

Introduction

This is the response from the Universities and Colleges Employers Association (UCEA) to the consultation on ethnicity pay reporting. The response is based on views provided by 47 of our member higher education employers and focuses solely on ethnicity pay reporting.

UCEA represents the views of higher education institutions (HEIs) across the UK in their capacity as employers. UCEA is a membership body funded by subscriptions from 163 HEIs in the UK, in addition to eight sector associate members. Our purpose is to support our member HE employers in delivering excellent and world-leading higher education and research by representing their interests as employers and facilitating their work in delivering effective employment and workforce strategies.

While HEIs are constituted by a variety of means (for example, Royal Charter, incorporation by statute or under the Companies Act, or charitable trust) they are defined in the national statistics as autonomous not-for-profit private corporations. HEIs are independent employers and determine their own employment policies, often in consultation with recognised trade unions; therefore there is a variety of HR practices in place in the sector. HEIs are subject to the public sector equality duty.

Ethnicity pay reporting

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

The respondent HEIs cited a range of positive benefits for employers in reporting their ethnicity pay information including the following:

- It will support compliance with Equality Act 2010 and help reduce the risk of potential discrimination.
- Mandatory reporting will encourage employers to review their employment practices such as recruitment and selection, which should have a positive impact not only on the ethnicity pay gap but also on equality and diversity in the workforce in general.
- Provided it is implemented effectively employers will benefit from having an evidence base of reliable and comparable data from which to identify and understand gaps or differences in pay between employees of different ethnicities as well as barriers to progression. Employers will be able to develop appropriate action plans and priorities to address these disparities in the context of their wider strategic diversity and inclusivity goals.
- It provides reputational benefit due to increased transparency and accountability, increasing employee trust in the organisation and enabling mature and constructive debate.
- It will help to identify and address structural and historical biases faced by ethnic minority employees and, as part of the wider discourse on race equality and the spotlight on race in the higher education (HE) sector, will be a lever to implement cultural and systematic change. It will be a tool to engage stakeholders and demonstrate that the HE sector is responding to the change required. It will encourage employers to identify how ethnic minority employees are recruited,

retained, engaged, developed and promoted and will enable employers to target resource and influence talent attraction activity to rebalance the workforce and ensure this important pool is leveraged appropriately and productively.

- It will enable benchmarking across and within the various employment sectors.
- Year on year reporting will enable monitoring of progress against actions and benchmarking of actions that are effective and those that are not.
- Employers can encourage employees to disclose their ethnicity which will provide a more accurate picture of employee representation by protected characteristics and help influence employment policy and practice.
- Ethnicity pay reporting offers a positive narrative where there is not a pay gap – ‘myth busting’.
- It will enable greater socio-economic equality and increase social justice.

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?

The majority of respondents indicated that at least two types of ethnicity pay information should be reported. The two types most favoured by HEIs were:

- Option a): One pay gap figure comparing average hourly earnings of ethnic minority employees as a percentage of white employees. This was favoured by 85% of respondent HEIs.
- Option d): ethnicity pay information by pay quartile. This was favoured by 89% of respondent HEIs.

In addition, a smaller number of respondents (45%) indicated that option b (several pay gap figures for different ethnic groups using standardised ethnicity classifications) should be reported.

The respondent HEIs made various comments in support of their preferred options and these are summarised below:

- The reporting of one pay gap figure (option a) and information by pay quartile (option d) align with the gender pay gap (GPG) methodology. These two options are easily understood and the key messages can be clearly conveyed.
- There were concerns, however, that one overall figure was simplistic as it would not highlight differences between different groups of ethnic minority employees and would be meaningless if employers had low numbers of ethnic minority employees.
- Regarding option b (several pay gap figures for different ethnic groups using standardised ethnicity classifications), our members expressed concerns about the risk of identification of individuals by use of more detailed classifications. Nevertheless, those that were in favour of this option felt that it could provide very helpful insights into ethnicity pay gaps. Whilst option b had less support from HEIs, if this option were required, it is suggested that the high-level broad category classifications in the 2011 census be used, i.e. Asian/Asian British, Black African/Caribbean/Black British, Other Ethnic Group Mixed/multiple background and White. A break-down at a disaggregated level by the 18 ONS classifications could be published internally by employers who collect that level of data as employers with significant numbers of ethnic minority staff will find it beneficial to investigate gaps between ethnic groups.
- The pay bands identified in option c were felt to be arbitrary and would group employees disproportionately and will date with inflation unless maintained in real terms.

Whilst the respondents' preferred options were to use one overall pay gap figure and ethnicity information by quartile, there was support for providing several pay gaps for disaggregated data and employers should be encouraged to undertake disaggregated analysis to understand their overall ethnicity pay gap. Alignment to a single set of ethnicity classifications is also recommended should the Government introduce reporting on disaggregated data in the future.

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

There were a wide range of suggestions from respondents HEIs to this question which are summarised below.

- Employers should provide written commentary explaining any sector and contextual issues including
 - the total workforce;
 - the overall population of ethnic minority employees as a percentage of the total population of employees;
 - the breakdown of ethnic minority and all employees by grade and role;
 - the breakdown of senior staff by ethnic minority and white employees.
- Employers should also disclose the geographic location of the reporting organisation and a description of its activities or a note describing its sector. Respondents felt it would be important to highlight that disparities in ethnicity pay can be explained in part by societal and geographical trends.
- It was suggested by a number of respondents that employers should provide contextual information on gender, age, staff group and ethnicity, full time equivalent, job role and grade and disclosure rates as further context.
- Employers should also be encouraged to review intersectional pay differences, for example, whether ethnic minority women are paid less on average than ethnic minority men. UCEA has recently published [research](#) into intersectionality in the HE sector.
- Data on vertical and occupational segregation should be reviewed and included/acknowledged as appropriate in the commentary.
- Data analysing promotions by percentage.
- A number of respondents considered that employers should decide what is appropriate for their context, with advice and guidance on the variety of factors which that they may wish to investigate.

