



Progress Through Transparency

The case for mandatory
disability employment
and pay gap reporting



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Foreword



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Harnessing the full potential of the UK's diverse workforce has never been more important for the country's economic success. Inclusive organisations are more effective and creative and, as a result, more likely to be successful and resilient in difficult economic times.

Business simply cannot afford to miss out on talent, which is why in 2022, the IoD hosted the Future of Business Commission with the aim of developing best practice in embedding equity, diversity, and inclusion in workplaces.

Through extensive research and engagement with business leaders across the UK, the Commission developed recommendations for government as to how they can support businesses to build working environments in which all talent can thrive and contribute to business success.

A key recommendation of the Commission was for the government to introduce mandatory disability workforce reporting for employers with 250 or more staff, and we are pleased to support the current government's intention to introduce mandatory disability pay gap reporting for large employers.

It is essential that disability workforce reporting requirements are carefully designed and implemented, to ensure that the compliance burden for business is minimised while engendering real change in disability inclusion in the workplace.

We believe that the recommendations in this paper represent an excellent foundation for getting that balance right.

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Introduction

In July 2024 the UK government announced its plans to introduce disability pay gap reporting for large employers. It subsequently included these plans in the draft Equality (Race and Disability) Bill. Disability@Work and the Institute of Directors view this as a welcome step forward.

Gender pay gap reporting has had significant positive effects in reducing the UK's gender pay gap.¹ Given this, our view is that if mandatory disability pay gap reporting is introduced along similar lines, it will have similarly positive effects in reducing the UK's 12.7% disability pay gap.²

However, both Disability@Work and the Institute of Directors believe that the Equality (Race and Disability) Bill needs to include mandatory disability employment as well as pay gap reporting. This would involve employers publishing on their own website the percentage of their workforce that is disabled, and also submitting this figure to the government to be published on an official government website. We believe that this would provide important contextual information in helping understand employers' pay gap data, as well as having several other positive effects. Disability pay gap and employment reporting should therefore be considered to be complementary measures, both of which are important indicators of the presence of disability-related disadvantage.

Both Disability@Work and the Institute of Directors have advocated for mandatory disability employment reporting for several years.³ It is also a primary ask of the Disability Employment Charter,⁴ of which Disability@Work is a founder member.

This has now been signed by more than 240 organisations including virtually all the UK's large disability charities, a wide range of disabled people's organisations, a growing number of large private sector employers, NHS Trusts and local authorities, and the country's largest trade unions.

This demonstrates the widespread support for mandatory disability employment reporting across a range of stakeholders. Mandatory disability employment reporting is also supported by the Confederation of British Industry,⁵ the House of Commons Work and Pensions Committee,⁶ and the Centre for Social Justice Disability Commission.⁷ The previous government acknowledged the business case for disability employment reporting in developing inclusive workplace cultures and encouraging a more open approach.⁸

In what follows, we first outline the reasons why we believe the introduction of mandatory disability employment reporting would help enhance disability pay gap reporting. We then outline the further ways in which it would help address disability-related disadvantage. Following this, we outline our proposals for the design of a mandatory employment and pay gap reporting system. Finally, we discuss the importance of an employer narrative and propose a hybrid metric that takes both disability pay gap and employment reporting into account.

¹ Blundell, J., Duchini, E., Simion, S., & Turrell, A. (2024) Pay transparency and gender equality. American Economic Journal: Economic Policy. Online First.

² ONS (2024) Disability pay gaps in the UK: 2014 to 2023. ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/disabilitypaygapsintheuk/2014to2023#:~:text=1..on%20the%20disability%20pay%20gap.

³ disabilityatwork.co.uk/wp-content/uploads/2022/05/Disability@Work-submission-to-the-Disability-Workforce-Reporting-Consultationfinal.pdf ; iod.com/news/inclusion-and-diversity/iod-policy-recommendations-for-creating-more-diverse-workforces/

⁴ disabilityemploymentcharter.org

⁵ cbi.org.uk/articles/disability-reporting-done-well-will-drive-inclusivity-in-the-workplace/

⁶ Second Report of Session 2021-22, HC 189. committees.parliament.uk/publications/7913/documents/82674/default/

⁷ centreforsocialjustice.org.uk/wp-content/uploads/2021/03/CSJJ8819-Disability-Report-190408.pdf

⁸ gov.uk/government/publications/national-disability-strategy

The benefits of disability employment reporting

Disability@Work and the Institute of Directors believe there are two main benefits to disability employment reporting in addressing disability employment disadvantage. First, it would provide important contextual information to help employers interpret and explain their disability pay gaps. Second, it would help employers understand the progress they are making in increasing diversity and inclusion in their organisation, thereby helping address the disability employment gap. This section explores these arguments in turn.

