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## **Diversity: Is voluntary reporting the way to go?**

With the Government having made clear that mandatory ethnicity pay gap reporting is off the table for now, with a voluntary approach being favoured, it seems likely that the consultation on disability workforce reporting will go the same way. In its recent response to the consultation, the Business Disability Forum (BDF) rightly questioned whether mandatory reporting on disability would further or undermine the interests of disabled people in the workplace. The response pointed out that gender pay gap reporting has not really led to significant change for women. The institute for Fiscal Studies published a report in December 2021, highlighting how the gender pay gap has shifted little in 25 years, despite the huge advancements in education for women. So, given that mandatory reporting is far from a silver bullet, is it time to take look more carefully at the soft power of voluntary reporting?

A number of disabled people involved in the BDF response expressed the view that the negative connotations associated with compliance could make disabled people seem like 'hassle' and 'hard work'. Overall, the BDF was not convinced that there was evidence to support the idea that mandatory reporting would improve the lives of disabled people in the workplace. First, you do not solve the disability employment gap (currently 28.4%) by measuring disability in the workforce. Secondly, you may end up harming the interests of disabled employees if you treat it as a numbers game, that is focus on the prevalence of disabled people in a workplace rather than the quality of their experience at various points in their employment journey. As a poignant illustration of this, there was evidence that organisations with a high proportion of disabled employees did not score well when it came to making reasonable adjustments. Typically, they waited between 6-24 months for adjustments to be made.

Overall, the response was concerned that mandatory reporting could lead to 'crude' measures, employers getting more disabled people through the door without really reviewing organisational culture and identifying what needs to change. It called for a move away from 'diversity by numbers' towards 'inclusion by experience'. It pointed out that this must entail giving disabled people a voice in the workplace as well as allowing them to shape a narrative around disability with their employer. This should evolve from the culture and needs of that particular workplace, rather than being imposed, standardised and measured by the Government.

Overall, voluntary reporting seeks to unlock stories rather than reduce people to the metrics associated with their protected characteristic. The BDF commented that a lot can be learned from the DWP's Framework on Voluntary Reporting on Disability, Mental Health and Wellbeing. This aims to encourage employers to collect data, often through conversations and anonymous surveys, on experiences of disability and wellbeing in the workplace. Normalising conversations about ill health and wellbeing, being proactive about offering reasonable adjustments, is more likely to lead to positive outcomes in the workplace rather than requiring people to report disabilities within a mandatory framework.

As voluntary reporting becomes more prevalent, employers will nevertheless have to navigate sensitive issues like what terminology to use and how legalistic to be when defining particular interest groups. This is not an easy balance to strike. Hence, on ethnicity pay gap reporting,

we can expect guidance in the Summer from Government on how to talk about ethnicity and collect data on it. Voluntary reporting encourages a more fluid approach to employee experience on diversity issues, including on how employees view themselves. But, as BDF pointed out, this also comes with dangers. When it comes to reporting on disability for example, 'self-identity must not be allowed to 'skew' the number of how many 'new' disabled people are getting into (and staying in) work.'

By Shireen Shaikh, Senior Professional Support Lawyer, Taylor Wessing, 26 May 2022

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