

MAKING TRANSPARENCY A SUCCESS

CBI RESPONSE TO THE GOVERNMENT'S CONSULTATION ON ETHNICITY PAY REPORTING

The CBI welcomes the opportunity to contribute to the Government's consultation on ethnicity pay reporting to explain why businesses believe that transparency is a vital catalyst for action on diversity and to outline steps to make ethnicity pay reporting a meaningful tool for both businesses and government.

The CBI is the UK's leading business organisation, speaking on behalf of 190,000 businesses that together employ around a third of the UK's private sector workforce. Its mission is to help businesses create a more prosperous society.

Businesses believe that their workforce lies at the heart of their success and their ability to remain competitive in the future. They are committed to improving diversity and creating inclusive workplaces that enable all their employees to reach their full potential. If done well, transparency can become a catalyst for action, just as early signs suggest that it is for gender.

Businesses are committed to diversity and inclusion and support ethnicity pay reporting to put greater focus on race at work

The CBI's members believe that increasing diversity and inclusion is not only the right thing to do but is also based on a strong business case. They understand that workplaces that are more diverse and inclusive are better at harnessing the skills and talents of a wider pool of people which leads to higher employee satisfaction, more innovation, better understanding of customer preferences and ultimately more productivity. And companies that work towards increasing diversity and inclusion in their workforce create greater trust between business and society. So getting diversity right creates a great competitive advantage for businesses.

Improving the employment and pay prospects of BAME workers is an integral part of creating an inclusive workplace. The evidence shows that people from BAME backgrounds are currently both less likely to participate in and then less likely to progress through the workplace, when compared with their white colleagues.¹ Barriers exist, from entry through to board level, that prevent most BAME workers from reaching their full potential.² The McGregor-Smith Review estimated that full representation of BAME individuals across the labour market would result in a £24 billion boost to the economy per year, which represents 1.3% of UK GDP. And the Equality and Human Rights Commission pay strategy publication notes that in 2016, the ethnicity pay gap was 5.7%.³ However, these figures mask some of the differences between ethnic minority groups. For example, white men earn on average 20% more than black men per hour and 25% more than Bangladeshi/ Pakistani women.⁴

¹ McGregor-Smith Review (2017).

² Parker Review (2017); McGregor-Smith Review (2017), Race disparity audit (2017)

³ EHRC (2017). *Fair opportunities for all: A strategy to reduce pay gaps in Britain*

⁴ Resolution Foundation (2018). *Opportunities knocked*

Successful implementation of ethnicity pay reporting will require a simple but effective reporting framework and support for businesses throughout the preparation and rollout phase. At the same time, closing the ethnicity pay gap will require action by businesses and government beyond reporting, particularly to build confidence in disclosing ethnicity for the purposes of this analysis.

Reporting must encourage companies to act on ethnicity – a simple system can be effective

Business supports a new mandatory reporting requirement on ethnicity. Reporting done well can provide a real foundation to better understand and address the obstacles to improving workplace diversity.

All companies required to report their gender pay gap have done so.⁵ There would be the same level of commitment to report and take action in response to findings on ethnicity. Further, the CBI's 2018 Employment Trends Survey shows that 93% of businesses are taking action to narrow their gender pay gap with some using data to better understand issues to be addressed, others are targeting interventions on areas like increasing diversity at entry level and in organisations' leadership. Another study found that employees are making decisions based on gender pay gap data which underlines the urgency to act for businesses even further.⁶

Businesses believe that the most important objective for this policy is to encourage companies to put greater focus on ethnicity at work, putting in place new action plans to close gaps. A simpler reporting requirement will be more effective than the most detailed analysis possible as it will mean more businesses reporting their ethnicity pay gaps.

Keeping key aspects of the gender pay reporting framework will avoid unnecessary complication

Government should copy key aspects of gender pay reporting to make reporting on ethnicity as simple as possible, avoiding duplication and confusion among businesses. Keeping the same snapshot date, annual reporting deadline and definition of 'pay' will mean that companies analyse one dataset for both their gender and ethnicity pay reporting.

