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ELA L&P Committee: Disability workforce reporting consultation

Response from the Employment Lawyers Association

8 April 2022

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INTRODUCTION

1. The Employment Lawyers Association (“ELA”) is an unaffiliated and non-political group of specialists in the field of employment law. We are made up of about 6,000 lawyers who practice in the field of employment law. We include those who represent Claimants and Respondents/Defendants in the Courts and Employment Tribunals and who advise both employees and employers. ELA’s role is not to comment on the political merits or otherwise of proposed legislation or calls for evidence. We make observations from a legal standpoint. ELA’s Legislative and Policy Committee is made up of both Barristers and Solicitors who meet regularly for a number of purposes, including to consider and respond to proposed new legislation and regulation or calls for evidence.
2. A Working Party Co-chaired by Robert Davies and Eleanor Mannion was set up by the Legislative and Policy Committee of ELA to respond to the Disability workforce reporting consultation. Members of the Working Party are listed at the end of this paper.
3. References in this paper to the views of ELA are intended to be inclusive of the views of the minority as well as the majority of ELA members. Whilst not exhaustive of every possible viewpoint of every ELA member on the matters dealt with in this paper, the members of the Working Party have striven to reflect in a proportionate manner the diverse views of the ELA membership.

Executive Summary

4. We support workforce disability reporting and consider that the introduction of mandatory reporting for large employers is a proportionate development. We consider that this is consistent with the overarching aims of the National Disability Strategy. We note that the consultation document is focusing on collating views on 4 main areas. In overview:
5. The current landscape indicates that the current prevalence of workforce disability reporting is patchy at best and the rate of change is unlikely to be achieved through a continued focus on voluntary reporting.
6. The barriers to reporting are genuine as there are a number of factors that may make the collation of information by employers more challenging than for gender pay reporting and may inhibit responses from employees. The three main issues are in respect of:

- a. Cost;
 - b. Definition;
 - c. Participation by employees.
7. However, we consider that these challenges can and should be attempted to be negotiated and the potential benefits that may stem from mandatory reporting would make it proportionate to seek to do so.
 - a. We take the view that whilst cost would be incurred, the greater inclusion of disabled people in the workplace and identification of issues in respect of their inclusion would be expected to create a sustainable and self-perpetuating dividend, so to speak, and we believe it is consistent with both the ethos of and the obligation to make reasonable adjustments;
 - b. In respect of the definition as to disability, clear questions could be drafted, the answers to which should be able to give rise to a definition of disability that should be understood by respondees and give reliable data; and
 - c. Participation by employees might be more significant if concerns as to confidentiality and the actual use of the data can be met. Larger employers may be expected to have more robust systems and restricting reporting to large employers may also help to illustrate positive outcomes more readily.
8. An incremental approach to the content of the information that would be collated and reported on may be advisable.
9. We consider that benefits are more likely to be achieved/secured if additional steps are taken alongside mandatory reporting. But we consider that mandatory reporting is a necessary first step coupled with a concerted exercise to persuade disabled employees of the potential benefits of reporting.
10. We note that an incremental approach appears to be envisaged as an initial approach: while not going as far as gender pay reporting at the outset, we consider that collecting and reporting disability workforce figures is a positive first step. Such information will assist employers to better understand their workforce, and their associated obligations. It is hoped that this information will also give tools to disabled persons to assess disability-friendly employers.
11. The authors of this response practise on both sides for both employers and employees. Accordingly, we feel that we have been able to answer Part 2 and Part 3 of the Consultation Document in a way that balances both perspectives. Although coming at these questions from their particular perspective, the same core message comes from Part 2 and Part 3, namely that mandatory reporting is preferable and that the questions asked of employees will be key.

PART 1 - INFORMATION ABOUT YOU/YOUR ORGANISATION

12. ELA is a membership organisation made up of employment lawyers who represent employers and employees/workers in the Courts and Tribunals. We are therefore neither an employer nor an employee representative organisation. We operate in the UK and have approximately 6000 members.

PART 2: EMPLOYER PERSPECTIVES

SECTION A: UNDERSTANDING THE CURRENT LANDSCAPE

We want to understand how and what information is currently collected by employers on disability in the workforce, and the behaviours it causes.

QUESTION 1

DOES YOUR CURRENT OR DID YOUR PREVIOUS EMPLOYER COLLECT INFORMATION ON THE PROPORTION OF DISABLED PEOPLE IN THEIR WORKFORCE? (TICK ONE BOX)

Yes

No

I don't know

this is not relevant as I am answering as a representative organisation or network

SECTION B: BENEFITS AND BARRIERS TO DISABILITY WORKFORCE REPORTING

QUESTION 7

A. DO YOU THINK THAT GREATER TRANSPARENCY ON DISABILITY IN THE WORKFORCE LEADS TO MORE INCLUSIVE PRACTICES? (TICK ONE BOX)

Yes

No

I don't know

B. PLEASE EXPLAIN AND PROVIDE EVIDENCE WHERE POSSIBLE.

13. Greater transparency will indirectly lead to more inclusive practices. In our experience, employers who are prepared to be transparent on disability in the workforce are more inclusive of candidates and employees with disabilities. For example, it is notable that The Law Society of England and Wales report on disability* consistently found that the “most significant barrier” for disabled people entering the solicitors’ profession was the issue of securing reasonable adjustments. [Law Society of England and Wales report regarding law firms helping those with adjustments.](#)
14. Employers that are aware of their legal obligations and transparent about the steps they are taking to comply with them, are more likely to remove such a barrier and enable disabled people to access reasonable adjustments and thereby hire and retain more diverse employees.

15. Many organisations advocate for and pride themselves on their diversity and inclusivity credentials. Even so, experience suggests that it can still be difficult for all employees to feel included and they can experience difficulties in practice. Transparency of an organisation's inclusive practices, the types of adjustments that are being made and the presence of other disabled people in the organisation, will likely assist disabled employees' access to work and the reasonable adjustments that should be provided to them. A disabled person will know they are not alone and that their employer is truly being inclusive.
16. Mandatory disability pay reporting should provide an opportunity for organisations to demonstrate their inclusivity as an employer, to attract best talent, to retain its current talent pool and avoid "group-think".
17. We readily acknowledge that smaller organisations face more challenges as they have less resource to cope with gathering data and administrative practices.

