibility

The Equality Act 2010 prohibits service providers from doing anything that constitutes discrimination, harassment or victimisation in certain circumstances. This prohibition applies to all protected characteristics except for marriage and civil partnership. It also does not apply to age where the person in question is under 18. However, those under 18 can still rely on other protected characteristics. The protected characteristics covered are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Act does not prohibit harassment by service providers that is related to religion or belief, or sexual orientation. A service provider is a person concerned with the provision of a service (including goods or facilities) to the public or a section of the public, whether or not for payment, and includes hotels. Services are not defined but include access to premises such as pubs or restaurants, retail services, accommodation and facilities for entertainment. Examples of prohibited discrimination include refusing to provide a person with a protected characteristic with a service or failing to make reasonable adjustments to allow a disabled person to use a service.

Around 9.8 million UK people are disabled according to the 2021 Census data; it therefore makes business sense to improve accessibility for guests and to go further than just considering whether a wheelchair user can access a hotel room.

## Equal pay

The Equality Act 2010 implements in Great Britain the principle that men and women should receive equal pay for equal work. Anyone employed under a contract personally to do work is entitled to contractual terms that are as favourable as those of a comparator in the “same employment” of the other gender, if they are employed on equal work (that is, like work, work rated as equivalent or work of equal value). Claims can be brought by either gender but are overwhelmingly brought by women.

## DEI in the provision of services example

Hilton reports that a deaf team member taught staff how to sign the three most common phrases in hospitality: “Welcome”, “How can I help you?” and “Thank you”.

## Gender pay gap reporting

Reporting a gender pay gap is one way an organisation can publicise a tangible “S” factor. Although employers with 250 or more employees (increased to 500 employees with effect from 3 October 2022 – see below) have to carry out mandatory annual gender pay gap reporting, there is currently no legal requirement to state publicly what steps they will take to reduce the gap so employers could go further than the law and publish an action plan. Organisations with fewer than 500 employees could calculate and disclose their gender pay gap voluntarily and publish an action plan.

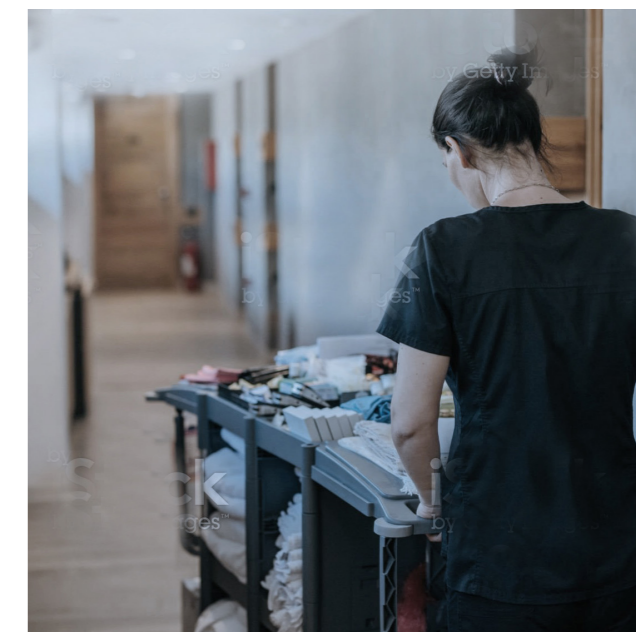
## Publishing other diversity data

There are no current plans to extend compulsory pay gap reporting to other protected characteristics such as ethnicity or disability but there is nothing to stop an employer from voluntarily measuring its pay gap and reporting on it.

The Government has recently published guidance for employers on ethnicity pay reporting. There is no obligation to report on ethnicity pay but employers who decide to do so can publish their data internally only, or internally and externally. An action plan, which would set out how the employer intends to close the gap, is not required but employers should consider introducing one.

A Government consultation on disability workforce reporting took place between December 2021 and April 2022. The outcome is awaited: Disability workforce reporting – GOV.UK ([www.gov.uk](http://www.gov.uk)). The Trade Union Congress (TUC) published new analysis on the average difference in pay between disabled and non-disabled workers (ie the disability pay gap) in November 2022. It currently stands at £2.05 per hour or £3,731 per year, which means that non-disabled employees earn 17.2% more than disabled employees (an increase on last year’s figure). As a result, Frances O’Grady, the General Secretary of the TUC, called for the introduction of mandatory disability pay gap reporting.

