

Women and Equalities Committee

Oral evidence: Ethnicity Pay Gap reporting: one off, HC 998

Wednesday 12 January 2022

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Members present: Caroline Nokes (Chair); Philip Davies; Dame Caroline Dinenage; Jackie Doyle-Price; Kim Johnson; Bell Ribeiro-Addy.

Questions 1-40

Witnesses

I: Charles Cotton, Senior Performance and Reward Adviser, Chartered Institute of Personnel and Development; Sandra Kerr, Race Director, Business in the Community; Matthew Percival, Programme Director, Skills and Inclusion, Confederation of British Industry; Wilf Sullivan, Race Equality Officer, Trades Union Congress.

Written evidence from witnesses:



Examination of witnesses

Witnesses: Charles Cotton, Sandra Kerr, Matthew Percival and Wilf Sullivan.

Q1 Chair: Welcome to this afternoon's meeting of the Women and Equalities Committee and our one-off session on ethnicity pay gap reporting.

I thank our four witnesses for attending this afternoon: Sandra Kerr, race director of Business in the Community; Matthew Percival, programme director, skills and inclusion, at the CBI; Charles Cotton, the senior performance and reward adviser at the Chartered Institute of Personnel and Development, and Wilf Sullivan, race equality officer at the Trades Union Congress. We very much appreciate you coming to give evidence this afternoon. I start by asking each of you to briefly introduce yourselves and your organisation. I will start with Wilf, please.

Wilf Sullivan: Thank you, Chair. I am Wilf Sullivan, race equality officer for the Trades Union Congress, which is the trade union centre for trade unions in the UK. We have 53 affiliates covering about 5.8 million members and we advocate on behalf of the trade unions, both with Government and with employers.

Charles Cotton: My name is Charles Cotton. I am the senior performance and reward adviser for the Chartered Institute of Personnel, or the CIPD. That is the body for the HR profession in the UK and Ireland, and we have about 165,000 members.

Sandra Kerr: My name is Sandra Kerr and I am the race equality director at Business in the Community. We are a membership organisation working predominantly with private sector organisations who care about responsible business practice, and, as part of that, specifically race equality in the UK. They recognise that it makes good business sense. We currently have more than 800 employers who have signed the race at work charter and who are really trying to demonstrate commitment and want to lead from the front on inclusion.

Matthew Percival: Good afternoon. I am Matthew Percival. I am the programme director running the CBI's work on a range of workforce issues, including inclusion. Relevant to today, the CBI is also a founding partner of the "Change the Race Ratio" campaign, which seeks to bring businesses together to accelerate progress on race and ethnic diversity in business through transparency, target setting and action plans.

Q2 Chair: I am going to start off with a question to Sandra. Why is it that we are still waiting for the Government announcement on their decision around ethnicity pay gap reporting? What do you think the delay is?

Sandra Kerr: First of all, can I say a huge thank you for the opportunity to present today?

The McGregor-Smith review was published in February 2017, and we worked closely with the Government on the "one year on" report in 2018.



HOUSE OF COMMONS

One of the recommendations was to review how employers were performing against the McGregor-Smith commitments that the Government had commissioned. There were three calls for action in there which were about measurement—about catching data, setting targets and about pay gap reporting. The Government at the time said that they were ready to act if the review found that employers hadn't stepped up to the plate and voluntarily started publishing their ethnicity pay gaps. The results came in, showing only 11% of employers were doing so.

Following that, the consultation was sparked, which opened in October 2018, and closed in January 2019. Throughout 2019, I was meeting with BEIS—Kelly Tolhurst was the Minister. Periodically, I and other business leaders were meeting about the consultation, about what implementation would look like and what some of the challenges would be. Then, everything changed. We had the pandemic, a change of Government, a change of Minister and then everything kind of stalled.

We have been actively continuing, because what was agreed at the time was the establishment of the race at work charter, to galvanise employers—to get them around the table to start thinking about this. We did that in collaboration with the Government and we have continued to see employers voluntarily coming forward to say that they want to sign up and want to demonstrate commitment. The second commitment that was deliberately put within that charter was to capture ethnicity data and publicise progress.

So, it has stalled. First, there was no Minister. I will be honest and say I have struggled to engage the current BEIS Minister. First, it was understanding who had the portfolio. I believe it's Paul Scully. We struggled to really engage them to get things moving.

That said, in the autumn I did have some conversations with BEIS officials to look at what reporting would look like for employers and what that advice might look like. That now, again, has stalled.

Other than that, I would not know why this has become stuck. We had an open letter to the Prime Minister that we published in October 2020, with 30 business leaders, saying, "Can we just implement this now?" We know we are not the only voice on this, so, to be honest, I don't know why it has stalled. I just think, can we move this along now, please?

I asked for a review of the race at work charter in preparation for this event, and 20% of employers—165 of the employers who have signed the charter—have published their pay gaps at the moment. That correlates with what we found from our race at work survey that we published in 2021 with YouGov, which showed 19%. We have seen that we have made the market shift. It has moved from 11% to 19% since 2018 of employers publishing their pay gaps and employees saying, "Yes, we know what our employers are doing."

Q3 Chair: Thank you. Wilf, why is it your view that voluntary reporting isn't enough? Should it be made mandatory?



HOUSE OF COMMONS

Wilf Sullivan: I'll refer to what Sandra said. The TUC was very heavily involved with the McGregor-Smith report. We always took the position, because of our experience in terms of race equality, that unless things are mandatory, they don't actually happen. One of the things that the Government did in response to the McGregor-Smith report was to say to employers and organisations that they should voluntarily introduce the recommendations that were in the report. But luckily we did have this review mechanism, which Business in the Community was leading on. For us, the fact that progress has been so slow on something that we see as really basic, in terms of data collection so that employers can evidence inequality in the workplace, underlined the point that there needed to be regulation around this.

The second point for us is that this is about having an approach that is fair to everybody. One of the things that I have always argued with Government, about measures around race equality, especially in terms of fairness to business, is that you can't have some businesses putting the effort in and spending the money to do things to improve the situation for the workforce, and other employers that don't. It just undercuts the good employers who want to do this stuff, especially if there are costs to it, in our highly competitive market. So it's about being fair to everybody. Certainly from our point of view, in terms of this whole debate, there has been a lot of agreement, with businesses and trade unions, that this is something that should happen.

Q4 **Chair:** Thank you. Matthew, can I ask you to comment on that and what you, as the CBI, are seeing from businesses in terms of their demand for a framework, whether it be mandatory reporting or better guidelines as to how businesses could and should engage with this?

Matthew Percival: Of course. I will start where Wilf finished, because he said there was a large degree of consensus on direction of travel here. The CBI and the TUC have worked together, thinking about the approach to this, for some time.

On the question of whether reporting is mandatory or not, if we go back to when it was first thought about, it was first discussed that this was something that businesses should be doing. Would they do it on a voluntary basis? Should it be done on a mandatory basis? There was an acceptance that it was something that businesses should be doing, so our consultation with our members, when we were responding to the Government asking questions about how this should be implemented, was really checking whether they would be comfortable with this being done on a mandatory basis? The outcome of that consultation with our members was that they did think it was a reasonable expectation of all employers that they should be transparent about the situation in their organisation. One of the other key things we found in that context was about really being transparent about explaining what your understanding is of the gaps in your organisation and being willing to publish a summary of the plan that you have in place to try to address some of those gaps.



So for us, it was very much a package, and the question that we considered with our members was: do they believe it is reasonable that it should be a mandatory expectation of certain employers that they are doing this? We think that it is, and we think that it should be done by the same group of employers as respond to the gender pay reporting regulations—employers with 250 or more employees.