QUESTION 8

DO YOU THINK THAT DISABILITY WORKFORCE REPORTING BY LARGE EMPLOYERS (250+ EMPLOYEES) SHOULD BE VOLUNTARY OR MANDATORY? (TICK ONE BOX)

- Voluntary
 Mandatory
 Other _____

18. In our experience, few organisations collect or voluntarily report the number of disabled employees in their organisation. ELA has commented on the relative lack of awareness of the Disability Confident scheme (see paragraphs 6 and 30 – 31 of our response to the Work and Pensions Committee Call for Evidence for Disability employment gap enquiry in 2020 - [ELA Response Disability Employment Gap 18Dec20.pdf \(elaweb.org.uk\)](#)) Also, in our experience the categories of information described at Part 2 Section A, Question 2 a are more likely to be collected systematically by public sector employers.
19. In our experience, employers typically want certainty as to their legal obligations which mandatory reporting affords. We note that the government has determined that ethnicity pay gap reporting should not be compulsory (pages 48-49, Inclusive Britain: the government's response to the Commission on race and Ethnic Disparities [Inclusive Britain: government response to the Commission on Race and Ethnic Disparities \(publishing.service.gov.uk\)](#)) as there is greater complexity which necessitates a more resource-intensive approach for business and the need for support for employers in demographically different areas. We think that a distinction can be drawn with regard to disability reporting given the established concept of reasonable adjustments in the workplace coupled with the social model of disability. If the policy objective is to remove disparity in pay, encourage reasonable adjustments and improve access for all to employment, we acknowledge that reporting would need to start with large organisations but also, in time, be extended

to smaller employers. That is perhaps more likely to be developed if there is compulsory reporting on a proportionate basis for large employers.

20. If organisations are not required to report, there is a more limited impetus for change irrespective of the benefits that might be gained. The absence of mandatory reporting increases the risk of inertia.

QUESTION 9

A. WHAT DO YOU THINK THE MAIN BENEFITS OF A VOLUNTARY APPROACH TO DISABILITY WORKFORCE REPORTING ARE?

21. A voluntary approach removes the organisational obligation to ask staff for data, to collate data and to publish the organisation's statistics. That takes the pressure off the organisation's administrative function and to some extent, from those employees who may not want to divulge their disability. It allows organisations to collect the data if they wish, rather than requiring them to do so. This gives organisations the choice of where they use their resources. It also means those employees who want to keep matters private are not asked.
22. A voluntary approach for a fixed period could also be seen as, or communicated deliberately to be, a precursor to the introduction to a move to mandatory reporting. In other words, in the absence of material improvements in the level of reporting employers will know the obligation to report is coming and start to prepare and change their approach. This could "nudge" those employers to start gathering data and putting processes in place so that they can report.
23. Those organisations who are engaged with being leading in respect of inclusivity and diversity can still undertake the reporting. That means that disabled employees working in those organisations will get the benefit of a workplace which has greater awareness of the people who are disabled and of any difference in pay they suffer and address any obstacles to pay parity.

B. WHAT DO YOU THINK THE MAIN RISKS ARE?

24. The key concern is that, as at present, when reporting is voluntary, it will not take place. Please see our comments in response to Question 8 regarding the Disability Confident scheme which suggests that voluntary reporting would not drive change with sufficient impetus or at sufficient scale.
25. We acknowledge businesses are stretched but if reporting is not a legal obligation, a natural tendency will be for obligations to focus on the protected characteristics where there is a legal obligation to report (gender) which risks leaving people with disabilities hidden from view (irrespective of whether they wish to identify as disabled or not) and perceived as being of less importance in a "hierarchy" of protected characteristics.

26. Voluntary reporting also risks providing an inaccurate picture of an organisation's workforce in that organisations may be less inclined to ask their people about disabilities, to explain what the definition means or to report their findings. Failing to explain the definition of disability or the context in which the data is being gathered may lead to employees not identifying themselves as disabled. This will lead to the data being skewed because fewer people have self-reported or the employer not publishing the information as it is not seen as significant, so it sits on a spreadsheet and isn't used to drive change or greater inclusivity in the organisation.
27. The longer term risk is that a voluntary approach will not cause employers to examine their workforce, not identify whether there are barriers to pay parity for disabled staff and not lead to measures to be taken by the organisation to address any obstacles. This perpetuates the current position where many staff with disabilities are, willingly or unwillingly, hidden from the organisation's view and its practices and processes for pay increases, bonus awards, promotion, recruitment, are not transparent and could be disadvantaging disabled staff and potential recruits.

QUESTION 10

THE RESEARCH AVAILABLE INDICATES LOW UPTAKE OF THE DISABILITY VOLUNTARY REPORTING FRAMEWORK. HOW COULD VOLUNTARY REPORTING BE INCREASED?

28. There needs to be increased publicity regarding the existence of the disability voluntary reporting framework. Please see our response to Question 8 in respect of the Disability Confident scheme.
29. Rather than adding to the guidance, we recommend clear and concise support is provided to organisations so that they can quickly understand the idea, purpose and benefit to them and share it with stakeholders to get their "buy in". An employer's HR team can then digest the guidance. We have found short (5-minute) promotional peer to peer videos to be effective (e.g. clips on YouTube).
30. Organisations need to be encouraged and incentivised to gather data and report. Seeing this as a national campaign to unlock talent and promote diversity and inclusion, to address any gaps being caused by the on-going impact of Covid-19 and the so-called "Great Resignation" (the increased level of resignations being seen particularly in the US workforce since 2021 which may be anticipated to be at least partially reflected in the UK workforce) would be timely.
31. The steps required under the voluntary reporting should be consistent with the requirements of other mandatory reporting to simplify the process and burden on employers.

QUESTION 11

A. WHAT DO YOU THINK THE MAIN BENEFITS OF A MANDATORY APPROACH TO DISABILITY WORKFORCE REPORTING ARE?

32. Please see paragraphs 1.1 – 1.3 of ELA's 2019 response to the BEIS consultation: Ethnicity pay reporting from 2019. We consider that such points apply to the issue of disability workforce reporting. ([ELA Response Ethnicity Pay Reporting consultation 11Jan19.pdf \(elaweb.org.uk\)](#)) Although mandatory ethnic pay reporting will not be adopted we consider, consistent with our response to Question 8 above, that there are additional reasons why it would be appropriate in respect of disability workforce reporting, stemming from the principles of reasonable adjustments and the social model of disability, which would merit a different approach.
33. Organisations will be obliged to undertake the data collection and reporting. Voluntary Reporting on Disability, Mental Health and Wellbeing has been in place since 2017/2018 and we would suggest that the statistics quoted at pages 11-12 of the Background section of the consultation document illustrate that it is not resulting in sufficiently widespread disability pay gap reporting.
34. There will be legal certainty as organisations will know what they have to do and when (if they are of the size required to report).
35. There will be an equal obligation for all employers over a certain size as they will have the same obligation to report.
36. Employers will need to engage with their workforce and provide them with information about the definition of disability so that their staff can respond to any surveys or questionnaires and confirm if they identify as disabled. This will require educating and increasing the awareness of staff and the organisation's decision makers. It should increase the visibility of those who are disabled and encourage discussions with staff members about any reasonable adjustments they need. It will mean that decision makers are aware that the decisions about pay (including bonuses) will no longer be opaque and that if there is a pay gap or bonus gap, they will need to understand the reason for that and take appropriate action. It is enforcing greater transparency and accountability.
37. Employers will also benefit from reporting. It can be a tool to assist them to get the most out of their staff and increase their performance and productivity and it can be used to differentiate against their competitors and show they are truly diverse and inclusive.
38. Importantly, this would be expected to level the playing field for disabled people, particularly those whose disabilities are hidden, and who have suffered obstacles to their success at work which could more readily be addressed and enable them to achieve parity with other employees.
39. Pay gap reporting will increase the organisation's knowledge that its staff and job candidates have disabilities. It should provide for a more open dialogue about

