

Disability workforce reporting Acas response

5 April 2022

This is the Acas Council response to [the Disability Unit's consultation on disability workforce reporting](#).

Our response

1. Acas (Advisory, Conciliation and Arbitration Service) welcomes the opportunity to respond to the Disability Unit's consultation on disability workforce reporting.

2. Acas is a statutory, non-departmental public body with a duty to improve employment relations in Great Britain. Between April 2020 and March 2021, Acas handled more than 700,000 calls from individuals and employers to our national helpline, of which nearly 25,000 related to disability discrimination. The Acas website also received almost 19 million visits from individuals seeking advice and support, including 6 million visits to our advice on coronavirus (COVID-19).

On 28 July 2021, Acas launched a joint [Disability at Work advice hub](#) with the Department for Business, Energy and Industrial Strategy (BEIS) to provide support to both disabled employees and to employers to understand their employment rights and responsibilities. Since its launch up to beginning February 2022, it has been viewed in around 18,500 sessions. Individual advice pages linked to from the hub, including on areas such as [disability discrimination](#) and [reasonable adjustments](#), have had approximately 400,000 total unique views over the same period.

3. Acas also provides conciliation in collective disputes (approximately 500 in 2020 to 2021) and runs training sessions on a wide range of workplace-related topics, including on [disability and reasonable adjustments](#). A considerable amount of Acas's resource is devoted to providing conciliation to parties where an individual is considering bringing a claim to an employment tribunal. Acas early conciliation (EC) notifications and employment tribunal claims (ET1s) received on the grounds of disability discrimination continue to outnumber the cases related to all other protected characteristics. Between April 2020 and March 2021, we received 114,533 EC cases, of which 12,988 (11%) included reference to disability discrimination. Over the same period, Acas received 35,274 ET1s, 6,356 of which included a claim of disability discrimination (18%).

Note – the jurisdictions reported against EC notifications differ from those reported in cases received for conciliation from the Employment Tribunal service in that the former are assigned by Acas officers on an indicative basis only and do not necessarily represent the jurisdictions a claimant might record when submitting an ET1.

Section A: Understanding the current landscape

This part responds to questions 1 to 6 of the consultation.

4. As an employer, Acas does collect information on the proportion of disabled people in our workforce via our self-service HR system and additionally as part of our annual 'People Survey'. Where employees have self-identified as disabled, our HR system includes a further option for individuals to specify their condition should they wish to.

5. Acas has faced some difficulty in making changes to the terminology used in our HR system. The system currently uses the descriptor 'self-certified disabled' which we believe could be interpreted by some to mean 'registered disabled', terminology which

ceased to exist in December 1996. As the wording is hardcoded, our external software provider is currently unable to make any modifications. However, we continue to work with them to make the case for appropriate adaptations and scope opportunities to build in additional reporting mechanisms.

6. Acas has been collecting disability workforce data for more than 5 years (prior to the introduction of the government's voluntary framework) – we monitor disability and other protected characteristics as part of our Public Sector Equality Duty. The data is published as part of our annual equality information report. Costs are linked to data analysis and reporting which require staff resources, although these are minimal.

7. Our disability workforce information is used to:

- inform recruitment practices
- inform diversity and inclusion initiatives
- inform talent management practices
- track progress made on diversity and inclusion initiatives
- undertake equality analysis on policies and practices, for example on promotion and our internal recognition awards
- ensure change activity takes account of potential impacts and undertake effective equality impact assessments

8. In April 2021, Acas launched an internal campaign to improve our staff declaration rates, in particular around disability which stood at 33%. With support from our internal staff disability network and senior disability champion, our programme of activities comprised:

- staff information sessions, including for our senior leadership team
- a video setting out the business case and information around data handling
- publication of frequently asked questions, including whether line managers or colleagues can view personal details

In June 2021, we also sent targeted emails to those who had not yet completed their information, resulting in an increase in disability declaration rates from 43% to 59% in July 2021. As of February 2022, our disability declaration rate stood at 62%, and our efforts to further improve this figure are ongoing.

Section B: Benefits and barriers to disability reporting

This part responds to questions 7 to 12 of the consultation.

9. Evidence gathering is critical in developing an understanding of the representation and experiences of disabled people at work, but meaningful change requires more than collecting and reporting on data alone – also essential are detailed, regular analysis and focused action, with clear routes of accountability for both the process and the outcomes.