Q5 Chair: When you consulted your members, what level of response did you get to the consultation? How many of them actually engaged on the issue?

Matthew Percival: Gosh, you are testing my memory now. The initial consultation was a good couple of years ago. In terms of how we engage with our members on these issues, we have a mixed methodology for where we get our mandate from our policy work. The mandate comes from bespoke consultation with employers who want to get involved with influencing our position on a particular topic, based on the consultation that is launched—an extra meeting to talk about it.

Also, our governance structures are based on committees of our members. The approach that the CBI has taken to diversity and inclusion is mandated by a committee—representative of our members—that deals with all workforce issues. Also, more recently, just in the past 12 months, diversity and inclusion has been ratified by the larger full governance of our membership as one of the top priorities for the CBI under its “Seize the Moment” agenda, putting inclusion alongside skills as a top workforce issue. So, inclusion as a top priority has very broad-based support among our membership.

Within that, we had specific and detailed consultation with a number of our members, but I cannot remember exactly how many were in a room across the various meetings that we had a couple of years ago, during that consultation.

Chair: Thank you. I bring in Philip Davies, please.

Q6 Philip Davies: May I just go back a step? I do not know who wants to start—it does not really matter who wants to answer the question, because anyone can add in if they want to say something different. What is the point of these pay gap figures? You are not comparing jobs on a like-for-like basis; you just have a jumble of different jobs in an organisation, and you are breaking down the average figure by ethnicity or, worse still, by white people versus non-white people. What is the point of just coming to an average figure from a mish-mash jumble of different jobs? What is the point of those figures? Wilf, do you want to start, and if anyone wants to add in, they are very welcome to do so?

Wilf Sullivan: I will start by saying that I do not think that measuring the ethnic pay gap is an end in itself. The question is about identifying disparities in terms of inequalities in the workplace, and pay is a fairly basic indicator of what is going on there. That can be for several reasons. It is not necessarily that people are being paid differently—it could be to do with segmentation, people being stuck at the bottom of the workforce



HOUSE OF COMMONS

or in certain kinds of jobs—but it is important to know that and to have an indicator. People might then say, “Actually, we have a problem here and we need to take some action.”

As Sandra pointed out on the McGregor-Smith review, which we were both involved in, we were not only talking about collecting data on pay gaps. One of the things that I am conscious of in evidencing inequality in the workplace is that that has been something that has been accepted in the public sector forever and a day, but it has not extended beyond that. From the TUC’s point of view, data collection and identifying what the gaps and disparities are in a workplace are a prerequisite to an action plan being drawn up for how to address those.

Charles Cotton: It is an opportunity, as Wilf has said, for organisations to explore how they are rewarding people, to see whether it is fair. Unlike an equal pay audit, when you compare people in similar jobs, that would identify whether there was an issue, but even then that issue might be justified with gender or ethnicity pay gaps. It also brings in the issue of how you recruit and promote people in the organisation, and how you develop and train them, as well as how you reward them. It is a more holistic picture for organisations to explore. As Wilf also said, the gap might reflect what is going on outside the workplace as well, in society.

Philip Davies: Okay, well, let us have—sorry, Sandra, did you want to come in there? Sorry.

Sandra Kerr: I just wanted to add that the principle of capturing ethnicity data is to enable employers to look at what their workforce looks like compared to demographic data—what the available talent pool is. We know from DWP analysis since records began that there is a higher level of unemployment for people from ethnically diverse backgrounds; they spend longer unemployed even if they go to a Russell Group university, or any university. Capturing the data enables employers to monitor what is happening with their processes by stage. Is it that they are not attracting people, or that they are they getting them, but they are falling out at the sift stage? Do they get through that stage and then get interviewed but do not go through to assessment or are they not finally appointed? That is one area. Pay is another marker that we want, but another area we are looking at is how people are feeling about the workplace. We know that retention is much cheaper than trying to keep recruiting people. You can look at the de-aggregated data, and check that everyone is feeling included and supported by their line managers and feeling part of the organisation.

What we also know through this data is when promotions occur. We know from our race at work survey, which we have run three times since 2015, that progression is important to ethnic minority people, yet they still tend to be at the bottom of organisations. They are not represented at all at management level, or even going up the pipeline. The data can help employers as an additional marker. As Wilf has already said, this is not a silver bullet, but it is an important indicator that, as people progress up the organisation, they also get the right amount of pay. Analysis of some



of this stuff shows that your starting pay is going to be less if you are from a black background. Why is that? We do not want that. I think census data coming up in 2022—coming in April, hopefully—will show us that there is an increase in diversity. That gives us more reasons to ensure that employers are doing everything they can to ensure that people who are sharing their gifts and talents with an organisation are being paid the right amount.

Q7 Philip Davies: Let's have a quick round robin. We will start with you, Sandra, as the floor is yours. What is the ethnicity pay gap at your organisation, Business in the Community?

Sandra Kerr: Interestingly, that is a question that I was told would come up. It is online; I think it was around one point something per cent. or 2%. It is not that large, but I know that we published it last year and this year. That is one of the things I thought, "Oh!" about. I will get the data and respond to you, but we publish our ethnicity data and it is online.

Q8 Philip Davies: I am surprised, given how important you think this is, that you are not all over these figures like a rash. I have looked up the figures for Business in the Community, in your latest annual report, and according to that the ethnic pay gap for female employees was -5%. Black, Asian, mixed race and other ethnically diverse female employees are paid on average 5% more than the white female population at your organisation. Among male members of staff, there is a 21% pay gap on ethnicity; white men at Business in the Community are paid 21% more than ethnic minorities. First, given that this is such an important thing, I am astonished that you don't even know the figures for your own organisation—if you think it is such a massively important subject. Secondly, why is the gap so big if your organisation thinks that it is such an important issue?

Sandra Kerr: First of all, as I have said, I prepared an extensive brief for this. That was raised; I am sorry if I do not know the number for that, but I don't—not by heart. However, I can explain to you why those numbers will show that, particularly with males. It is because there is an underrepresentation of men working in BITC—it tends to be predominantly women. As part of that, there are even fewer ethnic minority men. What you have flagged is one of the challenges that comes up with ethnicity pay gap reporting, particularly when everything is conflated together. When there are small numbers, there are challenges around how robust the data is. Those are indicators, and my not knowing how last year's BITC pay gap compares with this year's is not a reason to throw this out and ask, "What's the point of this debate?" Point noted, but the challenge even around representation is where people are located in the organisation. You can look at the pay gap but, unless you know where people are actually located within the organisation, pay gaps can look really great. If everyone is lower paid and at the bottom as far as representation, it is not necessarily the greatest result.

Q9 Philip Davies: Matthew, let's have a crack at the CBI. What is your ethnicity pay gap?



Matthew Percival: We have been voluntarily publishing our ethnicity pay gap since 2018. We last published last summer, when we were at 16.8% for our median ethnicity pay gap.

Since we started publishing, in some years our pay gap has gone up and in some years our pay gap has gone down. The value of the exercise for us comes with the explanatory statement and the action plans that say why we think our gaps are changing in the way they are and what we are doing to give our employees and prospective employees the confidence that we are committed to inclusion.

Yes, we are on a journey, particularly because it is about representation in different roles. Our report last year showed a five percentage point increase in the representation of ethnic minorities in management roles, for example, which is an important metric for us that was shown in previous reporting cycles as an under-representation.