disability in the workplace, although we recognise this requires a genuine sense of trust in the relationship.

40. Reporting will also provide granular detail about how disabled people are paid relative to colleagues who do not identify as disabled. Where there are differences in pay (or bonuses) this should inspire changes to processes and procedures to remove or reduce the barriers and encourage a more equally paid, diverse and inclusive workforce.
41. Reporting may be seen as part of a process of creating a culture in organisations and society generally, where people can be true to themselves and authentic, without having to keep anything hidden.
42. This should, over time, reduce the instances of disability discrimination and the claims that result. The Ministry of Justice: Tribunal Statistics demonstrate that the number of disability discrimination claims has increased year on year since the 5196 claims in 2013/14, to the 8178 claims in 2019/20*. Disability discrimination claims result in the highest awards and have, in our experience, typically necessitated longer, multi-day hearings. Pay gap reporting would over time contribute to a reduction in the time and cost of determining such disability discrimination claims. Ministry of Justice:- Tribunal Statistics Quarterly: Main Tables (April to June 2020) [Main Tables Q1 2020 21.ods \(live.com\)](#)

B. WHAT DO YOU THINK THE MAIN RISKS ARE?

43. We consider the main concerns to be the risk of pressure being placed on disabled people who do not want to disclose their disability, the potential additional cost for employers and the challenge of clear concise definitions.
44. Employers can seek anonymous replies but in smaller teams, the contributors could be identifiable which could make people reluctant to confirm their disability. Employees may also not understand whether they fall within the definition of disability being used by the employer. The legal definition of disability is complex and the social model definition is different so there will be a need to educate and inform staff about the criterion being used, which is different from gender or ethnicity pay gap reporting where the criterion is clearer. This can make it more expensive to collect accurate data.
45. Employees may not be willing to confirm whether they are disabled (or wish to identify as a disabled person). They might fear disclosing such sensitive information/data about themselves, how that data will be held, who will have access to it and how it will be used (specifically whether it would count against them regarding work opportunities, promotion and financial remuneration).
46. If employees do not self-declare then the data the employer has as to the number of disabled persons in its organisation will not be accurate. Further, the pay gap data it produces will not be an accurate picture of the true state of its workforce as it will not be based on an accurate assessment of who is disabled and their respective pay gaps.

47. This risks obtaining data which is unrepresentative as the organisation is only reporting on those who self-identify. It is minimised if there is an environment of trust and the organisation engages with its staff and demonstrates that reporting is part of its steps to greater diversity and inclusion, not simply gathering and publishing the data as a tick box exercise.

QUESTION 12

A. WHAT DO YOU THINK THE MAIN BENEFITS OF PUBLISHING DISABILITY WORKFORCE INFORMATION ARE?

48. Publishing disability workforce information increases awareness of disabled people in an organisation and their needs. We have remarked already on the hidden nature of some disabilities and this is an opportunity for employers to increase the awareness of decision makers and other staff, to improve the working lives of disabled people.
49. It also increases the priority given to this part of the diversity agenda. Mandatory gender pay reporting has been introduced, so it would give equal treatment to disabled people, such that steps formally are being taken to measure and report upon with a view to removing any disability pay gap.
50. It aligns with the intention in the Equality Act 2010 and previous legislation that disabled people should not be treated less favourably compared to other people without disabilities when it comes to pay. Mandatory pay gap reporting regarding gender was introduced to ensure that the applicable pay gap is measured and employers are obliged to identify the differences in treatment. Disability reporting is equally important and should have the same mandatory status. As noted above (see paras 19 and 32) we consider that the complexities identified by the Government with respect to ethnicity pay reporting ought not to prevent a different approach being adopted with respect to disability workforce reporting.
51. Employers and the managers making pay decisions will be aware that the decisions they are making will contribute to the figures that are to be published. The reported figures will identify where there are issues regarding the representation or comparative level of reward within the employer. The employer can then address them. At present the issues may well be hidden.
52. If reported figures are made publicly available that should help ensure transparency of the treatment of disabled people. The statistics will be available to the employer in order for them to identify and then address the areas where needed in order to improve or change their practices and procedures (e.g. recruitment, reward, promotion) so that the financial reward to disabled people is equal and not less favourable treatment due to disability. The true picture is not clear at present which makes it more difficult for employers to identify and make changes.
53. The figures will also be available to candidates/prospective employees, employees, clients, contractors, suppliers and investors. These different stakeholders will be able to access the data and make informed decisions about the organisations with

which they want to work, contract and invest. This will also mean that there will be an additional driver for employers to change their practices and make adjustments, which flows indirectly from the reporting obligation.

B. WHAT DO YOU THINK THE MAIN RISKS ARE?

54. The main concern from an employer-perspective is the imposition of an additional administrative burden on businesses and cost, particularly with the on-going impact of Covid-19. It will be important for government to assess likely additional costs in the light of the definitions ultimately adopted.
55. Equally of concern, is that the onus will be on the disabled person to self-identify as disabled. As we have observed earlier here there needs to be trust in the relationship for employees to disclose data and the culture in many organisations might not necessarily be one where the sufficient degree of trust exists. This may be expected to improve over time as employers demonstrate that they are not paying lip service to the legal requirement but there is a risk that in the initial years, the data reported will not be a complete picture. This flows from the fact that unlike gender or ethnicity, identifying as disabled is about choosing to self-identify as disabled and is dealing with sensitive physical and mental health information which may not have been apparent to the employer.
56. The reporting may not be representative of the true pay gap because of the low reporting of disability. This would mean that some figures may be skewed (although it could be argued that they would not be any more inaccurate than under the current voluntary reporting arrangement).
57. The fact that an employee is disabled would be special category personal data. This requires there to be two lawful bases for the employer to process the data. If the data collection is required by law, there will be one lawful basis for processing. There will be further administration for the employer if it needs to obtain the employee's informed consent in addition, although this is surmountable.
58. Clearly such data needs to be held and processed securely.