Finally, employers could decide to voluntarily report on and increase socio-economic diversity and social mobility in the workplace.



## Recruitment

Businesses should ensure that they are taking steps to hire and retain diverse employees (including people with disabilities and older people) at all levels. Hotels could consider taking positive action in order to increase employment of under-represented groups. The Government has recently published guidance for employers on using the positive action measures in the Equality Act 2010 to help people overcome barriers and improve representation in the workforce.

## Recruitment examples

In Australia, Accor works to promote the inclusion of Aborigines with a specific inclusion and training programme in Group hotels.

Whitbread has an external partnership with Derwen College and Hereward College and supports those with disabilities into paid employment.



# Workforce engagement

Employers need to seek employee buy-in to their ESG initiatives in order for them to succeed (for example, employers wishing to encourage employees to disclose their data for the purposes of diversity reporting are more likely to succeed where employees feel engaged).

In the war for talent, employees are more likely to want to work for purpose-led organisations that share their values. Younger people in particular are likely to research a company's ethics before deciding whether to join them and want to work for businesses that do good for their people and for the planet. If an employer does not share an employee's values, the employee is more likely to leave the organisation.

## Secure employment

A socially-conscious employer will offer secure employment to staff where possible. This may mean less use of agency, temporary and zero hours workers. "Fire and rehire" practices (by which employees are threatened with dismissal and re-engagement in order to bring about changes to employees' terms and conditions) were in the news in 2022. P&O Ferries' decision to dismiss nearly 800 employees via video message and replace them with temporary agency workers was widely reported on and condemned by trade unions, the Government and the public. A draft statutory Code of Practice on dismissal and re-engagement was published on 24 January 2023 for consultation

## Learning and development

Individuals are more likely to choose to work for an employer that prioritises continuous learning and development opportunities, and many employees would consider changing jobs if their current employer did not offer learning opportunities or training to help with their career development. In an economic climate where it may not be possible to increase pay, introducing continuous learning and investing in staff development could help to attract new talent and decrease staff turnover. Upskilling staff will also help to address skills shortages and improve the guest experience.

## Learning and development examples

IHG has continued to embed quarterly check ins with corporate employees to plan personal development and discuss career aspirations

In 2021, Accor carried out 2.7 million hours of training.

## Whistleblowing

In the UK, workers have legal protection against being dismissed or subjected to a detriment if they make a protected disclosure. Employers should promote a culture of openness and no blame, and ensure they have whistleblowing policies in place to encourage the reporting of any suspected wrongdoing. Managers should be trained on how to recognise whistleblowing conduct and how to respond effectively to any reports.

## Employee feedback

Feedback is an important tool in ascertaining how engaged the workforce is. It can be collected in various ways, such as new employee surveys, employee engagement surveys (which can be done anonymously), pulse surveys, manager observations, an employee suggestion box and exit interviews. Organisations should also look regularly at review sites such as Glassdoor and Indeed to see what current and former employees are saying about their experience. Employers should use feedback to build a better workplace; there is no point in collecting feedback if you do not act on it.

## Freedom of association and collective bargaining

Trade union membership is decreasing in the UK, despite the level of industrial action taking place at the moment, and has traditionally been very low in the hospitality sector. An employer looking to improve its ESG rating may wish to voluntarily agree a request made by a union for recognition and negotiate on working conditions with the union.

## Employee feedback example

Whitbread says: 'Regular pulse surveys enable everyone to share their view on what it's like to work at Whitbread. The feedback from our teams across the business helps us to shape and prioritise our strategic people plans, increasing engagement and reducing staff turnover'.

"Employers need to seek employee buy-in to their ESG initiatives in order for them to succeed."





# Fair labour practices

In the past, the hospitality sector has been known for its long hours, low skills and low wages culture. This is gradually changing and employers can accelerate the pace of change by considering how they can better look after the people who look after guests and how they can develop workers' skills, eg by accessing apprenticeships and having their own bespoke training programmes to upskill staff who may otherwise leave the organisation. Having clear promotion paths can also help to attract and retain staff.