For us the issue is not just measuring ourselves solely on an individual number; it is about putting that number in context and being able to be confident in being transparent about where we are as an organisation, the direction in which we are heading and the things we are putting in place to try to make sure we have confidence in meeting our own ambitions to be inclusive and so that other people can also have confidence in our ambitions.

Q10 **Philip Davies:** You are right that the median figure was 16.8%, but the mean figure for the pay gap at the CBI—the actual average—was 25%, which is quite extraordinary given it is such an important issue for you.

Charles, how about the Chartered Institute of Personnel and Development? How are you doing?

Charles Cotton: This is the third year we have published a dedicated report; the latest report found that, for every £1 a white person earns at the CIPD, somebody from an ethnic minority earns 89p. We are pretty confident of that, because 98% of our employees have voluntarily disclosed their ethnicity.

As has been said before, this is an opportunity to explore the figures in more depth. We have carried out quite a lot of analysis at different quartile levels, looking at how people join the CIPD and progress through the organisation, which has helped to shape our action plans for the future.

Q11 **Philip Davies:** So the pay gap was 11%. What about bonuses? The figures on bonuses seem to be quite extraordinary. In terms of bonuses paid, the mean figure is a 41.5% pay gap. Isn't that quite extraordinary?

Charles Cotton: It is something that we are exploring. The bonuses are not necessarily what we would call performance-related bonuses, and next year's data will show that the CIPD is giving all employees a covid-related bonus. Because it is a flat-rate amount, there will be a 0% bonus gap.

Q12 **Philip Davies:** Wilf, I am sure the TUC must be an exemplar organisation



HOUSE OF COMMONS

when it comes to these things. What is the ethnicity pay gap at the TUC?

Wilf Sullivan: It is 10.13%.

Q13 **Philip Davies:** Yes, 10.13%. My point is, given you are leading the charge on all these things yet none of you is able to have anything other than a pay gap of your own, do you not think some people might say that perhaps you ought to start getting your own houses in order before you go around telling other organisations in the country what they should be doing?

Wilf Sullivan: We are. That is the point of doing the ethnic pay gap reporting and publishing it. In the TUC, it has resulted in us looking again at our recruitment procedures. There has been a big improvement in recruitment in middle and upper ranks of staff at the TUC. As well as that, we are doing an inclusive programme to try to change workplace culture of our staff. None of that would have happened if the evidence was not there to suggest that we had a problem.

Charles Cotton: To a certain extent, the audience is the employees, showing them that this is what we are doing to reduce the gap in our organisation: reaching out to potential employees so they feel that if they join the organisation, they will be treated and rewarded fairly. Similarly, our members would expect organisations such as the CIPD to be taking the lead in this area, as well as giving advice and guidance on how they can make their ethnicity pay reporting an integral part of their fairness strategy.

Q14 **Philip Davies:** I genuinely do not understand. If these figures are so meaningful, why are all the figures at your organisations that are leading the charge so bad? Even the EHRC has been unable to eliminate pay gaps. It has been tying itself in knots trying to do so for years, and it still has an ethnicity pay gap of 6.3%, yet it says at the start of its report: "We commissioned an independent Equal Pay Audit, which found that our pay system is fair and non-discriminatory." Surely, that is the important bit, not these meaningless pay gap figures that do not tell you anything about whether people are being treated fairly or being discriminated against. Surely, that is more important than these meaningless figures.

Charles Cotton: The pay gap actually looks at the wider picture. An equal pay audit will look at people doing similar types of jobs, what the difference is and what is driving that.

Pay gap analysis will pick up not only things that are going on in terms of pay but things that are going on in recruitment and retention processes. It will look at things such as how well you retain the staff that you recruit into the organisation, as well as development and training opportunities. It is a broader brush picture, but organisations do need to look at how they are paying people.

Q15 **Philip Davies:** Why are we so obsessed with this thing about white people versus non-white people? The figures are there from the ONS—I am sure you are all aware of them. There is a very big discrepancy



HOUSE OF COMMONS

between different ethnicities in that. For example, white British employees had a median hourly rate of £12.49, according to the ONS. White Irish was £17.55 an hour. White and black African employees on average earn £10.57 an hour; Pakistani employees £10.55 an hour. Chinese employees were £15.38 an hour.

I repeat: these general figures are meaningless, aren't they? They do not actually tell you about all the very complicated differences within different ethnicities. It is literally just a very basic pointless white versus non-white.

Matthew Percival: It is important not just to think that what we are doing by publishing pay gaps is producing a single statistic by which you can rank all organisations from best to worst. Actually, the power you have in this sort of transparency measure is for businesses to look at the data and be willing to share that data with everyone else, and say whether they are they confident that there is no more within their control that they could do to ensure that there are equal opportunities, fairness and inclusion in their workplaces.

The vast majority of organisations will not have an exact zero pay gap—in fact, I expect very few would. The smaller the sample sizes you are dealing with, the less chance you will get an exact zero result. That issue was considered in the Commission's report last year, which looked at the question of pay gap reporting and its usefulness. So it is less about producing a league table of best to worst and more about being willing to hold a mirror up to your organisation and saying, "Can you justify how your organisation is doing?"

The vast majority of organisations, particularly those that are already reporting on a voluntary basis, will be the first to say that they do not think they have got everything right yet. But it is important to be able to maintain people's confidence, while they are on that journey to want to become more inclusive and to address gaps, to be able to be transparent along the way, rather than just asking people to trust us when businesses make grand promises about wanting to be inclusive and drawing on talents from all parts of society.

Q16 **Philip Davies:** So what you're saying, Matthew, is that you want everyone to produce their figures, but we should not take any notice of what the figure actually is because that is not the important bit.

The important bit is everything else that they are doing and all the rest of it, so why don't we just ask organisations what they are doing to make sure that everybody is treated fairly, that people are not being discriminated against, and that jobs are being given on merit irrespective of people's race, rather than force them to publish figures? You have just admitted the headline figure is meaningless, so that is the bit that is not important. It is the other bit that is important. Why don't we just ask them for the bit that is important?

Matthew Percival: I said that I think we need both. If you just ask a company what they are doing without that transparency around how the



HOUSE OF COMMONS

organisation is performing, you do not quite have that same ability to have the confidence that what they say they are doing to change things matches the reality in their organisation as it stands at the moment. So I would not say one or the other, but both.

- Q17 **Philip Davies:** Like your organisation, what you are basically saying is that your words are very good, but your results are absolutely terrible. Should we judge you on your fine words or on your figures, which are absolutely terrible?

Matthew Percival: I guess it depends on which figure you look at.

- Q18 **Philip Davies:** I am looking at your pay gap figure. That's what we are talking about.

Matthew Percival: I do not want to sit here and trade statistics with you. If you look at our reports over a period of time as an organisation, you have seen an increase in representation of people from different ethnic minority groups over time in different levels of the organisation, and over time you have seen that representation increase not only in lower paying quartiles but in the middle two quartiles as well, and you have seen an increase in representation in management roles, so you have to look at the plurality of statistics rather than only one measure.

I think our organisation would definitely say that we are not the finished article for where we want to get to in terms of representation and opportunity, but we are committed to being on a journey to improve.

I hope that in the future we will be able to come back and say, "We have continued to be transparent around our ethnicity pay gap and around what we are doing. These are the impacts that you are now seeing of the action plans we publicised in previous years, and they are beginning to show an impact on those various different metrics—some of them mean, some of them median, some of them representation at different levels of the organisation."

Of course, looking to mirror some of the format of gender pay gap reporting, there are a number of different measures that are included in those reports in order to help add some colour and understanding to the data that is published. I do not think it is helpful to try and rank businesses as good and bad so that every business with a pay gap is by default bad and any business with no pay gap is good, because you can have a business with no pay gap, but it could be that there is no representation whatever within that organisation.