SECTION C: CONSIDERATIONS IF MANDATORY DISABILITY WORKFORCE REPORTING WERE TO BE IMPLEMENTED

QUESTION 13

A. DISABILITY WORKFORCE REPORTING IS INTENDED TO INCREASE TRANSPARENCY AND THE RECRUITMENT, RETENTION AND PROMOTION OF DISABLED PEOPLE.

- X **Strongly agree**
 Agree
 Disagree
 Strongly disagree
 I don't know
 Other _____

B. PLEASE EXPLAIN YOUR ANSWER.

59. At the moment there is a dearth of information about the recruitment, retention and promotion of disabled people. It does not appear to be a topic that is high on many employers' list of priorities, even in the area of diversity where many have prioritised issues of gender/gender identity and sexual orientation; and more recently issues of race and ethnicity. We have commented elsewhere in our response with regard to the apparent lack of awareness among employers and employees of the Voluntary Disability Framework. As such disability workforce reporting would help employers and recruiters to understand better the barriers that disabled people face when seeking to enter and progress through the workforce; and that to make themselves truly diverse employers they need to “up their game” so to speak in this important area.

C. WHAT, IF ANY, STATISTIC COULD BE REPORTED ALONGSIDE OR INSTEAD OF THE PROPORTION OF EMPLOYEES IDENTIFYING AS DISABLED? PLEASE EXPLAIN.

60. There is a case to be made for employers reporting both on the total number/proportion of people identifying as disabled and breaking that down between those with a “hidden” disability and those with an overt/apparent disability. The purpose of this would be to assist in understanding whether those with physical disabilities fared worse than those with hidden disabilities (for example, if prejudice manifested itself more against those who were clearly disabled than those who suffered from a mental impairment and were not visibly disabled). However, there is clearly a risk that for employers who currently do not collect any information on disabled people, that might be too much to ask and that collecting that granularity of information could prove very difficult. We appreciate that there is an argument for an initial focus to be on establishing a reporting regime; further nuances in the reporting might be developed over time.

QUESTION 14

A. DO YOU AGREE OR DISAGREE THAT LARGE EMPLOYERS (250+ EMPLOYEES) SHOULD USE A STANDARDISED APPROACH TO COLLECT DISABILITY WORKFORCE DATA IF REPORTING BECAME MANDATORY ? (TICK ONE BOX)

- X **Strongly agree**
 Agree
 Disagree
 Strongly disagree
 I don't know

B. PLEASE EXPLAIN YOUR ANSWER

61. Given the lack of consistently identified empirical data nationally concerning the barriers facing disabled people in the workforce, an approach that helps to identify just how many disabled people there are in the workforce should both reassure employers that many are very capable of undertaking a range of roles and reassure employees/applicants that they will not be seen as "outliers" but that they are in very good company. By way of example, one member of our working party is employed by an international law firm. A few years ago it started asking questions in its annual diversity survey of all staff as to whether they had a disability and found that some 10% of respondents said that they did, which was a higher number than was anticipated based on the level of information available before the survey was undertaken.
62. Reporting such a statistic will help, in our view, to reinforce that working alongside disabled colleagues is natural and a common experience and normalise to a greater extent the awareness of disability in the workplace and to contribute to the erosion of any stigma or other misconceptions applied to disabled persons. The Law Society Report of England and Wales rightly emphasises that disability does not connote lack of ability: that needs to be reinforced throughout society including the workplace. [Law Society of England and Wales report regarding law firms helping those with adjustments](#).
63. Reporting this statistic is likely to help employers to understand just what a resource their disabled people are (or could be) and spur them into taking suitable steps to remove the barriers disabled people face in the workplace to help them realise their full potential and "bring their full self to work". It could also spur them on to review their recruitment practices and find ways to attract more applications from disabled people.
64. As with gender pay gap reporting, a standardised approach is the best way to secure consistency and consequently to help employers to benchmark where they are vis-a-vis their competitors and generally. Those with a clearly lower proportion than others will firstly have to be accountable for that to all relevant stakeholders but can also take steps to work out how to make them a more disability-friendly organisation. The counter-argument is that because of the imperative to put this issue onto the agenda

of employers and make it as easy as possible for employers to be able to obtain information regarding their disabled colleagues, they should have some flexibility in how this is done. However, we consider that the benefits of a standardised approach outweigh the benefits of a more flexible approach.

QUESTION 15

THERE ARE MANY WAYS THAT PEOPLE ARE ASKED TO SELF-IDENTIFY AS DISABLED. IF LARGE EMPLOYERS WERE TO USE A STANDARDISED APPROACH TO DATA COLLECTION, WHICH WORDING DO YOU THINK SHOULD BE USED TO ASK EMPLOYEES IF THEY IDENTIFY AS DISABLED? (TICK ALL BOXES THAT APPLY)

- X **‘Do you consider yourself to have a disability or a long-term health condition (mental health and/or physical health)?’ Wording from the voluntary reporting framework**
- X **‘Do you have any physical or mental health conditions or illnesses lasting or expected to last 12 months or more?’ and ‘b. Does your condition or illness do any of your conditions or illnesses reduce your ability to carry out day-to-day activities?’ Wording from the Government Statistical Service**

None - collection of data should not be standardised.

I don't know

- X **Other ___ We consider that it would be helpful to ensure that data can be captured to track disabled people with physical disability, with mental disability and those disabled people whose disability is hidden**

65. The key objective of this exercise should be to make it as easy as possible for employers to know how many of their employees experience a health condition that may impede their ability to fulfil their potential. For this to happen, those colleagues need to be persuaded to disclose this information. In view of that the EHRC favours the "social model" of disability in which people simply state whether they have a disability or long-term health condition – i.e. the first set of wording in the question. This has the merit of simplicity and is a subjective test. It avoids people having to grapple with potentially complex issues in order to give an answer. Moreover, in practice it could be very difficult to ask a question of manageable length which adequately took account of the strict requirements of the Equality Act. The wording in the second question appears designed to reflect that approach but does not for instance cover recurrent illnesses or deal with the need to discount the effects of treatment.
66. However, there are concerns that the application of the social model could lead to a situation where (many) more people self-identified as disabled than were in fact disabled people having regard to the (somewhat complex) definition in the Equality Act. This could then have ramifications for employers where, for example, they found

themselves having to comply with sometimes costly requests for reasonable adjustments to be made for people who had no legal entitlement to them. Ultimately this is a policy question, requiring a decision as to whether the need to make it as easy as possible to persuade people who are either disabled or have a long term health condition to disclose that information outweighs the potential downside that some of those who disclose will not actually be disabled people under the strict definition in the Equality Act.