Using the same definition of 'employee' and requiring companies with 250 employees or more to report will make it easy for companies to know when to report. If you report on gender, then you report on ethnicity too. Implementing a higher threshold for ethnicity pay could also lead to confusion among firms as businesses that are in scope for gender pay gap reporting might not be in scope for ethnicity pay reporting. 'Reporting both or neither will also help businesses to reinforce the message of equal importance of both gender and ethnicity within the organisation. Setting a higher threshold for ethnicity pay would run the risk of sending the message that it is less important as fewer companies have to report on it.

Following the gender pay gap methodology, companies should publish the mean and median pay gap in hourly pay, and the proportion of BAME and White employees in each pay quartile.

Companies should report comparisons between the pay of White and BAME employees to incentivise action by the largest number of businesses...

Businesses support an approach where companies report headline metrics that compare the pay of BAME and White employees, publishing mean and median pay gaps and representation in pay quartiles. This will provide an at-a-glance view of the representation of BAME workers within an organisation's structure. Making this information publicly available will be an incentive for employers to better understand what drives differences in representation and pay, and to implement strategies to close gaps.

⁵ The EHRC has reported in 2018 that 100% of the companies in scope have reported on gender pay gap

⁶ EHRC (2018). Six in 10 women consider gender pay gap when job hunting

Making headline metrics more detailed would be very difficult for smaller businesses and raises confidentiality concerns

Using several pay gap figures such as the five broad ethnic groups or the 18 detailed ethnic groups used in the ONS 2011 census would increase the risk of producing small sample sizes especially for smaller companies (around the threshold of 250 employees). A company with 250 staff whose workforce reflects the UK-wide population would have around 35 BAME employees.⁷ To divide this into up to 5 or 18 separate groups would make sample sizes very small. To protect the anonymity of employees the NHS uses a minimum sample size. Any group smaller than five is not included in its reporting. Other employers would surely adopt similar policies, with many employers considering higher minimum sample sizes of 10 or 20. This could lead to firms needing to choose between compromising the anonymity of employees that are one of only a few employees in a company from a certain ethnic minority background, and not including those workers in the headline metrics. Small sample sizes could also lead to situations in which the salary of one employee could cause large changes in the ethnicity pay gap.

Businesses believe that it would be better to publish headline metrics comparing White and BAME employees for firms with over 250 staff than more detailed metrics only for much larger businesses.

...but also analyse more detailed information to better understand the different experiences of groups within BAME

Businesses recognise that comparing the pay of White and BAME employees does not reflect the experiences of each minority ethnic group which can be very different. Some ethnic minorities within the BAME group are facing particularly great barriers when it comes to progression in the workplace.⁸

To reflect these differences in experiences, the CBI believes that companies should collect data on ethnicity using the more detailed categories used in the census. Such an approach is key to companies understanding the drivers of the ethnicity pay gap within their organisations.

A narrative including further information and which puts metrics in context could be compulsory

Publishing a narrative alongside headline metrics is even more important for ethnicity pay reporting than it is for gender pay reporting. Headline metrics have to be seen in the context of greater regional variation in BAME populations and different experiences of groups within the BAME umbrella. It is essential to provide this context in a narrative.

Companies support making publishing a narrative compulsory. Given the greater likelihood of firms only having data on ethnicity for part of their workforce, it is important that they publish the proportion of their workforce that is not included in their analysis because workers did not disclose their ethnicity. The narrative should also explain what action the firm is planning to take to close identified gaps.

Recommendations

1. Business supports the introduction of mandatory ethnicity pay reporting.
2. Ethnicity pay reporting should build on the framework already in place for gender pay reporting, retaining the:
 - a. Workforce size reporting threshold;

⁷ Based on the McGregor-Smith report in 2017, 14% of the UK working-age population is from a BAME background. This percentage is applied to a company of 250 employees ($250 \times 0.14 = 35$)

⁸ Resolution Foundation (2018). Opportunities knocked

- b. Annual snapshot date;
 - c. Annual reporting deadline;
 - d. Definitions of 'employee' and 'pay'.
3. Businesses should compare the pay of White and BAME employees, reporting:
 - a. Mean hourly pay
 - b. Median hourly pay
 - c. The proportion of employees in each pay quartile.
4. Companies should analyse pay data by the full list of ethnicities included in the census
5. A narrative should include relevant findings from the detailed analysis, put data in context and include a summary action plan.

