



ETHNICITY PAY REPORTING

Issued 11 January 2019

ICAEW welcomes the opportunity to comment on the Ethnicity Page Reporting consultation published by BEIS in October 2018, a copy of which is available from this [link](#).

ICAEW strongly supports efforts to achieve equality of opportunity in the workplace and welcomes the Government's proposal to introduce a regime for the disclosure of ethnicity pay information. We encourage the Government, when formulating the detailed requirements in this area, to be as consistent as possible with the mandatory gender pay reporting regime, except in relation to the proposed scope, which we believe should be UK employers with 500 or more employees.

We believe that the narrative provided alongside ethnicity pay information will be critical. However, we encourage the Government not to develop prescriptive requirements on this front, or indeed to make the provision of this information mandatory. Instead, we believe the Government should support employers by providing guidance including making available relevant information on ethnicity which may help companies analyse/benchmark their own positions.

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KEY POINTS

ICAEW support for ethnicity pay equality

1. ICAEW strongly supports efforts to achieve equality of opportunity in the workplace and welcomes the Government's proposal to introduce a regime for the disclosure of ethnicity pay information. The recent introduction of mandatory gender pay reporting has demonstrated the benefits of requiring employers to disclose information on pay, for example, by improving transparency, raising awareness and prompting employers to take appropriate action.
2. We also note how this initiative fits into the broader range of efforts by the Government to improve equality of opportunity in the workplace for ethnic minorities. For example, the 2017 Parker Review report focused on ethnic diversity of boards and recommended the appointment of one director from an ethnic minority background to boards of FTSE 100 companies by 2021, and the appointment of one director from an ethnic minority background to boards of FTSE 250 companies by 2024. It is important to consider how these initiatives can complement each other; for example, improving ethnic diversity at the top can have the dual advantages of reducing the pay gap, and encouraging others to strive for success.

Ensuring consistency

3. We note that the consultation paper is relatively high-level at this stage. Nonetheless, we would like to take this opportunity to encourage the Government, when formulating the detailed requirements, to be as consistent as possible with the mandatory gender pay reporting regime. In particular, we strongly recommend that information on ethnicity pay is presented outside of the annual report, using a similar reporting mechanism to that used for gender pay reporting. Furthermore, consistency around matters such as the treatment of bonus payments would also be advantageous for both preparers and users alike. That said, one area where we envisage a divergence between the two regimes would relate to the size of company within scope. This is discussed further in our response to question 10.
4. We would be happy to assist BEIS further as this project develops, including in relation to the development of the regulations and any corresponding guidance.

Data collection challenge

5. We note that the consultation paper highlights a number of significant challenges with the collection and reporting of information on ethnicity pay. In particular, that employees are not required to provide employers with information on their ethnicity, which means that employers may be working from incomplete data sets. As noted in the paper, there can also be subjectivity in the way that individuals self-identify with a particular ethnic group which may affect the consistency of information reported between entities.
6. We believe it is important to acknowledge these challenges and accept that it may take some time before employers are in a position to report on a comprehensive set of data. That is not to say that the Government should delay introducing requirements in this area. However, it will be important for the Government to support employers by providing guidance and by making available relevant contextual information on ethnicity which may help companies analyse/benchmark their own positions.
7. We also accept that there may be advantages to conducting a trial run with selected pilot companies, ie, to identify and adapt for implementation issues and provide guidance accordingly. However, taking this approach should not be at the expense of introducing timely non-prescriptive regulations which enable companies to experiment, share best practice and adapt over time.

Importance of contextual information

8. We believe the narrative provided alongside ethnicity pay information will be critical. For example, explanations around 'non-disclosure rates' and omissions of data for confidentiality

reasons, and any supporting information around matters such as geographical, gender, and age variations in the workforce. Notwithstanding the importance of employers providing this information, we would strongly encourage the Government not to develop prescriptive requirements on this front, or indeed to make the provision of this information a mandatory requirement. In our view this runs the risk of employers providing unhelpful boilerplate information. We believe it would be preferable to develop an approach which enables and encourages employers to provide the appropriate level of narrative on those factors considered relevant in order to clearly explain the data reported.