## Pay

Employers' pay practices are under increasing scrutiny and we have dealt above with pay gap reporting. As part of their DEI strategy, some employers are choosing to carry out pay equity audits to see where pay discrepancies lie within their workforce and to take action to address issues that may be discovered. While much of the focus regarding pay in recent years has been on executive pay (which we would argue comes within the "G" pillar), rising inflation, the increasing use of food banks and the current wave of strikes in the UK are shining a light on low pay.

Employers must by law pay workers at least the national minimum wage/national living wage, which is currently £10.42 per hour for those aged 23+. The Real Living Wage, which is set by the Living Wage Foundation, promotes a voluntary minimum hourly rate of pay calculated according to the basic cost of living, which is paid to all employees over 18. The current Living Wage is £11.95 per hour in London and £10.90 elsewhere. There are over 12,000 living wage employers and paying the Living Wage is a way of demonstrating a commitment to fair pay. It can also make employment in the hospitality sector more competitive with other sectors, as well as boosting recruitment and retention.

## Pay transparency

There is currently no legal requirement for employers to include information about salary details in job advertisements. However, employers could do this on a voluntary basis and could also refrain from asking candidates to disclose their current salary during the recruitment process. These steps are intended to help break down barriers for women and reduce the gender pay gap.

## Benefits

Employers should keep their benefits package under review and consider introducing a flexible benefits package to cater for employees' differing needs at different times. When (as now) it is challenging to increase pay, employers may be able to improve an overall remuneration package by introducing benefits that have little or no cost to them.

### Benefits examples

Wyndham provides dental insurance, short and long term disability coverage and leave, and adoption assistance.

Accor created its ALL Heartist Fund during the pandemic to support its employees. As at December 2021, 98,000 requests had been funded with a total budget of €31.4 million.



## Working time

Our "always on" culture no doubt has a negative impact on employees' mental health. The Working Time Regulations 1998 set out limits on an employee's working time and specify minimum rest periods, rest breaks and paid holidays. However, employers could go further in promoting a work-life balance. For example, various European countries – including France, Belgium, Italy, Spain, Ireland and Portugal – have introduced legislation giving staff a "right to disconnect", which prohibits employers from trespassing on their personal and family lives.

There are no plans to introduce a similar right in the UK but employers could voluntarily adopt this practice. A six month trial of a four-day working week took place last year in the UK, US, Ireland, Australia and New Zealand, under which employees received 100% of their pay for working 80% of their time in return for 100% productivity. The early results were encouraging, with the majority of employers committed to making the arrangement permanent. Whether such a working pattern could succeed in a hotel is an interesting question.

"When (as now) it is challenging to increase pay, employers may be able to improve an overall remuneration package by introducing benefits that have little or no cost to them."

## Flexible working

The current legislation provides that an employee with 26 or more weeks of continuous employment has the right to make a request to work flexibly. The change is permanent and one request per year is permitted, which can be rejected on various business grounds. The pandemic changed how we work and employees now expect increased flexibility from their employers.

While flexible working in terms of place of work may not be possible for many hotel employees, flexible working is not limited to where the work is done and it can also mean flexibility in terms of the hours and times of work, which may be more feasible in hospitality. Nevertheless, there may be some non-customer facing roles that could be done remotely or on a hybrid basis. Employers could offer the right to request flexible working to all employees (not just those with 26 weeks' continuous employment) and could allow more than one request per year. They could also consider making flexible working the default option in job advertisements. This would go beyond the current statutory framework in the UK (although see Appendix 1 for details of the Employment Relations (Flexible Working) Bill).

## Family-friendly policies

In order to support diversity and the health and wellbeing of the workforce, many employers are considering extending their family-friendly practices as part of their ESG agenda. Examples include enhancing pay during family-friendly leave (ie maternity, paternity, adoption and shared parental leave) and granting longer periods of leave than are required by law. Some employers are going much further and, for example, are paying for employees to undergo fertility treatment.



# Stakeholder and community engagement

How a company engages with its stakeholders and the community within which it operates is an important part of ESG. Businesses should be more ambitious than not doing significant harm to their local community and should instead aim to make a positive impact.