You have to be more nuanced, and that is why I say we have to look at both the data and what businesses are saying about what is actually going on in their organisation, and the act of transparency allows people to hold the businesses to account for whether or not their words match the data that they are being transparent about.

Chair: Philip, can I bring Kim in?



Philip Davies: You can. I'm done.

Chair: Kim.

Q19 **Kim Johnson:** I want to come back on some of the points that Philip was making about the mishmash of data. He made out as if we lived in a fair and open society but, sadly, for most black people we do not live in a fair and open society and black people often find themselves at the bottom of the pay gap. Sandra, do you agree that the ability to capture, collect and scrutinise data provides an opportunity to hold organisations to account in that respect?

Sandra Kerr: I wanted to respond to Philip. The Government commissioned the research into the ethnic disparities in the UK and found out that addressing it was worth potentially £24 billion per annum to the UK economy. They said they stood by the recommendations and approached me in good faith, saying, "You know what? We mean business here. Include a question in the race at work survey"—which we did for 2018—"on ethnicity and pay so that we can establish what the UK looks like, consult with employers and really look at how we can move forward."

As indicated, the disparities we identified through our race at work survey correlated with some of the barriers that exist in the UK when it comes to access to employment. We know through the reports that we have been doing with YouGov and the survey that consistently when we ask, "Do you want to progress?", the drive and ambition are there, yet we are still stuck.

As for leading the charge, the Government established the review and recommendations and said, "Get behind it," and we are behind it. What we need is for them to stand by their word: they have said that they mean business on this. Yes, it is complex. The organisations around the table published, and nobody came here saying, "We're perfect. Everybody sort yourself out"—not at all. Business in the Community has signed the race at work charter, like other organisations, because everybody knows that they have work to do. I do not think that even one organisation that has published would say, "We've got it right."

Even those who may think that their pay gap does not look too bad are also looking at what representation looks like around key decision-making tables as well. We know, not only from our race at work surveys but other evidence, that when employers disaggregate their data they find that in particular the black group are always less well paid, even if they have higher education—it actually seems to be worse the higher the education they have.

As Matthew and others have said, all it is, along with other measures, is an indicator to help employers to think, "Right, where do we look next? What do we do? What can we do to ensure that not only are we saying that we really care about it but it feels like that here, we are absolutely a great place to work for people from any background and there is no barrier to progression opportunities?"



Q20 Chair: Thank you. Matthew, you began to touch on this in one of your earlier answers: could you briefly tell us what you think the CBI has learned from mandatory gender pay gap reporting and how that can be applied to ethnicity pay gap reporting?

Matthew Percival: I think what a lot of our members have reflected on as their experience of gender pay gap reporting is that it was doing two main things. First, it really was helping to shine a light on parts of their organisation and experiences within their organisation that they were not as aware of as they should have been. It helped them to learn new things about the experiences of people in their workforce and therefore about things that they want to commit to change and do differently, and how they can play a part in narrowing the bit of the gender pay gap that is within their control. That is one way in which the data side of things has been really useful to them.

The other thing that a lot of employers have noted is that it has started to be something that jobseekers are taking a lot more notice of when they consider what jobs to apply for. They check out not only what an organisation is saying in its broad status—its pitch to potential workers to say what a great place it is to work—but how it is actually doing on its numbers. Are organisations publishing an action plan and an explanatory statement as well as publishing the numbers? What in the process could give you as a jobseeker the confidence that this is the sort of organisation you would want to join?

Even in the last year, a range of figures I have seen suggest that an organisation's approach to diversity and inclusion is rising up the list of factors that jobseekers are prioritising in their search. In an environment of lots of businesses facing labour shortages, that is why we are seeing an awful lot doubling down on diversity and inclusion to try to navigate their way through.

I think quite a lot has been learned. The business community is now more positive about gender pay gap reporting than when it was first introduced. Largely, some of the concerns that people might have had, like whether this debate will just be reduced to publishing a league table from the best to the worst employers, have been avoided and a lot of the debate has been more nuanced and focused on the actions that companies are taking, acknowledging that there are changes to make. Rather than focusing exclusively on where we are at the moment, it is about the direction in which we are heading. Some of that explains the support we see from our members for following it up with ethnicity pay gap reporting, too.

Q21 Dame Caroline Dinéage: I was the Minister who put forward the legislation on mandatory reporting of gender pay gaps. One of the thrusts behind it is that what gets measured gets managed, and what gets compulsorily reported gets managed even better. The thrust of it is not about people being paid the same for doing the same job, because not doing that would be illegal; it is about businesses shining a light on where there is an issue and making sure that, as every business wants to do, they are maximising the potential and the skills of their best people,



HOUSE OF COMMONS

making sure everybody has the right chance, the right mentoring and the right pipeline to progress through the business at the same rate and realise their potential. I think gender pay gap reporting has begun to help achieve that, but I want to push you a little and find out whether you think it has. Do you think ethnicity pay gap reporting would have the same impact?

Matthew Percival: I think it has had an impact, in that it is changing the actions and approaches of a lot of organisations. It is leading to many organisations reporting narrowing pay gaps, but is it a rapid process? Will company action alone get all gender pay gaps down to zero? No, it won't. I also don't think that is what you were suggesting or aiming for in creating the policy, because it is acknowledged that wider societal factors also contribute to the gender pay gap.

It is about challenging employers: "When you look at your organisation, how confident are you that what you are doing isn't contributing to this gap being wider than it should be? What can you do to take ownership of committing to targets, actions and certainly transparency by being willing to be held to account on what you say are your aspirations and ambitions? What are you actually putting into practice to change as an organisation over time and to meet those ambitions, rather than just perpetually having them as targets drifting into the future?"

Q22 **Bell Ribeiro-Addy:** As you will all know, gender pay gap reporting was suspended during the pandemic for 2020 and people are already reporting this as having an impact on getting companies to do it for 2021. What message do you think this sends about the importance of equality and the reporting of disparities in pay?

Sandra Kerr: One of the things we found with the suspension is that 50% of employers did not bother to do it even though they had the data; they chose not to do it, and there was a delay in getting them to do it by the postponed date. It does not send the right message—although the smart employers just continued to publish, because they had already started, recognising that there is a reputational risk for them—around whether this even matters. Is it just the Government saying, "It doesn't matter if people are getting paid the right amount for the roles that they are doing or what they deserve"?

With ethnicity, as far as the dragging of feet on that is concerned—it is almost three or four years in—it does not send the right signal, either. It looks short-sighted, particularly when we think about the fact that we are in a global environment, looking to engage with companies from around the world. We need to make sure that if we are making big public statements, we don't want that to be about getting PR to say, "This is what we are going to do," with absolutely no follow-through. That is not the right message for employees potentially coming through the pipeline—the next generation, those who will be looking for work—so that they are enthused and say, "Let's go, let's contribute; this is all going to be worth it." It really matters that the Government and policy makers follow through on their principles.



HOUSE OF COMMONS

This is about not just numbers, but other measures, as Matthew said repeatedly, just as the charter is about not just catching data, but leadership. One of the big things that the pay gap data or the gender pay gap has done is ensure that that conversation is had at the right levels—senior levels, where it can be given attention, where leaders can really scrutinise and ask some of these tough questions that Philip has been asking. Employers can answer them about their own teams and say, “These are our numbers. What are we doing? What is going on here?” We would want to see more of that replicated across boardrooms and leadership teams in the UK.