QUESTION 16

WHAT COULD SUPPORT LARGE EMPLOYERS TO IMPLEMENT DISABILITY WORKFORCE REPORTING IN CONSISTENT AND EFFECTIVE WAYS? FOR EXAMPLE, WOULD TOOLS OR GUIDANCE HELP CONSISTENCY ACROSS ORGANISATIONS AND SECTORS, AND IF SO WHAT COULD THIS LOOK LIKE?

67. It is important to emphasise factors that are designed to address concerns of employees with regard to the nature of the information that they are being asked to provide. The answers to these issues logically overlaps with the issues raised in Question 16 in the Employee perspectives section. Certain steps need to be emphasised under this heading.
68. Firstly, the disabled person must be assured of confidentiality and that the information will be disclosed only to those with a real need to know it. Such information is in any event special category information under the data protection legislation and protected under that legislation. So it should be made clear who will see it. Any wider disclosure of this information (i.e. beyond the employer) should be done on an anonymised – and probably collective - basis.
69. Accordingly, the employer must take steps to introduce a culture within the organisation that encourages disclosure. In addition to confidentiality being assured, there must be no victimisation or detriment suffered by the disabled person through their disclosure. To the contrary this culture should encourage disabled people to regard themselves as very much belonging to the organisation, people who are seen as making a real contribution and people for whom the employer wishes proactively to assist in order to make the fullest contribution they can make.
70. Specific steps would include:
 - 70.1 Appointing disability champions from among senior management who can help give the confidence disabled people need that their organisation really does want and values them.
 - 70.2 "Normalise" discussions on disability by encouraging disabled persons to disclose their disability and how the disability impacts on their worklife. This could be done via an organisation's intranet to the organisation as a whole or more locally within groups. (Some members of the working group have commented that this approach has been successfully undertaken within their own firms.).

70.3 Draw up and implement an adjustment policy which sets out a simple process whereby disabled people can seek, in confidence, adjustments that can help them. Publish, on an anonymised basis, details of the range of adjustments that can be made. The excellent report recently published by the Law Society of England and Wales in this regard and referred to in our response to Question 7 above sets out a large range of adjustments that are currently in force in a number of law firms. [Law Society of England and Wales report regarding law firms helping those with adjustments.](#)

70.4 Encourage the formation of a network in which those with a disability are given a safe space to discuss any issues that they face and to consider measures that the organisation can introduce.

70.5 Ensure that tangible improvements to the recruitment and retention/progression of disabled people are included among KPIs for senior management.

QUESTION 17

IF LARGE EMPLOYERS WERE REQUIRED TO COLLECT DISABILITY WORKFORCE INFORMATION AND REPORT IT TO ANOTHER ORGANISATION, WHICH ORGANISATION DO YOU THINK THEY SHOULD REPORT TO? (TICK ALL BOXES THAT APPLY)

- X Central government
- X A disabled person led organisation
- A regulatory body
- None - collection of data should not be standardised
- I don't know
- Other _____

- 71. As with gender pay gap reporting, the information should be reported to central government.
- 72. We also consider that it would also be beneficial that a disabled-led charity is provided with the information to fast track the provision of support to the organisations.

QUESTION 18

A. SHOULD LARGE EMPLOYERS PUBLISH ORGANISATION-LEVEL DISABILITY WORKFORCE STATISTICS? FOR EXAMPLE, THE PROPORTION OF THEIR WORKFORCE IDENTIFYING AS DISABLED. (TICK ONE BOX)

- X Yes
- No
- I don't know

**B. IF PUBLISHED, WHO DO YOU THINK SHOULD PUBLISH THIS INFORMATION?
(TICK ALL BOXES THAT APPLY)**

- The employer
- Central government
- A disabled person led organisation
- A regulatory body
- I don't know
- Other _____

QUESTION 19

WHAT ALTERNATIVE APPROACHES WOULD YOU SUGGEST TO INCREASE TRANSPARENCY, INCLUSION AND EMPLOYMENT OF DISABLED PEOPLE IN THE WORKPLACE? IF YOU HAVE ANY EVIDENCE TO SUPPORT THIS SUGGESTION, PLEASE PROVIDE IT

73. Please refer to paragraphs 40 – 45 of our response in 2020 referred to above - [ELA Response Disability Employment Gap 18Dec20.pdf \(elaweb.org.uk\)](#)

PART 3: Employee perspectives

SECTION A: UNDERSTANDING THE CURRENT LANDSCAPE

WE WANT TO UNDERSTAND HOW AND WHAT INFORMATION IS CURRENTLY COLLECTED BY EMPLOYERS ON DISABILITY IN THE WORKFORCE, AND THE BEHAVIOURS IT CAUSES.

QUESTION 1

DOES YOUR CURRENT OR DID YOUR PREVIOUS EMPLOYER COLLECT INFORMATION ON THE PROPORTION OF DISABLED PEOPLE IN THEIR WORKFORCE? (TICK ONE BOX)

- Yes
- No
- I don't know
- this is not relevant as I am answering as a representative organisation or network

Section B: Benefits and barriers to disability workforce reporting

QUESTION 7

DO YOU THINK THAT GREATER TRANSPARENCY ON DISABILITY IN THE WORKFORCE LEADS TO MORE INCLUSIVE PRACTICES?

- X Yes**
No
I don't know

PLEASE EXPLAIN AND PROVIDE EVIDENCE WHERE POSSIBLE

74. We believe that greater transparency on disability in the workplace has the potential to lead to more inclusive practices. Data/information alone will be insufficient, there needs to be action in response; but the accumulation of information regarding the prevalence and nature of disabilities within a workforce is likely to be an important precursor to effective action to lead to more inclusive practices.
75. We consider that if employers collect data on the number of disabled people in the workforce they have greater scope to assess what steps may need to be taken based on an improved awareness (particularly if this data has been collected in a workplace for the first time). This increased awareness by an employer may lead to senior decision-makers (including directors) being more aware of the impact of decisions on disabled staff, and decisions that could be made to support inclusivity of disabled people in the workplace.
76. Ideally, this transparency will encourage greater levels of employer inclusivity towards disabled people (as colleagues and potential colleagues), and better policies and practices to support such inclusivity. An appropriate level of external scrutiny may also go some way to changing the behaviours and outlook of senior leadership to inform more effectively an employer's organisational culture, where needed.
77. Transparency across organisations should enable wider attention to be drawn to best practice on the part of employers to support disabled persons in the workforce and provide inspiration for leaders to aspire to and adopt best practices.