## Voluntary work

Employee volunteering has many benefits: as well as contributing towards the “S” pillar in ESG, it builds closer relationships with an organisation’s local community, enabling it to give something back, and can motivate and engage staff as well as being good for teambuilding. Many employers give their employees a set number of volunteering days each year, which usually need to be spent with a charity or project nominated by the employer.

## Voluntary work examples

Whitbread has worked with Sussex-based arts charity, Project Art Works, to bring previously unshared stories to local communities. The initiative saw eight pieces of unseen artwork, created by eight young adults all with complex needs, adorn the walls of select Premier inn hotel lobbies, turning them into a gallery space.

The Hilton London Metropole delivered 50,000 meals to those in need through Open Kitchen and Project Felix in 2021.



## Charity fundraising

In the same way, fundraising for a charity that is relevant to the organisation can improve staff morale and lead to helpful PR. Encouraging employees to suggest and vote for the charity or charities they are going to support each year can make a positive contribution to employee engagement.

## Charity fundraising examples

Marriott gave contributions to associates and their families affected by the war in Ukraine and gave support to humanitarian organisations providing on the ground relief, including over \$3 million in hotel-level financial and in-kind support.

IHG has donated funds to community impact projects.

Whitbread supports Ukraine via the Disaster Emergency Committee and has a partnership with Great Ormond Street Hospital.

Wyndham participated in community outreach, resulting in raising over \$8k for American Cancer Society for the 2021 Making Strides Walk.

# The EU social taxonomy proposal

It is likely that the “S” in ESG will be regulated in the future, at least in the EU. As well as the likely UK and EU legislation summarised in the appendices, the EU social taxonomy proposal is currently under development. Its objective is to improve the working and living conditions of all Europeans.

It aims to set out a list of socially sustainable activities and would extend the EU taxonomy to cover the “S” in ESG. The social taxonomy is aimed at investors and would direct capital to activities that operate with respect for human rights and support capital flows to investments that improve living and working conditions.

The EU Platform on Sustainable Finance published its final report on a social taxonomy in February 2022, in which it set out how a social taxonomy could work in practice and the key concepts that would need to be developed. According to this report, the objectives should be based on the impact on three groups, which are the workforce, end-users/consumers, and affected communities.

Three objectives have been proposed: decent work; adequate living standards and wellbeing for end-users; and inclusive and sustainable communities and societies. Sub-objectives focus on health and safety, healthcare, housing, wages, non-discrimination, consumer health and communities’ livelihoods, many of which are covered above.

## Concluding remarks

Upholding the “S” in ESG should not just be a tick-box exercise and it is an opportunity for businesses to contribute to social capital. Compliance is of course hugely important: a failure to comply with legal requirements and/or best practice can lead to a PR disaster.

But it is not the whole story. The sector needs to think about how to demonstrate good performance and assess the impact of measures taken. The EEA is giving consideration as to how the “S” in ESG can be measured and the standards that should apply. In the meantime, businesses in the hospitality sector should start thinking about the steps they can take to set their own internal KPIs and benchmark their performance against others in the sector.



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## Further information

Please see Womble Bond Dickinson’s ESG page: [ESG Strategy and Consulting](#) >

Or the Energy & Environment Alliance website: [www.eea.international](http://www.eea.international) >

Or contact: [info@eea.international](mailto:info@eea.international) >



# Appendix 1

## An overview of likely UK legislation relating to the “S” factor and relevant to the hospitality sector

There is no implementation date for any of these Bills at the date of publication of this report, although it is likely that some of them will be finalised this year.

### Modern Slavery Bill

The Queen’s Speech 2022 outlined the Government’s intention to bring forward a Modern Slavery Bill, which would propose a number of changes including mandated areas to be covered in modern slavery statements, require these statements to be published on a Government-run registry, and introduce civil penalties for non-compliance. The Bill has not yet been published.

### Removal of reporting requirements

Businesses employing fewer than 500 employees are exempt from reporting requirements with effect from 3 October 2022. It is not entirely clear what this applies to but it appears to relate to gender pay gap reporting and executive pay ratios. Employers who have fewer than 500 employees could decide to disclose their data on a voluntary basis.