Matthew Percival: It was right to delay the deadline, but I don’t think that it needed to be cancelled. What we had then, with the onset of the pandemic, was a real peak of activity for exactly the same people in an organisation who would have been preparing the disclosure, hopefully a supporting statement explaining it and an action plan. All the work that was going on there will have been nearing its conclusion when the pandemic hit. Actually, it became almost the single focus of the people function within an organisation to make sure that it was looking after its people in the immediate moment, often completely shifting its ways of working to support the national response to a pandemic.

If companies were a large way through getting their report ready to publish, but had not finished it yet when the pandemic hit, it is understandable that, for a period of time after that, they would have focused on the pandemic, rather than meeting that disclosure deadline. But those companies will then have gone back afterwards and found the time to be able to fill in the gaps so that we don’t have a year of no data, because that data will have been captured. You won’t have had companies that made no effort to start even analysing it yet by the time the pandemic hit. It was quite close to that deadline. What we really pushed for, from the EHRC and from Government, was a clear statement the following year about exactly the terms of resuming the enforcement activity around publishing the gender pay gap data.

We did not want to have a situation where there was a silent message, with nothing communicated to employers about whether they were expected to be doing it or not, but with employers then uncertain about whether they should be doing it by a particular time and whether they had space to keep focusing on some of the other pandemic issues that they were dealing with. So I think there is a balance to be struck that makes a deferment reasonable, but it is a shame if, in the long term, we look back and we have an interruption in the data series, where there is a year with no data.

Q23 **Bell Ribeiro-Addy:** Thank you. I suppose the point I am trying to get at is whether a delay in itself, or having to defer it, sends the message that it is not as important as everything else. That is more the question. Charles?

Charles Cotton: To go back to what Matthew was talking about earlier, you have to think back to March and April 2020, when many of our



HOUSE OF COMMONS

members who were responsible for calculating the figures and creating the narrative were having to transfer employees to working from home and that new kind of work environment. That was their main focus. Also, it may have been difficult for the EHRC to have been chasing organisations over that period. We thought that once the first wave or second wave was over, organisations would use the opportunity to start to report on the data that they had not been able to report on initially.

Also, when organisations started to report their narrative and say why the figures were what they were, they would typically look at what had happened in the year before—they would be publishing the previous year's figures—but not every organisation publishes a narrative. Obviously, the CIPD believes that all organisations should produce a narrative as well as an action plan.

Similarly, this year we saw deferment, and many organisations actually hit the October deadline. As you say, we would not want to see that continuing and we would not want to see a postponement again next year. We think the figures should come out either in March if you are a public sector organisation or in early April if you are a voluntary or private sector organisation.

Wilf Sullivan: The TUC's view is very much that we could understand a deferment of the date but not cancellation, which we think sends out a very bad message.

You also have to take into consideration the fact that one of the things the pandemic revealed in many other ways was the discrimination and disparity that exists in the labour market in relation to black and ethnic minority workers and women. Although we made the point that this is an indicator and other things have to go on, when you send out a message that the main indicator you are encouraging people to use to get them to think about what they need to do is not a priority, you cannot expect people to think that dealing with inequalities is a priority generally for the Government or for society.

Q24 **Bell Ribeiro-Addy:** Thank you. My next question is for Sandra and Charles. At the moment, companies with a minimum of 250 employees have to participate in mandatory gender pay gap reports. Do you think there should be a minimum employee threshold for mandatory ethnicity pay gap reporting? Should that also be 250 employees, or should it be another figure? If so, why?

Sandra Kerr: It is important, where possible, to align with gender pay gap reporting for simplicity—just to stop it being too complicated for employers. I know there has been some investigation, from talking to employers about what they think some of the challenges are.

As I mentioned, I know that there are already 165. I am not sure of the size of those organisations, but a deeper review of them can be done to see how many employees they have and what approach they are taking. I am sure the Government have analysts and statisticians who will be able



HOUSE OF COMMONS

to establish what that should look like in terms of ensuring that there is robust sampling.

The principle is that employers should be asking their employees to share their ethnicity—using the census categories, because people understand them—and then they can decide. Many will report and are reporting the whole group, but in any narrative reporting they demonstrate that they understand the nuances by ethnicity group.

I am not an analyst, so I couldn't tell you, "Oh, it should be this." But I think that can be resolved by talking to people who do understand those issues. Census category capture will work, and then an employer uses the principles to ensure they are not exposing anybody or whatever—all those things around numbers—and they publish the holistic picture, but actually, in the narrative, they demonstrate they know the nuances, where they exist, by ethnicity group in their organisation.

Charles Cotton: I totally agree. As Sandra said, the precedent is around 250 employees for gender pay gap reporting, as well as CEO pay reporting. Organisations of that size tend to have dedicated HR resources, so they will be able to do the calculations and write the narratives and action plan. As we know, there are about 10,000 organisations of that size—250 employees—which come under gender pay gap reporting requirements, so we would expect a similar figure for ethnicity. That makes it easier to police. The EHRC presumably has only limited resources. If there are 10,000 organisations to check up on, that is a lot easier compared with going to, perhaps, medium-sized organisations, where there would be hundreds and hundreds of thousands of organisations to check up on.

Q25 **Bell Ribeiro-Addy:** Thank you. My next questions are for Wilf and Charles. I think we touched on this in the discussion earlier. Exactly what data should companies be legally required to publish, and do you think that one of these things should be a breakdown of the specific ethnicity of employees? I'll start with Wilf.

Wilf Sullivan: Actually, when we responded to the consultation, we very much mirrored that: what we thought should be published was what is published in relation to gender pay gap reporting. As I have said before, one of the things for us is that this will encourage employers to collect that kind of information. There is an argument for saying, "Well, maybe that should be included in terms of what employers have to report," but I would say two things. One is that I am very conscious, in terms of the private sector, that a lot of companies will be starting from fresh and that there is a lot of concern around complexity, about what it is that they would have to report. So, for us, it makes sense to have reporting of something on the same basis as things that they are familiar with in terms of the gender pay gap, and not to be asking people to produce a lot of other stuff that they might think is onerous. But nevertheless, from our point of view as trade unions, they will have it there, so we would want to be talking to them about that kind of information anyway.



HOUSE OF COMMONS

To come back to the last point that you made, about the size of employer, we understand all the difficulties about the numbers of employers and data, but one of the things that we are concerned about is the almost total exclusion of SMEs. That is a considerable number of employers out there where people from black and ethnic minority communities work, so we are worried that actually, if you make the threshold too high, you might miss a significant number of people who need to be considered in relation to this.

Charles Cotton: Rather like Wilf, the CIPD suggested that we follow gender pay gap reporting and use the same definitions of workers, use the same definitions of pay and use the same definitions of when you collect that type of information, as well as using the existing six measures, so we would have the median ethnicity pay gap, the mean ethnicity pay gap, etc. We also suggested two others. One would be the proportion of employees who had disclosed their ethnicity. That would help to put the figures in context, because if you knew that only 20% of an organisation's employees had done that, that would let you know, perhaps, how accurate those figures were. The second would be the proportion of the total workforce in that organisation that was from an ethnic minority. Again, that would give you an understanding to put those figures in some sort of context. And hopefully the organisation could then use that information when discussing why the figures were what they were in the narrative. Obviously, the narrative would also give opportunities for organisations, if appropriate, to break down that information to more granular levels, such as the pay gap for black workers, for Asian workers and so on.

Q26 **Bell Ribeiro-Addy:** My final question is for Sandra and Matthew. What do you think is preventing organisations from capturing and reporting ethnicity pay data overall? What support do you think the Government could offer organisations, to make them better at participating and reporting?

