



IMPROVING DISABLED PEOPLE'S EMPLOYMENT AND PAY Proposal for transparent reporting by employers

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1) *Summary*

We propose:

1. New regulations under S. 149 of the Equality Act 2010 to require public sector employers of 250 employees or more to report transparently on their employment of disabled people
2. An amendment to the Equality Act 2010 to give the Secretary of State powers to make equivalent regulations covering all employers of 250 employees or more

There is a persistent disability employment gap in the UK, currently running at 30 percentage points¹; and some evidence that the disability pay gap is growing (currently running at around 15 percentage points²).

Academic evidence shows the government's current voluntary policies (such as Disability Confident) do not achieve significant improvement in disabled people's employment. Conversely, mandatory transparency has the potential to stimulate peer competition and drive action through accountability to shareholders, employees and wider stakeholders.

'I think Government needs to be a bit stricter with us – why are there requirements to report on gender as employers but not on disability?' (Paul Polman, Chief Executive, Unilever, 2018)

Increasingly, progressive employers are positive about understanding the diversity of their workforce so they can plan for labour and skills needs and improve morale and productivity. For instance, the CBI welcomed a proposal to collect pay gap data by ethnicity and disability in 2018.

This paper proposes the introduction of mandatory disability pay and employment reporting. Mandatory gender pay gap reporting was introduced in 2017, and the government has consulted on ethnicity pay gap reporting³. There is an equally compelling case for mandatory disability reporting. This should cover disability prevalence among the workforce as well as pay gap reporting, given the size of the disability employment gap. We propose a single dashboard covering gender, ethnicity and disability. This would be based on aligned metrics, as this would be simpler for employers and would be more useful for planning for future labour needs.

¹ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-7540>

² <https://www.tuc.org.uk/research-analysis/reports/disability-employment-and-pay-gaps-2018>

³ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747546/ethnicity-pay-reporting-consultation.pdf

2) *Why it is needed*

The government's main policy in seeking to engender positive change among employers (Disability Confident) has failed to achieve significant improvement in disabled people's employment. This is for two main reasons. First, employer engagement with the scheme has remained relatively low. Only about 15 per cent of employers are aware of it⁴, and of those that are, an even smaller proportion have signed up, particularly in the private sector. Most employers who sign-up either provide services to disabled people, or are public sector employers mandated to do so. For example, of the 216 Disability Confident level 3 employers, only 44 might be considered mainstream private sector business organisations.

Second, there is scant evidence that even where employers have signed up to Disability Confident, this has reduced disability employment and pay gaps. Employers that signed-up to the predecessor of Disability Confident (Two Ticks) were no more likely to employ disabled people, no more likely to have disability equality practices to bring this about, and the experience of disabled employees at work was no better⁵. Given the similarities between Two Ticks and Disability Confident, it is unlikely the latter will perform any better.

However, in 2018, the DWP published a voluntary framework for employers to report on their employment of disabled people, devised by an expert group including leading employers. This is in line with the government's growing acceptance that "Transparency is a vital first step towards harnessing the power of a diverse workforce"⁶. This presents a more promising foundation on which to build.

Nevertheless, it is likely that many employers will be unwilling to engage with disability employment reporting on a voluntary basis. A similar voluntary approach to gender pay gap reporting resulted in low take-up and limited employer engagement. In response, the government introduced statutory reporting in *The Equality Act 2010 (Gender Pay Gap Information) Regulations 2017*, with cross-party support. This requires employers to report outcomes and recommends the publication of employer action plans with targets and clear actions to address disadvantage.

Gender pay gap reporting has demonstrated the power of transparency and of a mandatory approach. Initial successes include high employer compliance (100 per cent), with 48 per cent of employers publishing action plans to address disadvantage⁷. A consistent approach to reporting has enabled employers to benchmark against others and measure their progress. Scrutiny of employers such as the BBC by their workforce and stakeholders has further helped promote public awareness and acceptance of diversity⁸. Following the example of mandatory gender pay gap reporting, we argue that disability employment reporting should also be made mandatory.

⁴https://www.centreforsocialjustice.org.uk/core/wp-content/uploads/2018/04/CSJJ5158_Disability_report_180426.pdf

⁵ <https://www.disabilityatwork.co.uk/wp-content/uploads/2019/02/Disability@Work-Two-Ticks-Briefing-Paper-4.pdf>

⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/747546/ethnicity-pay-reporting-consultation.pdf

⁷ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/751209/GPG-Reporting-Portal-Report.pdf

⁸ <https://www.bbc.co.uk/news/entertainment-arts-42833551>

3) **Getting implementation right**

There is already some government commitment to incentivising disability employment reporting. For example, the government has recently consulted on strengthening the scoring of social value in government procurement⁹. Employment of disabled people is part of the scope of ‘social value’ in the draft framework. This will require employers to measure and report the proportion of disabled people employed in the organisation in order to demonstrate they employ disabled people in sufficient numbers to meet the social value criteria.

Also, some public sector organisations are already tracking the number of disabled colleagues at different levels. This includes the whole of the civil service, which aims to be the most inclusive employer in Britain by 2020¹⁰. Having identified there are lower proportions of disabled employees at senior than more junior levels, the civil service has also implemented action plans aimed at rectifying this. This is similar to mandatory gender pay gap reporting, for which employers are expected to implement action plans to reduce gender pay gaps within their organisations. In addition, the NHS has just introduced (April 2019) its Workforce Disability Equality Standard, through which all NHS organisations are expected to track specified metrics on employment of disabled people¹¹.

Therefore, the introduction of mandatory reporting among large employers across the economy more widely would simply spread existing pockets of good practice to much wider pools of employers, thereby significantly increasing impact.