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?

The majority of HEI respondents (60%) considered that employers should be required to publish an action plan, with 28% not supporting this and 13% suggesting alternatives such as encouraging the publication of action plans as good practice.

The main concerns from respondents were that employers should be able to draw on and develop existing, wider action plans and workstreams and 'join up' actions to address any ethnicity pay gaps with actions to address GPGs which should align in turn with the organisation's overall strategic equality and diversity plans. It would be problematic if employers were required to develop a separate action plan. Smaller employers may also need support to develop appropriate and effective action plans.

Ethnicity data and classifications

5. Do you currently collect data on ethnicity at your workplace?

All respondents collect data on ethnicity. The majority of respondents (73%) use the 2011 census 18 standardised ONS ethnic classifications, 8% use the 2011 census 5 standardised ONS ethnic classifications, 8% use the 2001 census 13 standardised ONS ethnic classifications and 11% use other classifications.

The main reason that the 2011 census 18 standardised ONS classifications are used by the majority of respondents is that they align with the classification coding framework used by the Higher Education Statistics Agency (HESA) and are part of the statutory reporting requirements of HEIs. The Scottish HEI respondents use the HESA ethnic origin classifications for Scottish HEIs and a very small number of respondents use locally determined classifications.

Improving ethnicity reporting rates, data handling and anonymity

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

HEI respondents suggested a range of approaches.

It would be essential that employees and job applicants are given clear assurances that their data will be treated in strict confidence and in full compliance with the Gender Data Protection Regulation (GDPR) duties as special category data. The key messages should explain what employers do with the data, how it is stored, who accesses it, when it is shared and why. It is also essential to demonstrate the positive impact of pay gap reporting in delivering improvements and addressing inequalities and the wider benefit of that to the employer and society.

A number of respondent HEIs highlighted the importance of building data collection into the employee recruitment process with at least 10 respondents collecting equality and diversity information as a mandatory section of their online recruitment process. A majority (64%) of respondents suggesting the use of HR self-service systems or portals for employees to provide their data, regular data census campaigns and reminders to employees to update their details and follows ups to employees with partial or missing information.

Other suggested approaches were as follows:

- Include a 'prefer not to say' option in the data collection.
- Clear commitment by senior management commitment to diversity and inclusivity.
- Build a culture of trust and openness.

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

All respondent HEIs agreed that there needs to be a recognition about the number of employees whose information on ethnicity is not available and an explanation about that. There were a range of views of how best to do this with the majority of respondents (85%) suggesting showing or reporting on non-disclosure rates (including 'prefer not say') by providing, for example, the percentage who did not disclose as a percentage of the total. It was further suggested that the non-disclosure number should be excluded when calculating and undertaking the pay gap analysis.

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 organisations?

The majority of respondents (79%) agreed that a standard approach to classifications of ethnicity should be used, with 11% disagreeing and 10% considering it a possibility. Some HEIs expressed concerns about the costs of making changes to payroll and HR systems but others commented that if the 2011 census 18 standardised ONS classifications were adopted this should not necessarily result in significant costs as it is already widely used across the sector.

Costs would increase if the time frame for ethnicity pay reporting did not mirror that for GPG reporting and at least 12 months' notice would be necessary to implement any necessary changes to payroll and HR systems.

Any new national standard classification should be flexible enough to enable existing and varied data sets to be mapped against it – it would be important for employers to be able to use their existing data.

A number of respondents commented that a standardised approach to classifications should comprise as few categories as possible, for example, the five overall ONS classifications without the subgroups and an additional category of 'undisclosed'. A further comment was that disclosure rates may decrease initially if changes to classifications are made.

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

Respondent HEIs agreed that it would be important to ensure that data handling is compliant with GDPR duties as outlined in the response to question six above. The use of data suppression techniques were suggested by 62% of respondent HEIs whereby values below thresholds of five or ten, for example, are not included to ensure that individuals are not identifiable. It is also important to identify the minimum number of people in the ethnic category being analysed that employers should be required to report and analyse as this is the minimum threshold from which the median and mean are derived. This threshold could be set at a minimum of 10 people in a category, but it may be preferable to consider a higher threshold. Other steps to preserve confidentiality were to utilise anonymisation techniques and to minimise the number of classifications.

Next steps and Government support for employers

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

The majority of respondent HEIs (81%) considered that employers with 250+ employees should be within scope for mandatory ethnicity pay reporting because it mirrors the GPG reporting requirements and employers of fewer than 250 employees would have difficulty in maintaining confidentiality. A small number of respondents favoured employers with 500+ employees. It should be noted that size of employer is important as many employers will have very small numbers of ethnic minority employees depending on geographical location and sector, which will mean that they will not be able to report pay gaps if a minimum of 5 or 10 people are needed per category.

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

Respondent HEIs suggested a range of support measures that would be useful for employers. The most important would be to have clear 'how to' guidance from the Government Equalities Office and Acas available online on the following:

- how to collect data and treatment of different types of employment contract
- a clear classification system with a set of broad, country-appropriate classifications

- how to calculate the pay gap
- how to report the pay gap
- the thresholds below which it is not reportable
- templates for calculations, communications to employees, recommendations about how to develop evidence-based actions
- examples of what a 'good' report looks like and best practice case studies

Other suggestions included:

- sufficient lead time to implement the first reporting round of at least 12 months
- at least 12 months to implement system changes if these are required to comply with ethnicity classifications
- training and briefing sessions such as face to face, webinars and podcast on how to collect data, analyse and action plan

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