Sandra Kerr: What we have found works with employers is not only guidance but the opportunity to hear from employers who have done it. Underneath it all, when an employee won't disclose their data, it is usually linked to trust. What is the organisation going to do with my data? Who is going to have access? Is it going to be secure? Is it going to be used to ruin or progress my career?

Employers can share what they have been able to do on gender, and how they have made progress, because they have the evidence and data, and also have leaders who are prepared to say that it really matters. Because they want to ensure that, when clients they work with ask for a demographic breakdown of the organisation and ask who will work on their teams, they are able to do that and have better results.

As I mentioned, we have had conversations with BEIS officials around guidance, and we brought in some employers for them to hear at first hand. Some of the employers had already published data and what the rationale was and what the challenges were. The message we get from employers who have captured the evidence and data is to reach out to the employee, given them an opportunity to update their data themselves

online, where possible, be transparent about what is going to happen with the data, and share the stories of the progress that they make.

Employers would need guidance and help and examples from other employers. As I said, there are at least 165 that we know have published their data. I have not met an employer yet who has said, “No, I won’t share.” They are often very willing to speak at webinars as well as provide even one-to-one advice or conversations, as necessary. So, guidance online that employers can access, and the opportunity to attend some webinars so that they can hear from employers who have been there and done that. That helps them to speed things along, such as, “What technology are you using? What methods are you using? What are you doing with the data when it comes through?”

Matthew Percival: I would raise two points in this context. Building on what Sandra has said, we ran an event under the “Change the Race Ratio” campaign that I mentioned. We ran that last year and had quite a lot of interest in businesses coming along to hear, because we had three firms—Aviva, ITV and Auto Trader—there to talk to other businesses about what they had learned from running campaigns in their organisation, to try to build that trust, to get from a position where ethnicity data was not collected by the company by default. They were asking for new information from their employees and they had to build that trust and confidence as to why they were asking for it. We have tried to help employers share their stories with each other, to understand how you can do that.

The wider point around use of data and data protection, rather than just employee confidence in data disclosure, is another factor that I hope the Committee will be able to consider. I start by saying that there is a legal way to collect, retain and use race and ethnicity data for the purpose of ethnicity pay gap reporting. It is possible, but there are a number of cautious lawyers out there who will say to organisations that the safest thing to do—the path of least risk—is nothing.

That is because there is still uncertainty and a lack of confidence for a number of employers and their legal advisers that the Information Commissioner’s Office will be comfortable with them that they are not breaching the Data Protection Act in the way they go about it. BEIS looked at that previously, but the missing piece of the puzzle is that I would love to see the ICO issue some guidance aimed at employers that helps to build their confidence that there is a legally compliant way to do this and that it is not unduly risky or too complicated.

That is one of those bits of support that would really help to bring this about, whether that is in a voluntary or mandatory manner. Squaring that circle, which would mean that employers who say, “I’m interested in it,” are not put off by the idea that there is some risk involved in doing so, would be an important step to give extra help, and I think the ICO is probably the place to start.

Bell Ribeiro-Addy: I think Sandra wants to come back in.



HOUSE OF COMMONS

Sandra Kerr: Can I add to Matthew's point on that? I have spoken to the ONS, BEIS and the Cabinet Office. Hogan Lovells has put out a report for legal counsels on some of the challenges around data reporting, GDPR and whatever. I emphasise that with Matthew. Can we have that assurance in plain English—nothing scary—so for people who cannot quite figure out what it says, it is really clear, so that people realise that it is actually not a barrier to action?

Q27 **Kim Johnson:** The highly discredited Commission on Race and Ethnic Disparities claimed that the main statistical problem with reporting on the ethnicity pay gap was related to the unreliability of the sample size. Charles, how would you respond to that?

Charles Cotton: If organisations are able to engage with their workforce and get higher response rates in terms of people disclosing their ethnicity, the sample size will increase so you will be able to say more definitively what is going on in an organisation. Unlike gender, ethnicity is not necessarily equally distributed across the UK, so there will be certain organisations that are going to have higher ethnicity representation than others and organisations where there are few people from ethnic minority backgrounds.

Recruitment or when people leave or join an organisation can also have an impact on those figures. That is not to say that organisations should not still be analysing that information. If it is because somebody has joined or left, that is valid. You should say, "Look, in our area, the working population is 5% from ethnic minorities. We have 6% in our organisation, which equates to about 70 people. There can be a bit of variation depending on whether people join or leave or promotions"—putting in those caveats.

The best way to avoid people making inappropriate comparisons is to encourage people not to make them in the first place and for people to be more aware of the issues involved. That is why we are suggesting a narrative as an opportunity to explain that.

Kim Johnson: The same question to you, Matthew, if you have anything to add to what Charles just said.

Matthew Percival: There clearly is more likely to be a low sample size in an analysis of an ethnicity pay gap than there is a gender pay gap. You have four organisations sitting here saying, "Apply the same threshold for whether you are reporting or not," so we are dealing with smaller sample sizes.

That is why, particularly in our approach, we see them as linked. The "What do you report?" is linked to the sample sizes and linked to "When is it useful to report?". All those questions are joined together. That is why we have taken the approach, exactly as Sandra said earlier, of collecting data by the more detailed census list of 18 ethnicities, not least because one of the learnings from data disclosure campaigns is if you do not give



HOUSE OF COMMONS

people options to tick that they relate to, they will not disclose it because they are uncomfortable.

If you just put a box on there that says, "Please tell us whether you are white or BAME", you will get a much more negative reaction than if you give people the full list of categories on the census and they can pick what is relevant to them. That is where we say you report a headline measure, but you have collected and will analyse in more detail in a way that is appropriate to your organisation. Rather than undermining the case for doing reporting, small sample sizes increase the importance of that explaining statement that goes alongside the data. As I said earlier, it makes it even more difficult on ethnicity pay gap reporting than on gender pay gap reporting to rank companies as best to worst based on a single metric.

If the way we are intending to use ethnicity pay gap reporting is to say, "This is a tool for transparency that we are going to use to hold companies to account to show that they are doing the things that they are committing to do, that their actions match their words on wanting to make their workplaces inclusive and places where race is not a factor in whether you can get in or get on at work", if that is the way we are using ethnicity pay gap reporting, rather than trying to produce a league table based on a single metric, there is still value to it that the lower sample sizes do not negate and render the exercise futile.

Q28 Kim Johnson: And making a more equal society. Thank you. I have a question now for Will and Charles. How confident are you that enforcement processes will be adequate to deal with non-compliance? I will ask you first, Wilf.

Wilf Sullivan: One of the things that we put in our response to the consultation was that we would like to see robust enforcement processes, including the EHRC being able to fine people. The other thing we said was that an enforcement process means that whoever is being asked to do the enforcing is given adequate resources. That is one of the things that we are really concerned about at the moment in terms of the resources that the EHRC have got to take this on, given that their resources have shrunk drastically since there were separate commissions.

Q29 Kim Johnson: Would you say that the intransigence of the Government and the fact that they dragged their feet for such a long time would have an impact on some of the issues that you have just raised?

Wilf Sullivan: Well, yes. We are frustrated by the fact that this has been dragging on for nigh on three years. For us, it gives an indication of where the Government see this as a priority, which it is not, which is unfortunate in a situation with especially issues around race equality, where you very rarely get agreement about the way forward. Where we have got agreement about the way forward in terms of major institutions and players, this opportunity is not being used to take this forward.

Kim Johnson: The same question on enforcement, Charles.