ANSWERS TO SPECIFIC QUESTIONS

Question 1

What are the main benefits for employers in reporting their ethnicity pay information?

9. As noted in the consultation paper, reporting on ethnicity pay information has the potential to improve transparency over apparent discrepancies and help ensure that progress is appropriately monitored. We also believe that reporting this information can help focus the attention of employers and prompt them to take appropriate action.
10. There may also be a commercial advantage to reporting this information, for example, employers able to demonstrate a diverse workforce with no pay disparity will be likely to be a more appealing option for future employees. Indeed, if we take the gender pay reporting as an example, a recent **report** from the Equality and Human Rights Commission suggests that good gender pay reporting can have a positive influence on employees, consumers, and other stakeholders.

Question 2

What type of ethnicity pay information should be reported that would not place undue burdens on business but allow for meaningful action to be taken?

11. From the options provided in the consultation paper, our preference would be for information on ethnicity pay to be reported by quartile. This would have the advantage of being consistent with the approach taken to mandatory gender pay reporting and would therefore be familiar to employers within the scope of both sets of requirements and also to the users of the information.

Question 3

What supporting or contextual data (if any) should be disclosed to help ensure ethnicity pay reporting provides a true and fair picture?

12. We believe the narrative provided alongside ethnicity pay information will be critical. For example, details of 'non-disclosure rates' may be necessary to make clear when the information provided does not represent the entire workforce and so results may be skewed. Also, explanations may be needed when certain information has not been reported for confidentiality reasons.
13. In addition, contextual information around matters such as geographical, gender, and age variations in the workforce will also be necessary to help explain the reported information. For example, entities with concentrations of ethnic minority groups in different geographical regions will need to consider how any regional pay variations affect the overall reported figures. Or entities operating in geographical areas with a traditionally higher concentration of ethnic minorities may want to benchmark to central data demonstrating that their results are consistent with the local population.

14. Notwithstanding the importance of contextual information, we strongly encourage the Government not to develop prescriptive requirements on this front or indeed to make the provision of this information a mandatory requirement. In our view, this may result in unhelpful boilerplate information. We believe it would be preferable to develop an approach which enables and encourages employers to provide the appropriate level of narrative on those factors considered relevant, in order to clearly explain the data reported.
15. It may be that this is an area that would be better addressed through any supporting guidance. For example, by highlighting the different areas that might be relevant when analysing information on ethnicity pay and emphasising the importance of the narrative information clarifying the reported data. The provision of central data by the Government might also help employer’s analyse their own positions – this is discussed further in our response to question 11.

Question 4

Should an employer that identifies disparities in their ethnicity pay in their workforce be required to publish an action plan for addressing these disparities

16. While we believe that it would be helpful for employers to produce an action plan for addressing any discrepancies in ethnicity pay, possibly highlighting trends which demonstrate progress, we do not believe that this should be a mandatory requirement. As noted in our response to question 3, we believe it would be preferable to develop an approach which enables and encourages employers to provide the appropriate level of narrative on the information reported.

Question 5

Do you currently collect data on ethnicity at your workplace? If yes, do you use standard ethnicity classifications for reporting? If so, which ones?

17. Yes. To help promote equality of opportunity, ICAEW collects data on ethnicity for new joiners as per the following classifications:

White – British	Black or Black British – Other
White – Irish	Asian or Asian British – Indian
White – Other	Asian or Asian British – Pakistani
Mixed – White and Black Caribbean	Asian or Asian British – Bangladeshi
Mixed – White and Black African	Asian or British – other
Mixed – White and Asian	Chinese or Chinese British
Black or Black British – African	Other Oriental Group
Black or Black British – Caribbean	Any other ethnic background not included above
Prefer not to say	

Question 6

What do you think are the most effective approaches for employers to improve employee self-reporting or declaration rates?