Ethnicity pay reporting will be most effective if it is matched by a campaign to increase the proportion of employees disclosing their ethnicity

The effectiveness of ethnicity pay reporting is currently limited by patchy disclosure rates. Building the confidence to disclose ethnicity at work should be a priority for business and government.

The CBI's 2018 Employment Trends Survey assessed the level of preparedness of companies to report on ethnicity. It found that less than one in five respondents (17%) are well prepared already and monitor pay by ethnicity. In contrast, nearly three quarters of firms (72%) would have to undertake at least some preparatory work, with 36% reporting it would require significant or very significant preparations to monitor average pay by ethnicity. These responses clearly show that only a small percentage of companies is prepared to report on ethnicity and actually hold the data required. Most companies will need sufficient time to gather and analyse data before they can report meaningful results. To allow for all companies to be prepared for ethnicity pay reporting the government needs to allow sufficient lead-time before the first reporting deadline.

Business and government must work together to build confidence to disclose ethnicity at work

Companies that do not hold the required data on ethnicity will have to develop campaigns and targeted communications inviting their employees to share information on their ethnicity. Based on the experience of firms that have successfully gathered data on ethnicity and achieved high disclosure rates, such campaigns can take one year or more and include a targeted communication strategy for new joiners as well as existing employees.

Drawing on the experiences of companies with gender pay gap reporting, data collection and consolidation especially for bigger companies took between 6-8 months. Some industries such as logistics will face additional challenges as they have rapidly changing contracts with different companies and no unified system to rely on when it comes to the disclosure of ethnicity. One avoidable complication relates to contractors. Ethnicity pay gap legislation should copy provisions included in the gender pay gap regulations for employers hiring contractors. Employers are exempt from reporting on contractors where they do not hold the data or it is not reasonably practicable for the employer to obtain the data.

Government can help to create the confidence to disclose this information through its own public communications, explaining why it's important to share the information to enable employers to carry out a more detailed analysis. Working jointly with trade unions should also help to build confidence in disclosure.

It would also help to build confidence in disclosure if what employees are asked to disclose matches the census categories. Given the likely implementation timetable of this new reporting requirement, it would help

businesses to know as early as possible if a different list of ethnicities will be used in the 2021 census compared to the 2011 census.

Closing ethnicity pay gaps will also require action by government

The ethnicity pay gap is a societal challenge with a complex mix of causes. As such, it can be reduced by employers, but businesses' action alone will not eliminate the gap. The Race Disparity Audit examined how people of different backgrounds are treated across areas including health, education, employment and the criminal justice system. It finds that there are disparities between ethnic groups in all of these areas and that such disparities can impact people's life chances and labour market outcomes.⁹

The picture painted by the Race Disparity Audit and the EHRC's Ethnicity Pay Gap report is a complex one. Broadly, people from ethnic minority backgrounds are more likely to be poor, and more likely to work in low-skilled, low-paid jobs. The EHRC report also finds that most ethnic minorities have higher qualifications, but these results mask the differences in qualifications that exist within the BAME group.¹⁰ There is lots for businesses to do to better understand the barriers that BAME employees face at work, but government also has an important role to play outside of the workplace. What happens in schools before young people enter the labour market is key too. Business wants to work with government to narrow attainment gaps in education between disadvantaged young people and their wealthier peers. In addition to attainment, helping disadvantaged young people, including many BAME young people, to access the careers advice and networks that are more readily accessible to wealthier peers should be an important priority.

Recommendations:

6. Companies should run campaigns to increase disclosure rates, explaining to employees that their data will be used to make their workplace more inclusive.
7. Government and the unions should collaborate with businesses to drive disclosure rate campaigns and provide complementing communication to make a compelling case as to why disclosure of ethnicity is important.
8. Confirming the list of ethnicities to be used in the 2021 census as early as possible will allow businesses to focus on building the confidence of employees to disclose once, rather than repeating the exercise in 2021.

⁹ Race Disparity Audit (2017)

¹⁰ EHRC (2017). The ethnicity pay gap