HOUSE OF COMMONS

Charles Cotton: At the moment, EHRC looks at gender pay gap reporting as part of GEO. BEIS did not actually say whether EHRC would be responsible for ethnicity. At the moment, the DWP is consulting on pay reporting by disability. The question is: are we going to see more of these requirements in organisations? If we are, it probably makes sense to have one body that is responsible for policing all that, and it would also make sense for that to be adequately resourced so that it can check that people are reporting the right information in the right way at the right time.

From the CIPD perspective, ideally we would like organisations to just have to produce perhaps one overall people report, which would explain why the figures are what they are, according to race, disability, age, gender and so on, so that organisations can say, "This is how much we are spending on pay within our organisation. This is how much we are spending on benefits. We know that we are delivering value for money for employees, investors and customers, because we have done all the analysis. We are recruiting people in a fair and transparent manner. We are rewarding them similarly. We are developing and training them", and so on. That is what we would like to see: some kind of overall framework as the destination point for reporting on people.

Q30 **Kim Johnson:** Thanks Charles. So what is required going forward then are adequate resources to ensure that it is implemented effectively and a consistent approach.

Charles Cotton: Absolutely. Nothing annoys our members more than the belief that they are doing something and somebody is not and they are getting away with it.

Kim Johnson: Thank you, Charles. That is the end of my questions.

Q31 **Dame Caroline Dinéage:** You have been very thorough, and you have mainly answered the questions that I was burning to ask you, but I just have a couple of little additional ones, and they are individual ones, really. Charles, I am going to start with you. I know you have been speaking already, but to carry on, the CIPD called for the Government to legislate for ethnicity pay gap reporting from April 2023. I was just wondering what the rationale was behind recommending that specific date.

Charles Cotton: When we say 2023, that is when organisations would start reporting from, rather than a deadline. Admittedly, when we suggested that, it was back in September last year, so that would give organisations enough time to go round to their employees to explain, "This is why we are collecting this information", and to win hearts and minds and to try to encourage people to disclose their ethnicity so that organisations could then start reporting from April 2023 onwards. Using the gender pay gap framework, we would expect organisations then to report by 2024.

Q32 **Dame Caroline Dinéage:** You have had feedback to suggest that that timescale is reasonable and achievable.



HOUSE OF COMMONS

Charles Cotton: Back in September it was, yes. Obviously it may be cutting it a bit fine now, but many organisations have the pay data; all they are missing at the moment—some of them—is the ethnicity pay data. Also, it depends how long it would take for the Government to legislate. It may be that if it was brought in later this year, perhaps it might be asking a bit too much for organisations to hit that deadline. We might have to push it back. Ideally we would like to see it from that date, but if the legislative timetable means it will be delayed, we would need sufficient time for organisations to try to explain to their employees what they are doing to try to boost disclosure rates.

Dame Caroline Dinenage: Thank you very much.

Matthew Percival: I was just going to add on this question that I think the key thing is when the Government guidance is in place. After the legislation is passed and once the guidance on how to do it is produced, what is the gap required between then and the point of data capture? Sometimes it gets a little bit confusing if we confuse the point of data capture and the deadline for reporting. They are the two key periods to keep apart.

In terms of exactly what the minimum amount of time is, I remember the conversations when we were introducing gender pay gap reporting. There were lots of businesses that were agitating, saying, “Can we get the guidance together as quickly as possible?”, as we would end up well short of the 12 to 18-month period that Charles is speaking about with the introduction of that. If we can give companies at least a good few months between when that guidance is ready and when the data capture point kicks in, then I think we are on fairly safe ground.

The other thing to bear in mind is that one of the key concerns that employers have about whether they are ready to publish or not is whether they have put in their efforts to get their employee disclosure rate up ahead of when they first publish their data, so that they are not publishing data with a large proportion saying, “Nobody disclosed their ethnicity in this data and it is based on half our workforce” or something. That work for employers can start from the minute the Government say they are definitely doing it. That work can start earlier, but in terms of preparing for making sure that they have everything in place ready to capture all the data—that is the key date, and then after that you can follow the annual cycle for gender pay gap reporting for when you get your analysis and publication done.

To the previous question, you also minimise the avoidable burdens on businesses and on the enforcing agency if you are analysing a single set of data captured once. Obviously, it will be more time and effort for everyone involved if there is a different reporting deadline and if it is a different set of data being captured and analysed. It just makes it all more confusing. I think there are efficiencies that can make it simpler. The two things to bear in mind with the timetable to implement are giving businesses the signal to get on with their campaigns for boosting employee disclosure rate and then giving them a good period of time between the publication



of the guidance on how to do it and the point at which they will first need to capture their data.

Q33 Dame Caroline Dinéage: To follow that point a little bit further, that disclosure rate will be key in areas where there is a real regional impact; obviously some regions have much smaller black, Asian and mixed-race talent pools to draw from. A very small sample size can massively undermine employees' confidence in their ability to remain anonymous—I know you have already spoken about that a little bit today. What more can the Government do in the way guidelines are issued, and what more can employers do to ensure that workers have that confidence to disclose their data?

Matthew Percival: As I said before, one key thing is that, if you are trying to get people to disclose data that they have not disclosed before, they will want to know why. To an extent, that job is done a bit by Government if there is a well-publicised new scheme that is making businesses report ethnicity pay gaps in order to achieve a positive impact in businesses across the whole UK. To an extent, taking a regulatory approach to doing it also helps to support the message that businesses are doing this for a positive reason. Some of the work is done for them, because it will say on the news that new regulation is coming in that is trying to support race and ethnic diversity at work, and that businesses are doing this in the same way that it is already quite commonplace for employees to expect to see an organisation collecting information on gender.

Gender data is collected by default, but ethnicity data is not. Beyond the concerns I raised earlier, with some people suggesting there is a risk to collecting this information, HMRC will already ask for gender information of employees. There is not currently an obligation on employers to collect ethnicity information and to report it to Government in any way, so they have not done it historically. Some have done it as a matter of good practice, but not everybody. You have to acknowledge that you start from somewhere. Your first report is probably not going to be your best ever disclosure rate. The CBI's disclosure rate is now higher than it was the first year we published our ethnicity pay gap. However, if we were to wait until we got to a disclosure target that we set ourselves before we did any reporting, that would also slow down the pace of change of disclosure. Being able to do both in parallel is helpful.

Dame Caroline Dinéage: Sandra, did you want to come in on that?

Sandra Kerr: Just to say that I have been invited to sit on a working group with the Scottish Government, which has met twice, looking at their pay gap strategy. In Scotland, we know that the demographic breakdown of ethnicities is smaller than in other parts of the UK, so they will undoubtedly, through their process, be able potentially to share some learning from their experience and the conversations that they will be having with policymakers and employers as part of that. I think they plan to publish something by April, or some time this year, so there is an opportunity for officials to learn from that.



Wilf Sullivan: Ethnic data collection is not new. It might be new in the private sector, but it is not new in the public sector. In my former role in a local authority, that is exactly what my job was—introducing ethnic monitoring across a local authority covering about 13,000 people. The key was communication, including working with the trade unions, as well as having a communication strategy for staff about all those things that Sandra mentioned earlier, such as how we were keeping the data, and most crucially what we were going to do with it. An important part of this is encouraging organisations not only to give an explanation, but to say what they are going to do about the inequalities they have identified. Nothing will encourage people more than if they think they are giving the information and that it will be put to good use. People are reluctant when they are being asked to give information and they do not know what it is for or whether it will make any difference to the situation in which they find themselves.