10. Disability workforce reporting can be one part of a broader package of measures aimed at increasing the recruitment and retention of disabled people at work. Whether mandatory or voluntary reporting, it can bring a number of benefits. For example, it can help organisations:

- showcase their proactive commitment to creating fairer and more diverse and inclusive workplaces and demonstrate a willingness to hold senior leaders to account both inside organisations and externally with all relevant stakeholders
- forge greater trust amongst the workforce and other key stakeholders, for example, investors and shareholders, and attract new employees and customers (where data is available in a public domain and subject to the detail of the reports). Reporting can be part of the evidence that organisations use to reflect the growing interest in demonstrating 'social responsibility' under the environmental, social and governance (ESG) agenda
- create a source of insight into the drivers of inequality and target efforts and strategies more effectively
- track progress of measures and interventions and adapt accordingly
- establish a baseline from which to undertake further analyses, for example, on pay and progression

11. Disability reporting can also bring wider benefits to the labour market and society, such as widening the evidence base on the persistent disability employment gap, including indicating the specific areas of weakness, and supporting the government to reach its ambition to see one million more disabled people in work by 2027.

12. There are also a number of challenges. Whether mandatory or voluntary reporting, one of the crucial hurdles facing employers is their capacity to skilfully collect, analyse and report data.

13. While there is growing interest in disability reporting, some employers may not have the necessary HR or administrative systems or processes in place to begin to collect this data and may need to introduce these for the first time. Others will need to work with external providers and developers to adapt existing reporting mechanisms, and changes may not always be feasible (see paragraph 5). Should the government mandate disability reporting, it will therefore be important to provide an appropriate lead-in time for businesses in order to minimise impacts on costs and resources. The government may also wish to consider how to bring HR software companies on board to support any changes, in particular if standardised wording is to be introduced.

14. The effectiveness of any reporting framework relies greatly on the quality and reliability of data. Disability reporting requires employees to self-report. Some employees may be concerned about data confidentiality, while others may fear that disclosure could impact negatively on their jobs and career progression. This may particularly be the case where reporting is the first time that employers become aware of an individual's disability. A lack of confidence in the process can result in low declaration rates and therefore incomplete and distorted data. Broader trusting relations between employees and managers will also provide the important backdrop to greater engagement in this process.

15. New regulations in general can also carry the risk of being perceived by some employers as solely a compliance or 'tick-box' exercise, without any commitment to genuine change in behaviours and practices. There may be little incentive to act on the information collected, in particular where there is no additional requirement to publish a supporting narrative or action plan.

16. Maintaining a voluntary approach to reporting would give employers the continued freedom to determine their own approach, recognising that there will be differing capacities to collect and report on data. Evidently, there is nothing preventing employers from opting to go further where there are legal requirements in place. But the lack of regulation and enforcement could risk failing to effect the change necessary to create more diverse and inclusive workplace practices.

17. Other challenges associated with a voluntary approach include:

- non-standardised methodology, with organisations able to adopt different reporting frameworks and adapt existing ones, including the government's voluntary framework, resulting in an inconsistent approach to the wording of questions and responses
- no single platform or portal on which to report or publish data nor specific timeframe to do so, affecting the ability to build a clear and holistic picture of disability inequalities and monitor progress at regular checkpoints

18. Whether mandatory or voluntary, any approach should be accompanied by a wider programme of awareness-raising work to support employers to implement and improve reporting practices. Measures could include, for example:

- promoting the business case
- sharing of good practice, such as employer case studies
- clear and practical guidance

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

This part responds to questions 13 to 18 of the consultation.

19. Identifying the proportion of the workforce who consider themselves to be disabled is an important starting position from which to pinpoint and address disparities. Reporting at this binary level (disabled or not disabled) provides a level of simplicity both in terms of

gathering and reporting data.

20. However, using this binary approach also risks masking the vast range of health conditions and, subsequently, people's diverse experiences. At the same time, requiring employers to report on specific conditions brings other complexities, including determining which to prioritise and a risk of inadvertently identifying individuals and having insufficient data to report. Some employers (including Acas – see paragraph 4) may add a supplementary approach with a voluntary option for individuals to specify their health condition which allows for further analysis.

21. More granular detail of an employee's life cycle, such as around pay and progression, would be helpful in gauging where to prioritise any measures. Indeed, gender pay gap reporting for large employers has been in effect since 2017, providing a good basis for employers to explore other characteristics. Employers should also recognise the combined effects of different characteristics and be encouraged to undertake intersectional analyses.

22. Another important consideration is whether to require employers to publish a supplementary narrative and action plan. These provide an extra layer of transparency, enabling employers to delve beyond the figures, explain the context and set out the steps it will take to address any anomalies.

23. As noted in the consultation document, there are a multitude of ways people may be asked to self-identify as disabled. Acas therefore supports a standardised approach (in the question and response categories) which would provide consistency and enable cross-organisational and sectoral analysis. This approach would be subject to review if knowledge and insight nationally suggest a revision of categorisation.

24. Turning to the standardised wording, the government's work in developing and building consensus on the recommended question in its voluntary framework will naturally be useful to draw upon. The wording is helpful in its simplicity, as well as in its reference to 'long-term health condition' and mention of both mental and physical health conditions. Indeed, many individuals may prefer not to identify as being disabled or may not be aware that their condition could amount to a disability. The wording may be further expanded upon to provide a definition of 'long-term', as it does in the Government Statistical Service's wording. It may also be useful to provide illustrative examples of 'day-to-day activities' in the Government Statistical Service's wording.