### Employment (Allocation of Tips) Act

This Act will ensure that all tips go to workers by making it unlawful for businesses to withhold tips from staff. A new statutory Code of Practice will be developed to provide advice on how tips should be distributed and workers will have the right to request more information about an employer’s tipping record.

### Neonatal Care (Leave and Pay) Act

This will allow parents to take up to 12 weeks of paid leave each so that they can spend more time with their baby who is receiving neonatal care in a hospital or other care setting after being born prematurely or sick. Leave will be available to employees from day one of employment but parents will need 26 weeks’ service in order to receive statutory neonatal pay, which will be paid at the same rate as other statutory family leave (currently £172.48 per week).

### Carer’s Leave Act

This Act will introduce a new statutory right of up to one week of unpaid carer’s leave per year for employees who are providing or arranging care. No qualifying period of service will be required. Employees will not need to provide evidence of how the leave is used or who it will be used for. Employees taking carer’s leave will be protected from dismissal or detriment as a result of taking time off.

### Protection from Redundancy (Pregnancy and Family Leave) Act

This Act will give pregnant women and new parents greater protection against redundancy by extending the current protection (which means that an employee who is being made redundant has the right to be offered any suitable available vacancy with their employer or an associated employer) until a stated time after the birth/adoption, which is yet to be decided but could be up to 18 months after the birth or adoption. This will apply to maternity leave, adoption leave and shared parental leave.

### Worker Protection (Amendment of Equality Act 2010) Bill

This will reintroduce employers’ liability for harassment of employees by third parties at work, such as clients or customers. It will also introduce a new duty on employers to take all reasonable steps to prevent workplace sexual harassment. There is no right to bring a freestanding claim for this but an employment tribunal could apply an uplift of up to 25% on awards where the employer has not complied with the duty and an employee brings a claim, and the Equality and Human Rights Commission will have the power to issue an unlawful act notice in relation to breaches of the duty.

### Employment Relations (Flexible Working) Bill

This will amend the application process for making a flexible working request. The employer will have to consult the employee before rejecting a request, an employee will be able to make two applications in 12 months (rather than one), the employer’s decision period will be reduced from three months to two months and the employee will not have to state in their request what impact the change would have on the employer’s business. The Bill will not, however, make flexible working the default option. A separate statutory instrument will make the right to request flexible working a day one right.

### Workers (Predictable Terms and Conditions) Bill

This will give workers (including agency workers) the right to request a predictable working pattern where their existing working pattern lacks certainty in terms of hours or times of work or they have a fixed term contract for less than 12 months. Workers will need to have worked for their employer for 26 weeks before making an application. Employers will be able to refuse a request on specific grounds, such as the burden of additional costs to make changes or if there is insufficient work at times when the employee proposes to work. Workers will be able to make up to two requests a year.

### Retained EU Law (Revocation and Reform) Bill

Under this Bill, all EU-derived subordinate legislation and retained EU law will be retained unless it is specifically revoked. The Bill will also give UK courts greater discretion to depart from retained EU case law. The Bill sets out a list of around 600 pieces of legislation that are expected to be revoked by 31 December 2023. It does not currently include any key pieces of employment law, although the list is a work-in-progress. Once it is clear which employment rights (if any) are being changed, employers may wish to consider retaining them for their staff of their own accord.

