

THE NEW REC LEGAL BITESIZE BRINGS YOU A BRIEF SUMMARY OF LEGAL AND TOPICAL NEWS

Legal *bitesize*

BECAUSE RECRUITMENT MATTERS



PROPOSAL FOR ETHNICITY PAY REPORTING

THE GOVERNMENT IS CONSIDERING INTRODUCING A REQUIREMENT FOR EMPLOYERS TO PUBLICLY REPORT INFORMATION ABOUT DIFFERENCES IN PAY WITHIN THEIR WORKFORCES BASED ON ETHNICITY.

This would be similar to the gender pay gap reporting requirements which, since April this year have meant that employers with 250 or more employees have had to publish information on differences in pay based on gender.

The government launched a [consultation](#) on 11 October which runs until 11 January 2019, setting out the basis for the proposals:

The government is committed to a cohesive society where everyone – no matter what their ethnicity or background – has the opportunity to enter into work, progress and achieve their potential based on merit. An inclusive economic policy is vital to the success of our Industrial Strategy, which sets out the government's long term plan to boost the productivity and earning power of everyone throughout the UK.

However, collecting data based on ethnicity may not be as straightforward as doing the same based on gender.

The consultation is seeking views on the following questions:

1. what are the main benefits for employers in reporting their ethnicity pay information?
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?
3. what supporting or contextual data (if any) should be disclosed to help ensure ethnicity reporting provides a true and fair picture?
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?

Ethnicity data and classifications

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?
6. what do you think are the most effective approaches for employers to improve employee self-reporting or declaration rates?
7. how should self-reporting or non-disclosure rates be reflected in the information reported by employers?
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?
9. please outline steps that should be taken to preserve confidentiality of individuals

Next steps

10. what size of employer (or employee threshold) should be within scope for mandatory ethnicity pay reporting?
11. what support measures do you think would be useful for employers?

For the recruitment industry, a key consideration is whether the data should be collected in a similar way to the data for gender pay gap reporting, meaning that where an employment business supplies temporary workers to a client, the employment business includes the temporary workers in its own reporting data rather than the client.

While this is consistent with the requirement for the 'employer' to report the data, it also does not give any insight to decisions that end user client make about which temporary workers to accept, and it also makes it difficult to assess the data for directly engaged staff in the recruitment industry.



**COLLECTING DATA BASED ON ETHNICITY
MAY NOT BE AS STRAIGHTFORWARD
AS DOING THE SAME BASED ON GENDER**

TALKING POINT...

NEW GUIDANCE ON REFERENCES

ACAS has recently launched new guidance for employers on references. This is an area that can prove difficult for employers to manage. Recruiters are often asked for references about their internal staff and temporary workers – and also have the task of seeking references about candidates that they are seeking to supply or introduce to clients.

The guidance tackles issues such as:

- Does an employment reference have to be provided?
- What can an employment reference include?
- Can an employer give a bad reference?

See the [full guidance](#) for further information.

This publication is not a substitute for detailed advice on related matters and issues that arise and should not be taken as providing legal advice on any of the topics discussed.

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