QUESTION 8

DO YOU THINK THAT DISABILITY WORKFORCE REPORTING BY LARGE EMPLOYERS (250 OR MORE EMPLOYEES) SHOULD BE VOLUNTARY OR MANDATORY?

78. We believe that disability workforce reporting by large employers should be mandatory. The context for that response is set out in our further responses.

QUESTION 9

WHAT DO YOU THINK THE MAIN BENEFITS OF A VOLUNTARY APPROACH TO DISABILITY WORKFORCE REPORTING ARE?

79. Given the relatively low level of reporting referred to in our response to Question 11 a below we are not persuaded that a material improvement would be achieved through a continuation of a voluntary approach.

WHAT DO YOU THINK THE MAIN RISKS ARE?

Please see below. In overview, we consider that the level of additional costs for businesses stemming from increased administrative obligation needs to be assessed by government.

QUESTION 10

THE RESEARCH AVAILABLE INDICATES LOW UPTAKE OF THE DISABILITY VOLUNTARY REPORTING FRAMEWORK. HOW COULD VOLUNTARY REPORTING BE INCREASED?

80. Further investment of time and resource by all stakeholders to publicise the advantages of reporting. It is our view that this would be necessary irrespective of whether a voluntary or compulsory regime is to apply.

QUESTION 11

WHAT DO YOU THINK THE MAIN BENEFITS OF A MANDATORY APPROACH TO DISABILITY WORKFORCE REPORTING ARE?

81. As stated above, we support mandatory disability workforce reporting, as we see the main risk of voluntary reporting is low take-up by employers. We have considered the CIPD Health and Wellbeing at Work 2021 ("CIPD Report") [Health and wellbeing at work 2021: survey report \(cipd.co.uk\)](https://www.cipd.co.uk/health-and-wellbeing-at-work-2021-survey-report) and its findings relating to data collection and external reporting on disability by employers. The CIPD Report notes that, of those who responded, 29% of private sector employers and 34% of not-for-profit employers collect some form of workplace data on disability. Just 5% of private sector and 8% of not-for-profit employers publish some form of disability data externally. These figures suggest that in the absence of a mandatory reporting regime, there is a widespread lack of engagement in the collection and reporting of workforce disability data. It is significant that this is in the context of a voluntary reporting regime that has been in place since 2018. Whilst the Covid-19 pandemic might have had an influence on the low levels, we do not consider that this would justify an extension of a period of voluntary workforce reporting before deciding whether a compulsory approach should be introduced. When such a compulsory approach should commence and the duration of any transitional period are separate questions.

WHAT ARE THE MAIN RISKS?

82. The CIPD Report highlights that levels of collection of workforce data on disability is low. There is likely to be little consistency across employers in terms of what is currently collected. Where employers start with a low base of available data, there is likely to be a need for significant investment of time and resources to ensure that adequate and correct data can be collated and held for reporting purposes.

QUESTION 12

WHAT DO YOU THINK THE MAIN BENEFITS OF PUBLISHING DISABILITY WORKFORCE INFORMATION ARE?

83. Benefits would include:

- a) Bringing the topic of inclusivity of disabled people in employment into the national conversation. Publication of reports by employers will create media interest and reporting. Ideally, key topics such as the under-employment of persons with disabilities, and the value of workplace diversity including neuro-diversity, will be reported on and discussed more systematically by the media;
- b) Placing employers and their policies and practices (or lack thereof) towards disabled people under proportionate and consistent scrutiny. Ideally, such transparency will encourage inclusivity towards disabled people and better policies and practices to support such inclusivity. Increased levels of external scrutiny may also go some way to changing organisational senior leadership behaviours and culture, where needed;
- c) Collection of relevant data for the purposes of reporting (particularly where this exercise has not been undertaken before) may increase organisational awareness of cost-effective and reasonable methods of attracting and supporting disabled workers. This could lead to reframing of organisational and business decisions to better accommodate the needs of this staff cohort;
- d) Drawing wider attention to best practice on the part of employers to support disabled persons in the workforce ; and
- e) Allowing disabled job applicants to compare employers and conduct research into their preferred employers, to enable them to find workplaces that will support and accommodate their needs.

WHAT DO YOU THINK THE MAIN RISKS ARE?

84. We are commenting on the risks from the perspective of employees. The issue of potential additional cost for employers is addressed separately in our response. There are a number of reasons why the data that is collected and reported on might be unreliable, depending on what is required to be reported upon. As stated above, findings show that employer collection of disability data can be haphazard. It also relies in many cases on employees self-reporting their disability. Many employees do not report their disability to their employer, which could be for a variety of reasons, including a perception that they risk suffering a disadvantage connected to this. Some employees may not consider themselves to have a disability, although their

condition may be classified as a disability under the Equality Act 2010. Conversely, other employees may have a medical condition that they believe to be a disability that is in fact not covered by the Act. Inconsistencies in data could lead to difficulties in accurate reporting and for comparison purposes, across sectors or employers.

Section C: Considerations if mandatory disability workforce reporting were to be implemented

QUESTION 13

DISABILITY WORKFORCE REPORTING IS INTENDED TO INCREASE TRANSPARENCY AND THE RECRUITMENT, RETENTION AND PROGRESSION OF DISABLED PEOPLE. DO YOU AGREE OR DISAGREE THAT THE PROPORTION OF EMPLOYEES IDENTIFYING AS DISABLED IS A USEFUL TOPIC TO REPORT ON?

- X **Strongly agree**
 Agree
 Disagree
 Strongly disagree
 I don't know
 Other

EXPLAIN YOUR ANSWER

85. The ongoing increase of the working age population and increase in chronic health conditions is said to be increasing the overall prevalence of disability in the general workforce¹. Mandatory workforce reporting upon disability would encourage employer compliance (with a regime intended to benefit workers and employers alike), engagement, management and retention of staff with disabilities. The low level of current reporting suggests that there is a marked reluctance by disabled persons to share information with employers currently which also suggests that there are underutilised diverse skillsets. Improving awareness of the latter should be expected to be advantageous to the economy. Following the Covid-19 pandemic hybrid working has been increasingly normalised and may assist inclusion of some disabled persons where environmental barriers have previously been a barrier to employment. An ongoing social move from a medical perception of disability as being an illness or affliction (Hughes, B. (2002) 'Disability and the body' in C. Barnes, L. Barton and M. Oliver (eds), *Disability Studies Today*. Cambridge: Polity. Pp 58-76) to a socio-normative view is helping to drive forward inclusive practices in the workplace. A "functional limitation" model of labelling a disability whilst arguably an improvement on the ("old-fashioned") medical model still involves labelling and may not be sufficient to include all disabilities. [Report on Disability 2011, World Health Organisation](#), at page 236

86. Mandatory reporting may assist in highlighting certain institutional biases and misconceptions that have previously discouraged or discounted disabled applicants and may encourage a more comprehensive adjustment of the labour market by highlighting the potential missed opportunities from the skills available to employers

and how effective and reasonable training can make a material difference. Incentivising employer compliance through accreditation opportunities may also help to alter and improve non-discriminatory recruitment processes together with catalysing further development of appropriate policies and procedures. Knowledge of potential problems may allow early signposting of employers and employees to organisations to provide advice and assistance such as ACAS and The Equality and Human Rights Commission.