# Appendix 2

## An overview of likely EU legislation relating to the “S” factor and relevant to the hospitality sector

Title	Status	Main provisions
Corporate Sustainability Reporting Directive	Directive (came into force on 5 January 2023)	This Directive is intended to ensure that companies report audited information on a full range of sustainability issues relevant to the company’s business, including “S” issues, for the benefit of investors and other stakeholders. It applies to all large EU companies and all listed EU SMEs. It also applies to non-EU companies that generate a net turnover of more than €150m in the EU and have at least one subsidiary or branch in the EU. Reporting will have to be done in line with EU standards that are being developed by the Commission. The Directive will be implemented in three stages for financial years starting on or after 1 January 2024, 1 January 2025 and 1 January 2026, depending on the size of the company.
EU Directive on equal pay for equal work (pay transparency)	Directive (comes into force on 6 June 2023)	This Directive will include measures to ensure pay transparency for workers and employers, and better access to justice for victims of pay discrimination. It includes proposals requiring employers to provide information about the initial pay level or range prior to interview stage, prohibiting employers asking prospective workers about their pay history, giving workers the right to request information on their individual pay level and average pay levels and requiring employers with at least 100 workers to publish information on their gender pay gap.
EU AI Liability Directive	Proposed Directive	This Directive will adapt non-contractual civil liability rules to artificial intelligence (AI). This would cover, for example, damage caused by unlawful discrimination based on algorithmic processing, such as during a recruitment process that used AI technology.
EU Corporate Sustainability Due Diligence Directive	Proposed Directive	This Directive will introduce a new due diligence duty to address adverse human rights and environmental impacts in the company’s own operations, its subsidiaries and value chains. Some of the human rights issues to be considered and protected through the due diligence duty are the right to safe and healthy working conditions, the prohibition on child labour, the prohibition on slavery and rights in respect of trade unions. The new due diligence duty will apply to large EU companies and non-EU companies with significant EU activity.
EU Directive on adequate minimum wages	Proposed Directive	The aim of the Directive is to improve the adequacy of minimum wages and workers’ access to minimum wage protection in the EU, in three main areas: improved adequacy of statutory minimum wages; the promotion of collective bargaining in all members states; and better enforcement and monitoring.
EU Regulation laying down harmonised rules on artificial intelligence	Proposed Regulation	This would set harmonised rules for the development, placement on the market and use of AI systems in the EU, and would ensure they respect the rights enshrined in the EU’s Charter of Fundamental Rights. Although it is not an employment measure, it would regulate the kinds of AI systems that can be applied in a workplace context.
EU Regulation on deforestation-free supply chain	Proposed Regulation	The would require all relevant companies to conduct strict due diligence if they place on the EU market, or export from it: palm oil, cattle, soy, coffee, cocoa, timber and rubber as well as derived products (such as beef, furniture, or chocolate).
Regulation on prohibiting products made with forced labour on the Union market	Proposed Regulation	The proposals will prohibit the placing and making available of products made with forced labour on the EU market, and their export from the EU. It covers all products made in the EU for domestic consumption or export, and also all imported goods. The proposals are in response to an estimated 27.6 million people in forced labour.

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# Appendix 3

## Achieving compliance with the “S” in ESG – a checklist for businesses

This is intended to provide a quick reference guide to key social issues for hospitality businesses from a legal compliance perspective. It is not an exhaustive list and excludes non-legal aspects critical to the “S” in ESG, such as community engagement and impact.

Topic	What must be done	What should be done	What could be done
Slavery and human trafficking	For businesses with a turnover in excess of £36 million per year in the UK, there is a legal requirement to prepare and publish a slavery and human trafficking statement for each financial year setting out the steps taken, if any, to ensure that slavery and human trafficking is not taking place (i) in any of its supply chains, and (ii) in any part of its own business.	<p>Publish a clear public-facing statement of intent.</p> <p>Implement effective policies setting out the steps taken and approach of the business.</p> <p>Carry out a risk assessment to identify higher-risk areas.</p> <p>Undertake due diligence when engaging suppliers/agencies and engage with them on terms that include slavery and trafficking related controls.</p> <p>Train staff to spot the signs of slavery/trafficking.</p> <p>Implement whistleblowing/reporting mechanisms.</p> <p>Continuously review the effectiveness of the steps taken to control the risks including seeking staff feedback.</p>	Businesses not meeting the turnover threshold could, nonetheless, voluntarily choose to report.
Health, safety and welfare	<p>Provide a safe working environment by taking steps to ensure, so far as is reasonably practicable, the health, safety and welfare of employees at work, which includes physical and mental health.</p> <p>Provide a safe environment for guests and anyone else impacted by the business. Employers have a general duty to ensure, so far as is reasonably practicable, the health and safety of any non-employees (including guests and contractors) that may be impacted by their business activities.</p> <p>Comply with health and safety regulations which govern particular activities or risks such as working at height.</p> <p>Comply with food safety and hygiene laws.</p> <p>Comply with fire safety laws.</p>	<p>Prepare a health and safety statement, and appropriate policies and procedures.</p> <p>Conduct risk assessments and implement appropriate control measures.</p> <p>Regularly consult with staff/their representatives in relation to health and safety matters.</p> <p>Provide instruction to and train employees, at all levels, in relation to health, safety and welfare matters.</p> <p>Create a safety first culture which encourages recognition of positive behaviours and calls out negative/unsafe behaviours.</p> <p>Engage professional or specialist advisors where required.</p> <p>Comply with applicable HSE guidance.</p> <p>Promote welfare-related issues including adopting initiatives to address mental health issues in the workplace, such as:</p> <ul style="list-style-type: none"> <li>• training mental health first aiders</li> <li>• providing wellbeing days</li> <li>• providing access to external employee support programmes</li> <li>• mental health awareness programmes.</li> </ul>	<p>Auditing of parties in the supply chain/contractors.</p> <p>Set KPIs based on health and safety performance, both within the business and in third party arrangements.</p> <p>Seek accreditation to industry/ISO standards.</p> <p>Monitor and analyse trends, both good and bad.</p> <p>Run initiatives focussed on the financial welfare of employees such as the provision of hardship funds.</p> <p>Promote guest welfare initiatives such as healthier menu choices, making exercise facilities available and providing information on key welfare-related topics to help signpost where support is available.</p>