18. We agree that the approaches outlined in the consultation paper are sensible ways to help employers improve employee self-reporting or declarations rates ie, explaining to employees clearly how the data will be used, building the collection of information into the recruitment process, making the data easy to collect such as through online forms, regular reminders to existing staff, and allowing a 'prefer not to say' to help avoid false declarations.
19. Over time, it may also be helpful for the Government to publish short case studies which help illustrate how companies have been able to improve self-reporting or declaration rates in practice.

Question 7

How should self-reporting or non-disclosure rates be reflected in information reported by employers?

20. As discussed in question 3, we believe employers should be encouraged to provide details of non-disclosure rates by quartile together with a supporting narrative.

Question 8

For a consistent approach to ethnicity pay reporting across companies, should a standardised approach to classifications of ethnicity be used? What would be the costs to your organisation?

21. Yes, we agree that a standardised approach to classifications of ethnicity would be required, as this will help ensure comparability between companies. In addition, providing a standardised approach may also reduce uncertainty as employers are not each required to decide which classification to follow. We acknowledge that this may result in changes to the way data is collected by employers which in turn may result in additional cost, for example, if internal systems need to be developed/updated. Therefore it will be important for the Government to minimise unnecessary or frequent change. With this in mind, if changes to the ethnicity classifications used for the census are expected in the near future, we would advise the Government to use the most up-to-date classifications for the purpose of developing these regulations.

Question 9

Please outline steps that should be taken to preserve confidentiality of individuals.

22. With regards to confidentiality, we note that the consultation paper refers to the Civil Service workforce statistics, which suppress values based on five or fewer responses. We believe that a similar approach could be taken with ethnicity pay, but that when five or fewer responses are received, this should be treated as a minimum ie, employers may need to make a judgement as to whether it is appropriate to report information for practical or confidentiality reasons, even when more than five responses have been received.

Question 10

What size of employers (or employee threshold) should be within scope for mandatory ethnicity pay reporting?

23. Although we generally believe it is important to ensure an approach that is as consistent as possible with the mandatory gender pay reporting regulations, we suggest that the size of

company within the scope of the ethnicity pay reporting requirements should differ. In our view, they should apply to employers with 500 or more employees.

24. We note that the Government's preference is that employers with 250 or more employees should be within the scope of any ethnicity pay reporting requirements (ie, in line with the mandatory gender pay reporting requirements). However, we anticipate that entities with employee numbers between 250 and 499 employees may run into greater difficulty when seeking to analyse ethnicity pay compared to gender pay as they will be dividing the same/similar sized population amongst a greater number of categories. This may be exacerbated further when data sets are incomplete due to non-disclosure, and is more likely to result in confidentiality issues.
25. If appropriate, the scope of the mandatory requirements could be extended at a later date to include employers with 250 to 499 employees, as soon as it has been established that the regulations are producing useful information without imposing undue costs. This would enable smaller companies to benefit from the experience of the first wave of reporters.

Question 11

What support measures do you think would be useful for employers?

26. We believe that providing clear guidance which is supported by illustrative examples will help to ensure compliance and will allow employers to implement the new requirements without undue cost and uncertainty. For example, it may be helpful to follow a similar approach to the **guidance** produced by the Advisory, Conciliation and Arbitration Service (ACAS) on gender pay reporting which helpfully provides numerous illustrative examples.
27. In addition, we believe it would be helpful for the Government to provide contextual information to help companies analyse their own data on ethnicity pay. For example, by providing statistics on geographical, age and gender variations between different ethnic groups across the UK. This would avoid each individual employer having to source this information themselves and would help them benchmark their own position against national trends.
28. We also accept that there may be advantages to conducting a trial run with selected pilot companies ie, to identify and adapt for implementation issues and provide guidance accordingly. However, taking this approach should not be at the expense of introducing timely non-prescriptive regulations which enable companies to experiment, share best practice and adapt over time.