Although employers face numerous complexities in measuring disability within the workplace¹², there is considerable best practice advice from international evidence and the experience of UK organisations on how to collect the necessary data at organisational level¹³. This includes the use of anonymous staff surveys, and the proactive development of cultures in which employees feel it is safe and useful to be open, and hence are more likely to respond by opening up about their impairment, ‘bringing their whole self to work’¹⁴.

Five broadcasters (BBC, ITV, Channel 4, Channel 5 and Sky) signed up to Diamond, a system for tracking on- and off-screen diversity in order to take action. Channel 4, for example, has been proactive in recruiting disabled colleagues in front of and behind the camera and practically supporting their supply chain to take on disabled apprentices. They shifted workplace culture by sharing disabled employees’ filmed stories – which led to an increase in other colleagues being open about their experiences of disability. Self-reports of disability rose from 3% to 11.5%. In 2018 broadcasters set new targets to double employment of disabled people in the sector by 2020¹⁵

⁹ <https://www.gov.uk/government/consultations/social-value-in-government-procurement>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/658488/Strategy_v10_FINAL_WEB6_TEST_021117.pdf

¹¹ <https://www.england.nhs.uk/about/equality/equality-hub/wdes/>

¹² <https://www.disabilityatwork.co.uk/wp-content/uploads/2018/10/Disability@work-Measurement-Briefing-August-2018.pdf>

¹³ <https://www.disabilityatwork.co.uk/wp-content/uploads/2018/10/DRUK-and-Disability@Work-Disability-Measurement-Advice-for-Employers-Building-for-Success-2018.pdf>

¹⁴ von Schrader, S. Malzer, V., Erickson, W., & Bruyère, S. (2010). *Emerging Employment Issues for People with Disabilities: Disability Disclosure, Leave as a Reasonable Accommodation, Use of Job Applicant Screeners*. Ithaca, NY: Cornell University. Nishii, L., & Bruyère, S. (2014). *Inside the workplace: Case studies of factors influencing engagement of people with disabilities*. Research Brief. Ithaca, NY: Cornell University Employment and Disability Institute. See also: <https://www.disabilityatwork.co.uk/wp-content/uploads/2018/10/Disability@work-Measurement-Briefing-August-2018.pdf>

¹⁵ <http://creativitydiversitynetwork.com/doubling-disability/>

Despite the complexities involved, many organisations are already measuring the prevalence of disability among the workforce. The best approach is to follow employer-led guidance, ‘doing it’ and ongoing learning.

We propose the DWP’s expert group should be reconvened and work with business organisations, disabled people’s organisations and academic experts to fine-tune the voluntary reporting framework to cover gaps in pay and seniority as well as disability prevalence among the workforce, in line with the EHRC’s 2018 recommendations¹⁶.

We then propose steps to full implementation of mandatory reporting among large firms across all sectors:

- Publish refreshed guidance on measurement and reporting of disability employment and pay gaps
- Make transparent reporting with action plans and above average employment of disabled people a requirement of Level 3 of the (voluntary) Disability Confident scheme (this is already under discussion within government)
- Consider, within government procurement, placing a requirement on contractors employing at least 250 people to report disability employment and action plans in order to secure contracts
- Lay regulations under S. 149 of the Equality Act, requiring public sector organisations to report on disability employment and pay gaps, with a lead-in time for preparation
- Amend the Equality Act 2010 to give the Secretary of State powers to lay equivalent regulations relating to private and voluntary sector employers; and then lay the regulations, again with lead-in time.

4) *The legislative mechanism*

For the public sector, mandatory reporting could be brought in through regulations under S. 149 of the Equality Act 2010.

To impose duties on all other sectors would require an amendment to the Equality Act 2010 to give the Secretary of State powers to do so (after which regulations could be passed). This amendment might be added after S. 60

The 2019 consultation on public procurement in the Social Value Act also offers an opportunity: organisations tendering for Government contracts, where they employ at least 250 staff, could be required within the Social Value Act to report transparently on the employment of disabled people, with implementation plans outlining how they plan to increase it.

5) *Stakeholders*

A growing number of reports and statements have argued in favour of mandatory disability employment reporting, including the All-Party Parliamentary Group for Disability 2016¹⁷,

¹⁶ <https://www.equalityhumanrights.com/en/publication-download/measuring-and-reporting-disability-and-ethnicity-pay-gaps>

¹⁷ <https://www.disabilityrightsuk.org/news/2016/december/mps-and-peers-offer-plan-support-six-million-disabled-people-work>

EHRC 2018¹⁸, Sayce 2018¹⁹, Leonard Cheshire Disability 2019²⁰, Shinkwin and Relph 2019²¹. There is a growing belief amongst progressive employers that understanding and promoting diversity among the actual and potential workforce brings dividends in terms of improving talent and morale.

During the steps towards implementation, widespread engagement of employers will be vital. Many employers already engaged in monitoring will have a critical role to play. Guidance of government is now required to work in partnership with business organisations, disabled people's organisations and academic experts, and (1) simplify the process and make the information accurate/valid, (2) avoid duplication between different government initiatives and (3) ensure comparability between firms so that transparency is meaningful.

¹⁸ <https://www.equalityhumanrights.com/en/publication-download/measuring-and-reporting-disability-and-ethnicity-pay-gaps>

¹⁹ <https://mailchi.mp/cd17f1b62a66/special-report-liz-sayce-switchingfocus-whose-responsibility-to-improve-disabled-peoples-employment-and-pay>

²⁰ Reimagining the workplace at <https://www.leonardcheshire.org/our-impact/our-policy-influencing-and-research/our-publications/reports>

²¹ Shinkwin, K. and Relph, G. (2019) *The case for enabling talented, young, disabled graduates to realise their potential and reach the top*. Demos discussion paper. July.