87. We consider that mandatory reporting would be likely to help support an inclusive workplace culture.
88. Additional transparency in recruitment may well help in changing misconceptions and attitudes and provide an inclusive workplace culture which assists both the employer's business and the personal development of disabled staff. This would help both the attraction and retention of workers with the associated economic benefits.

WHAT, IF ANY, STATISTIC COULD BE REPORTED ALONGSIDE OR INSTEAD OF THE PROPORTION OF EMPLOYEES IDENTIFYING AS DISABLED? PLEASE EXPLAIN.

89. We consider that it is important for the proportion of employees identifying as disabled to be reported as the primary statistic. An employer will have the opportunity to place such a figure in context should it wish to do so through narrative reporting but it provides readily intelligible figure. We do not consider that it should be replaced by an alternative metric.
90. Additional statistics that may be useful for reporting purposes could include:
 - a) requests for reasonable adjustments in the workplace by new applicants and existing workers;
 - b) types of requests (for example, whether physical adaptations, or terms and conditions/policy adjustments);
 - c) number of requests the business has per year;
 - d) number of requests implemented; and
 - e) number of requests declined as unreasonable and, potentially, an indication of the underlying reasons for not implementing requests.
91. Systematic collation of this type of information would assist in identifying the barriers faced by disabled people both at the application stage and whilst in employment, the types of employment where barriers are most significant, the areas where further training and investment (including the application of targeted government spending) may aid recruitment and retention from the employers' perspective and trends within certain sectors.
92. Employees themselves may not understand the meaning of disability under the Equality Act 2010 for example, and may not view themselves as disabled, hindering the collection of data. It may be necessary to provide explanatory information to employees so that they can consider if they fall into that category.

93. Questions to employees could include: Do you experience a health condition that has lasted for at least one year? Have you discussed this with your employer? Does this affect your work and if so to what degree? Does it affect you outside of the workplace and if so to what degree? Do you consider your employer could make adjustments to the way you work to assist you in your productivity and work? Would you consider changing employment if a request for an adjustment was not made by your employer?

QUESTION 14

DO YOU AGREE OR DISAGREE THAT LARGE EMPLOYERS (250 OR MORE EMPLOYEES) SHOULD USE A STANDARDISED APPROACH TO COLLECT DISABILITY WORKFORCE DATA IF REPORTING BECAME MANDATORY?

- Strongly agree**
 Agree
 Disagree
 Strongly disagree
 I don't know
 Other

PLEASE EXPLAIN YOUR ANSWER.

94. Given the range of disabilities that exist, adopting a “one size fits all” approach may be suitable for some employees but not others. Notwithstanding this, there are benefits to using a standardised approach: if employers know exactly what is expected of them then, in theory, this should be a more straightforward exercise to complete with a proportionate amount of resource. Further, if all employers are reporting consistent categories of data it is more likely that trends can be identified and suggestions can be made to bring about positive change.

QUESTION 15

THERE ARE MANY WAYS THAT PEOPLE ARE ASKED TO SELF-IDENTIFY AS DISABLED. IF LARGE EMPLOYERS WERE TO USE A STANDARDISED APPROACH TO DATA COLLECTION, WHICH WORDING DO YOU THINK SHOULD BE USED TO ASK EMPLOYEES IF THEY IDENTIFY AS DISABLED?

‘DO YOU CONSIDER YOURSELF TO HAVE A DISABILITY OR A LONG-TERM HEALTH CONDITION (MENTAL HEALTH AND/OR PHYSICAL HEALTH)?’ WORDING FROM THE VOLUNTARY REPORTING FRAMEWORK

‘DO YOU HAVE ANY PHYSICAL OR MENTAL HEALTH CONDITIONS OR ILLNESSES LASTING OR EXPECTED TO LAST 12 MONTHS OR MORE?’ AND ‘B. DOES YOUR CONDITION OR ILLNESS DO ANY OF YOUR CONDITIONS OR ILLNESSES REDUCE YOUR ABILITY TO CARRY OUT DAY-TO-DAY ACTIVITIES?’ WORDING FROM THE GOVERNMENT STATISTICAL SERVICE

None - collection of data should not be standardised.

I don't know

X Other __Please see our response to Question 16 below

QUESTION 16

NOT EVERYONE WHO MEETS THE CRITERIA FOR DISABILITY AS SET OUT IN THE EQUALITY ACT 2010 IDENTIFIES AS DISABLED OR FEELS COMFORTABLE DISCLOSING THIS INFORMATION TO THEIR EMPLOYER. WHAT MEASURES OR APPROACHES COULD MAKE DATA COLLECTION MORE INCLUSIVE OF PEOPLE WHO DO NOT FEEL COMFORTABLE IDENTIFYING AS OR DISCLOSING DISABILITY? PLEASE EXPLAIN YOUR SUGGESTIONS.

95. We consider that the formulation of the question and the manner of seeking to obtain answers/data are closely linked.
96. When considering whether an individual has a disability, the definition under section 6 of the Equality Act 2010 needs to be satisfied. It is, however, questionable how many people are aware of this and whether, without a consideration of the legal criteria, they would regard themselves as “disabled”.
97. To encourage more meaningful feedback, it might be an idea to simplify what might be described as the “jargonistic” nature of the legal definition and break this down to an understandable format. For example:
 - a) The Government Statistical Service formulation of question a) could be rephrased to ask, “Does this condition affect your ability to carry out normal day to day activities, and, if so, in what way?” However, even this wording may cause employees who feel that they are successfully managing their health condition to exclude themselves, and so, alternatively, the following could be considered: “Without medicine or access to medical services, would you say that this condition affects your ability to carry out normal day to day activities, and, if so, in what way?” An additional question could also be whether their condition means any changes to their role would assist them.
 - b) We have considered whether a more “user-friendly” approach to assist understanding might be for individuals to be asked to place the effect on them on a scale of 1 to 10 but we anticipate that it will be very difficult to adjust for subjective factors (and may dilute the effectiveness of responses both in terms of an individual employer and from comparative purposes).
 - c) Element b of the Government Statistical Service wording could be rephrased to ask whether the condition has lasted at least 12 months, is likely to last 12 months, and is likely to last for the rest of their life.
98. Drawing the employee’s attention to the information that is actually needed will be more useful than using labels like “disabled” or “disability”.