Q34 **Dame Caroline Dinéage:** Clearly a coherent methodology is needed, but in your experience, what other tools and resources will private businesses need before the legislation comes in to ensure that they are well equipped to do what is required? Is there anything in particular?

Wilf Sullivan: I think Matthew made the point: clear and simple advice is needed about what they are expected to do, certainly in respect of reporting. If data collection is done in the right way, the work comes initially, in setting it up. Once you have set up, and once you have got the spreadsheets and worked out how to pull down the data, it is just a matter of a repeat process, if you are clever. It means running those macros on a spreadsheet again each time you need to.

Charles Cotton: All I was going to add was that it helps if the process of disclosure is as easy as possible. For example, in many instances, you can go to your HR records online and change or enter the data you are asked for, and it is quick and simple. If you make it too bureaucratic, or too difficult to navigate, it will be difficult to boost the number of people who are voluntarily disclosing the information. It is not only about winning hearts and minds as to why people should be supplying the information, but about making it very simple for employees to alter their records. There has been a lot of focus on the pay side, but there are also other HR systems around things such as training and development, recruitment and selection, and so on. The ethnicity information is needed in that context as well, so people can start saying, "This is what we know about pay, and what impact recruitment and selection, training and development, and so on, are having on those pay figures."

Dame Caroline Dinéage: Thank you very much. That is all from me, Chair, having said I would not ask too many questions.

Q35 **Jackie Doyle-Price:** I want to start with Matthew. You have acknowledged that the single metric of the pay gap has its limitations. The truth of the matter is that there is a large pay gap between the highest paid person in an organisation, and the lowest paid. Against that background, what is it that collecting this information is going to tell us?



What other information does it need to be seen alongside?

Matthew Percival: The challenge is whether, as an organisation, you can explain it. If you cannot explain it, and are not confident explaining it, there is a problem to address. Some of the sample sizes can be very small if issues are being looked at in detail. That is why we start with a mandatory headline metric rather than with reporting the 18 categories in the census. If you are looking at very small sample sizes, you are less likely to see the average of those samples add up to the same thing, but the data still reveals trends and things that you can look at as an organisation to challenge yourself to do better. We were speaking earlier about the CBI's disclosures and, as an organisation that is on the cusp of the 250-employee threshold for disclosure. We do it, and it has pointed us in the direction of representation in certain pay bands within the organisation and in certain types of roles. In combination with the dialogue you need to have with your workforce and their representatives to understand what is going on within the business, it points us in the right direction.

The important bit about disclosure is being willing to hold yourself to account. Are you comfortable enough to say, "We are an organisation with a pay gap and we want to improve, and this is what we are doing about it"? It is also about what you understand the causes of the gap to be, and sometimes the answer will be that it is an incredibly small sample size and perhaps a particular group has not been included within the report because it is only two or three people, but the information might still be collected and analysed in more detail to understand what is happening and to put together the best tailored action plan so that the organisation's actions meet its grand statements and commitments.

- Q36 **Jackie Doyle-Price:** What is sitting in my mind is that, effectively, you could have a situation where an employer goes out of its way to recruit a very diverse range of people but, just because of the distribution of earnings, it could end up with a particular figure. Going through the exercise forces transparency and challenges employers to explain it. Sandra, do you have any observations on that?

Sandra Kerr: Employers that publish their pay gaps are often also looking at their employees' experience of bullying and harassment. They are looking at access to training, development opportunities and secondments. They are looking at attrition to check it is not disproportionate. They are looking at appraisal, remuneration, pay and reward at different levels in the organisation and how people are feeling about the organisation's commitment to inclusion.

On pay indicators, many employers are doing that bit because it helps their understanding of where they might want to move people within the organisation. The narrative tends to be the same in the public sector and the private sector, the high-paying roles that attract bonuses tend to be the central function, and this enables the employer to start investigating and ask why the figures look the way they do, not only on pay but on the



other things I have mentioned that all contribute to whether people can progress and get the right pay.

- Q37 **Jackie Doyle-Price:** Wilf, you mentioned earlier that public sector organisations have been collecting this information for a long time. Looking at your experience now, do you see a better, worse or similar performance when you compare the public and private sectors?

Wilf Sullivan: It is difficult to know. Part of the point is that ethnicity pay gap reporting is a requirement for the public sector. Some companies are doing it, but we do not know what the picture is across the private sector. This is one way of encouraging private sector organisations, which after all are the biggest part of the workforce, to start collecting data and looking at these questions in a more holistic way across the economy. Just to comment on what has happened in the public sector, one of the problems there has been that with the figures, people have not necessarily had to explain—

- Q38 **Jackie Doyle-Price:** Yes—they are just collecting it.

Wilf Sullivan: They are just collecting it, and they haven't had to have an action plan, and no one has been doing any kind of enforcement around whether or not they should be taking action around some of the things they find, really. It has turned into collecting data for data's sake.

- Q39 **Jackie Doyle-Price:** That is the weakness in a mandatory approach, isn't it? It just becomes a process, and there is a figure at the end of it, and so what? How can we properly make sure that it is being used as a tool to address disparities, and how would you like to see things develop over the next five years to actually make a material difference in that regard?

Wilf Sullivan: From our point of view, the issue of transparency—not just institutionally, but for workers—is really important. Matthew made the comment in relation to gender pay gap reporting: this is something that people are now beginning to take into account, in terms of organisations that they go for. Reputation means much more in the private sector than it does in the public sector in terms of this, in a strange kind of way.

For me, where I see this going is this almost being a catalyst, in terms of people having a much more holistic approach to using data to look at what is going on in their organisation, but also measuring the actions they take, because that is the other problem. It is not confined to the public sector: it is in the private sector that sometimes, people come up with solutions, and I am not saying that those solutions are not right in some contexts, but they never measure whether those solutions are appropriate and have an effect in their organisation or not. This is why people were talking about it as a journey: if you cannot see progress from what you are doing, you do not know whether it is effective. If you can see what is happening and no progress is taking place, you have to think about doing something different.

- Q40 **Jackie Doyle-Price:** We end up focusing on the tool as a destination, rather than the outcome we are trying to achieve. Charles, finally, any



HOUSE OF COMMONS

observations from you on how we make it a really effective tool to address disparities, and where you would like to see things in, say, five years' time?

Charles Cotton: I would hope to see lots of interest in this issue: rather than organisations perhaps responding because they have to, it is because they want to, or because they know that their employees are interested. Everybody wants to work for an employer where they are fairly treated and rewarded, so this is a great opportunity to demonstrate fairness in terms of reward, training and development, performance management, recruitment and so on. Customers are increasingly interested in how employees are being treated when they come to make decisions about what goods and services to buy.

Investors are also becoming more aware, especially in light of the pandemic, of the important role that employees play within organisations: if you are investing all this money in organisations and spending all this money on pay and benefits, what is the return on that investment? How can they demonstrate that they are encouraging the right types of performance? This is a great opportunity for organisations to explain what they are doing, as well as producing a narrative that puts that into context, explaining the direction of travel. Alternatively, you could perhaps go for a different approach—everybody's salary becomes public, all organisations publish what people are getting paid—but again, I am not sure whether that would necessarily lead to just as much debate and argument as the ethnicity pay gap is generating at the moment.

Jackie Doyle-Price: Thank you.

Chair: Let me take this opportunity to thank all of our witnesses for the information you have provided. If there is anything that you feel you have missed or wish to add, please do not hesitate to contact us in writing, but I think we have had a really good session this afternoon. I know that you have all contributed a massive amount on a wide-ranging aspect of the ethnicity pay gap reporting, so thank you very much.