Topic	What must be done	What should be done	What could be done
Discrimination and accessibility	Employers and service providers are required to comply with the Equality Act 2010, which prohibits discrimination based on protected characteristics.	<p>Put in place robust policies and procedures to promote diversity, equity and inclusion in the workplace. A zero tolerance approach to addressing these sorts of issues is essential.</p> <p>Provide regular training to staff in relation to dealing with discrimination and avoiding discriminatory behaviour.</p> <p>Ensure premises are accessible to all service users.</p>	<p>Encourage participation in diversity networks (internal and external) aimed at supporting those with protected characteristics.</p> <p>Promote and encourage an inclusive culture, reassuring staff that they can bring their ‘whole selves’ to work.</p>
Gender pay gap	Compliance with the gender pay gap reporting obligations (for businesses with 500 or more employees).	Employers should put in place an action plan, detailing how they intend to close any pay gap identified.	Although there are no current plans to extend compulsory pay gap reporting, businesses could choose to voluntarily measure and report other pay gaps, such as disability and ethnicity.
Whistleblowing	Compliance with whistleblowing legislation, ensuring workers are not dismissed or subjected to a detriment for making a protected disclosure.	Businesses should have in place a clear whistleblowing policy, which is accessible to all staff. Managers should be trained in recognising whistleblowing conduct and responding to it effectively.	<p>A culture of openness should be promoted across the workforce.</p> <p>Conduct regular employee engagement feedback exercises.</p>
Minimum wage	Compliance with minimum wage legislation.	Keep rates of pay under regular review, to ensure that they meet or exceed minimum rates set by legislation (particularly with reference to the different rates applicable to under-23s).	<p>Employers could choose to pay the Real Living Wage, rather than minimum pay rates.</p> <p>Pay information could be included in job advertisements, alongside candidates no longer being asked to disclose current earnings during a recruitment process.</p> <p>Consider adopting a flexible benefits package.</p>
Working Time Regulations	Compliance with the Working Time Regulations 1998, specifically limits on working time and minimum rest periods.	<p>Ensure that working patterns and shifts do not result in staff working excess hours.</p> <p>Encourage staff to use their annual leave entitlement and ‘switch off’ from work when away from the workplace.</p>	Promote a work-life balance and consider initiatives such as a ‘right to disconnect’.
Flexible working	Consider flexible working requests in accordance with the statutory regime.	All such requests should be considered on a case-by-case basis following discussion with the employee who submitted the request.	Offer the right to request flexible working to all employees (not just those with 26 weeks’ service) and allow more than one request a year.
Family-friendly legislation	Compliance with family-friendly legislation, in relation to maternity leave, paternity leave etc, and associated rates of pay during family-related leave.	Businesses should have appropriate policies and procedures in place so that all employees can easily access the information they need.	<p>Employers can extend the benefits available to employees, perhaps by offering enhanced rates of pay or offering longer periods of leave than are required by law.</p> <p>Consider providing support to employees who do not fall into the legally specified categories, such as those undergoing fertility treatment.</p>



# About Womble Bond Dickinson

Womble Bond Dickinson (WBD) is a full-service international law firm sitting amongst the Top 20 UK law firms and ranking 109th globally.