99. It may be helpful to provide guidance to the effect that employers are expected to obtain this data at the outset of an individual's employment as well as updating on an annual basis. As above, instead of using terms like "disabled" or "disability", the legal definition could be broken down to simpler and digestible phrases/questions. Ensuring that this conversation is maintained throughout employment, with a focus on reasonable adjustments if applicable, should be a way of encouraging that conversation between employer and employee.
100. As an alternative, wholly anonymous reporting could be considered. However, this brings its own challenges as it is questionable what practical steps can be taken with the data that is obtained.

QUESTION 17

IF LARGE EMPLOYERS WERE REQUIRED TO COLLECT DISABILITY WORKFORCE INFORMATION AND REPORT IT TO ANOTHER ORGANISATION, WHICH ORGANISATION DO YOU THINK THEY SHOULD REPORT TO?

101. Disability workforce information could be reported to those employers who are subject to regulation by Regulators, particularly Regulators concerned to promote and assess equality and diversity in the workplace. This could include professional bodies and Regulators in the professional practices sector, education, charities, environment, finance, health, housing, social care and others.
102. It may also be apposite for disability workforce information to be reported to the Equality and Human Rights Commission ("EHRC"). This may enable the EHRC to draw valid conclusions about a workplace or sector and assist in its objectives of highlighting priority issues and forcing these back to the top of the agenda and challenging policies or practices that cause significant disadvantage, across a whole industry or sector.
103. The information may also be relevant as to whether it is appropriate for the EHRC to use its existing powers of enforcement in section 20 of the Equality Act 2006 in a given set of circumstances.
104. We also consider that the relevant data should be shared with Central government which would then determine how best to analyse sectoral and cross-sectoral comparisons.

QUESTION 18

SHOULD LARGE EMPLOYERS PUBLISH ORGANISATION-LEVEL DISABILITY WORKFORCE STATISTICS? FOR EXAMPLE, THE PROPORTION OF THEIR WORKFORCE IDENTIFYING AS DISABLED.

- X **Yes**
 No
 I don't know

(By “large employers” we presume this means where the average number of persons employed in each month during the financial year exceeded 250.)

IF PUBLISHED, WHO DO YOU THINK SHOULD PUBLISH THIS INFORMATION?

105. Collecting and reviewing data will let businesses know if their programs and policies are performing and if they are not, offer a legitimate basis for leadership teams to propose adjustments.
106. A requirement to publish the data is likely to discourage delay in making adjustments to policies and programs.
107. Further, we note that Section 415 of the Companies Act 2006 requires the directors of a company to prepare a report for each financial year, (subject to exceptions for small companies). Paragraph 10, Schedule 7, of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 provides that this report must include a statement describing the company's policies applied:
- (a) for giving full and fair consideration to applications for employment by the company made by disabled persons, having regard to their particular aptitudes and abilities,*
 - (b) for continuing the employment of, and for arranging appropriate training for, employees of the company who have become disabled persons during the period when they were employed by the company, and*
 - (c) otherwise for the training, career development and promotion of disabled persons employed by the company.*
108. The provision of organisation-level disability workforce statistics may improve the design and application of a company's policies that concern disabled persons, by highlighting any particular concerns or trends. It may also result in greater scrutiny of director's reports.
109. In a world where shareholders and investors demand better information, increasingly scrutinise environmental, social and governance (“ESG”) factors and look for ESG data in order to inform their decisions, shareholder and or investor pressure may over time, encourage better policies, and or better decisions that affect disabled persons.

110. In the case of an LLP, we suggest the members, or those designated under the LLP Agreement to do so, unless the LLP qualifies as a micro-entity under the micro-entities regime.

Section D: Alternative approaches

WHAT ALTERNATIVE APPROACHES WOULD YOU SUGGEST TO INCREASE TRANSPARENCY, INCLUSION AND EMPLOYMENT OF DISABLED PEOPLE IN THE WORKPLACE? IF YOU HAVE ANY EVIDENCE TO SUPPORT THIS SUGGESTION, PLEASE PROVIDE IT.

111. More inclusive practices require strong, sustained and inclusive leadership in order to shift attitudes. Monitoring the effects of disability initiatives, as opposed to diversity initiatives in general, and outcomes on the business may well help reinforce the advantages of such reporting. For example research¹ has found that employees who disclose their disability at work are 30% more engaged.
112. Corporate reporting obligations that embrace obligations to comply or explain performance against targets aimed at promoting representation of those with disabilities on boards is an option.
113. There may be a greater role for ACAS to play in creating better awareness of the benefits of diversity within all employers (irrespective of size), particularly in relation to neurodiverse individuals. Key conclusions from empirical research which suggest that greater diversity at work may have positive effects on corporate governance and corporate performance, creativity and innovation could be emphasised within ACAS documentation more widely than being confined to specific guidance on disability.
114. Consideration could be given for the introduction of a legal requirement for all large employers to have a diversity policy that concerns the employment of disabled people in the workplace and specifically, how that policy is applied to certain issues or committees such as remuneration, performance evaluation or nominations committees.

¹ <https://hbr.org/2021/06/make-it-safe-for-employees-to-disclose-their-disabilities>

SECTION D: ALTERNATIVE APPROACHES

MANDATORY WORKFORCE REPORTING IS ONE MEANS TO INCREASE TRANSPARENCY ON DISABILITY IN THE WORKFORCE, WITH THE AIM TO IMPROVE INFORMATION AND ACHIEVE MORE INCLUSIVE PRACTICES. WE ARE INTERESTED TO HEAR YOUR VIEWS ON OTHER INITIATIVES THAT MIGHT HAVE THE SAME OUTCOMES.

QUESTION 24

WHAT ALTERNATIVE APPROACHES WOULD YOU SUGGEST TO INCREASE TRANSPARENCY, INCLUSION AND EMPLOYMENT OF DISABLED PEOPLE IN THE WORKPLACE? IF YOU HAVE ANY EVIDENCE TO SUPPORT THIS SUGGESTION, PLEASE PROVIDE IT.

115. Please refer to paragraphs 40 – 45 of our response in 2020 referred to above - [ELA Response Disability Employment Gap_18Dec20.pdf \(elaweb.org.uk\)](#)

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