25. Another possibility is that any standardised wording could reflect the definition of a disability in the Equality Act 2010 ('the Act'). There are a number of complexities to consider in this scenario, however. For example, the use of the word 'substantial' in the Act could potentially be misleading to those who are not familiar with applicable case law, which states that the 'adverse effect' need only be one that is more than 'trivial' or 'minor' to be deemed 'substantial'. Further, when considering whether they are disabled under the Act, individuals may not be aware that the law provides that the effect of medication is generally meant to be disregarded.

Similarly, they may not be aware that certain conditions are automatically classed as a disability (cancer, HIV, multiple sclerosis (MS), and certain visual impairments). A balance would need to be struck to make sure that any wording is both sufficiently accessible and detailed to enable individuals to provide as well informed a response as possible. Acas is happy to support the government and other stakeholders in developing a standardised approach. As mentioned in paragraph 13, the government may also wish to consider how it can work with HR software providers to introduce standardised wording across different systems.

26. As the government recognises, employers need to be supported to introduce disability workforce reporting in consistent and effective ways. Acas believes that clear and practical guidance would play a central role in supporting the implementation of any new regulations. When gender pay gap reporting was introduced, Acas worked closely with the Government Equalities Office (GEO) to produce guidance and training, and also partnered with the GEO to run a successful national awareness campaign. We would be happy to work with the government and other interested bodies to explore a similar approach.

27. In particular, using our expert knowledge of employment relations and learnings from gender pay gap reporting, Acas guidance could focus on how employers can create open cultures where staff feel safe and confident to share information and understand the collective aim of doing so. For example, employers should:

- explain why the data is being collected, how it will be used and stored, and who in the organisation will have access
- engage thoroughly with staff including any trade union or worker representatives, staff networks and employee resource groups to understand and address any concerns and blockers
- explain where and how to disclose and make changes, making sure the system and process are as simple as possible and accessible to everyone, for instance, by providing alternative methods to submit information where internet or computer access is limited
- more broadly, equip managers to have the skills, knowledge and confidence to have rich conversations with employees, for example, around reasonable adjustments

28. With adequate funding and resourcing, a central database for the reporting and publication of disability workforce information would help provide clear oversight and enable progress to be tracked more easily. Access to the data would also likely be of value and interest to new and existing employees, customers, investors and shareholders alike. Large employers may already have channels in place to publish this information, such as annual reports, so any additional reporting on another platform would require further resources, although this may be minimal. Government would also need to give due consideration to how any new rules would be enforced.

29. Government insights from the introduction of the Gender Pay Gap Reporting Regulations and its forthcoming impact assessment will no doubt be beneficial in helping to shape and inform any new system and any employer support measures needed.

Section D: Alternative approaches

This part responds to question 19 of the consultation.

Flexible working

30. Managed well, greater availability and uptake of the diverse forms of flexible working arrangements have the potential to unlock more job opportunities for disabled people. Introducing flexible working can amount to a form of reasonable adjustment that would enable many individuals to stay and thrive in work.

31. As noted in [Acas's response to the government consultation on making flexible working the default](#), we believe that removal of the qualifying period to make a statutory request can help normalise flexible working. Additionally, we suggest that it would be good practice for employers to include specific flexible working arrangements in job adverts and actively encourage meaningful conversations upfront. This could help shift some of the onus away from individuals to request flexible working and also attract a more inclusive range of applicants, including disabled people.

Understanding aspects of disability discrimination

32. As evidenced through Acas EC and ET1 statistics cited in paragraph 3, the prevalence and nature of disability discrimination cases underline the need to overhaul workplace cultures to address negative deep-rooted attitudes and behaviours.

33. [Acas's disability discrimination advice](#) covers the law and highlights the collective responsibility of senior leaders, managers and individuals including bystanders in creating safe and inclusive working environments. To complement our existing advice, Acas will also shortly publish more detailed, good practice guidance aimed at both employers and employees. The guide will cover areas including:

- talking about disability at work
- how an employer should support disabled people
- managing a disability that gets worse over time
- managing absence and capability

34. It should be acknowledged that the nature of discrimination can often be complex. One fundamental aspect is that individuals have multiple identities (of which being disabled may be one) which can interact and combine to shape workplace experiences. Greater understanding of intersectional multiple discrimination and how this can play out at work would be helpful in building more inclusive working environments. Previous [research by Acas on individuals' experiences of multiple discrimination](#) provides a useful starting point.

35. Acas would welcome partnering with the government and others to explore further avenues to increase the representation and fair treatment of disabled people at work, and how this can be translated into practical support.