The firm's reach also extends to Europe where it has strategic partnerships with law firms in Germany and France, and through the Lex Mundi network, WBD can offer clients access to counsel in more than 120 countries.

Advising businesses across eleven key sectors of expertise, the firm's clients include over 40 FTSE 350 companies, including many of the largest businesses in the country, private clients, charities as well as UK Local and Central Government authorities.

WBD has a strong focus on innovation and has consistently ranked in the Top 30 most innovative law firms in Europe by the Financial Times. Its Innovation Group works with lawyers and clients to help identify new opportunities of delivering the best value and coordinate initiatives and projects across the firm that will help drive the business – and its clients – forward.

The firm was amongst the first law firms in the UK to announce its commitment to achieving net zero emissions by 2030 when it launched its Carbon Reduction Plan in October 2021.

WBD is heavily involved in a comprehensive responsible business programme and recognises the importance of supporting projects in its local communities. As a gold status member of the Law Society Diversity & Inclusion Charter and holders of the Investors in People Silver standard, the firm is actively engaged in the promotion of a more diverse legal profession.

“The firm was amongst the first law firms in the UK to announce its commitment to achieving net zero emissions by 2030 when it launched its Carbon Reduction Plan in October 2021.”

## Retail and Hospitality Sector

In the world of hospitality and leisure, the challenges and opportunities are as diverse as the businesses that make up the sector. That's why Womble Bond Dickinson provides our clients with a diverse team of top-tier, high profile lawyers deeply familiar with the sector.

Our hospitality team has significant industry knowledge, built up over many years working with clients involved in hotel and restaurant development, ownership, financing, franchising, operations and third-party management and can advise on every aspect of your hotel transactions or operations.

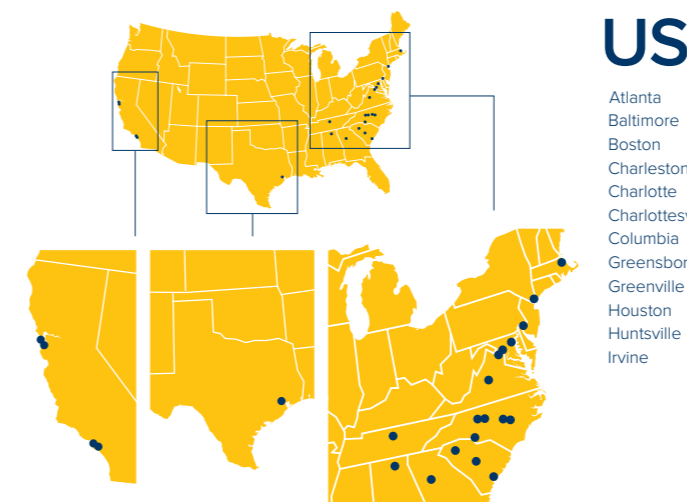
### Our hospitality team includes:

- Real estate lawyers who routinely represent clients in portfolio management, development, acquisition, financing and disposal of hotels and restaurants.
- Transactional lawyers experienced in advising on franchises, leases, management agreements, mergers and acquisitions and restructurings.
- Employment lawyers who work with hotel and restaurant owners on employment matters arising in a field which is labour intensive.
- Litigators well-versed in common issues arising in hotel and restaurant construction and operations.
- Commercial lawyers experienced in advising on facilities management, franchising, supply chain contracts, outsourcing, payment services and data protection.
- Advertising and marketing lawyers who protect brand reputation.
- Regulatory lawyers who advise on food safety, health & safety, fire safety regulations and environmental regulations.
- Tax lawyers whose practices focus on incentives and historic and new market tax credits, sales and use tax, hotel/motel tax and joint venture structuring.

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## Thank you

In April 2023, Womble Bond Dickinson held a roundtable session with some members of the EEA to discuss the “S” factor in the hotel industry.

The discussion was lively and wide-ranging, and we have included the salient points that came out of it in this paper.

We would like to record our thanks to those who took part for their very helpful contributions.



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