Helping employers interpret and explain their disability pay gap

If disability pay gap reporting is introduced in a manner consistent with gender pay gap reporting, this would involve employers reporting mean and median hourly pay by disability status, and also the percentage of disabled people in each pay quartile, thus identifying whether disabled people cluster at the bottom end of the organisation, or are distributed equally throughout the pay hierarchy. This would be our recommended approach.

Our view is that this will prove effective in helping reduce organisations' disability pay gaps by rendering these gaps more visible. However, used on its own, disability pay gap reporting could lead to some potentially misleading conclusions. For example, where employers report very small disability pay gaps, this may seem a positive outcome. Yet if this is because they employ proportionately very few disabled employees, and these disabled employees happen to be in relatively senior positions, this should not be seen as a clear indicator of success.

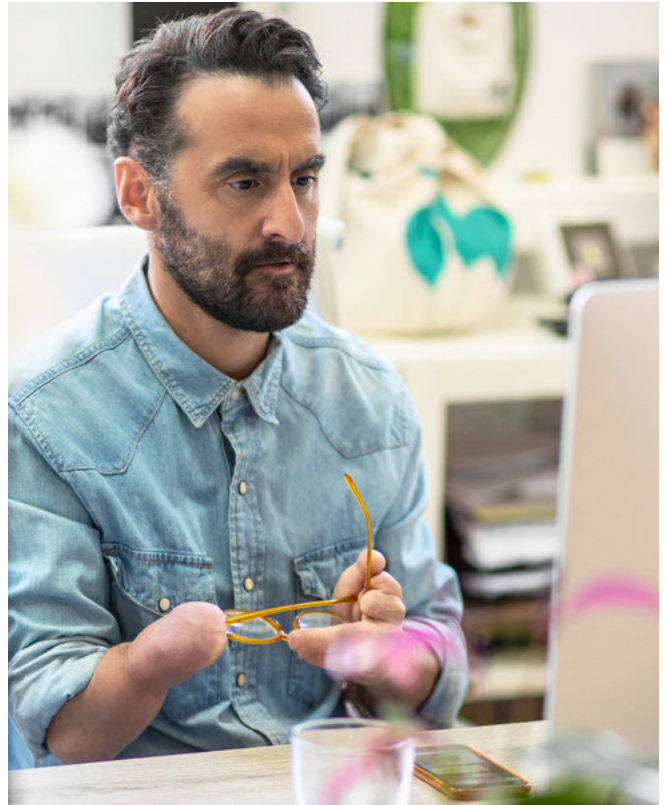
Conversely, in instances where employers have a relatively large disability pay gap, this might in some cases reflect noteworthy efforts by these employers to hire large numbers of disabled employees into entry-level roles, with a view to promoting them at a later stage.

This is why disability employment reporting (in terms of employers reporting the percentage of their workforce that is disabled) as well as disability pay gap reporting is important. This would help to identify instances where either large or small disability pay gaps might result from the sorts of scenarios outlined above. As such, disability employment reporting would provide useful context that would facilitate a more nuanced understanding of employers' pay gaps. This is particularly important given concerns that disability pay gap reporting on its own might deter employers from hiring disabled people into entry-level roles given the negative impact this might have on their pay gap figures. Requiring employers to also report their disability employment figures would help counter this concern.

The additional beneficial effects of disability employment reporting

As well as providing important context for employers' disability pay gap figures, we argue that disability employment reporting will have additional positive effects in its own right for the following six reasons.

1. The key labour market barrier many disabled people encounter is getting into and remaining in work, as reflected by the size of the disability employment gap, which has remained at approximately 28 percentage points for the last five years. Reducing the disability employment gap will require employers to hire and retain disabled people in proportionately greater numbers. On the principle of 'what gets measured gets done', disability employment reporting will place the hiring and retention of disabled people firmly on the boardroom agenda, and will help employers understand the progress their organisation is making regarding this. This in turn may encourage boardrooms to raise awareness within their organisations of the business case for hiring and retaining disabled people in greater numbers, including providing access to a larger and more diverse labour pool (thereby reducing recruitment and skills shortages), and also having a workforce that reflects and appeals to a wider customer base.⁹
2. Related to the above, disability employment reporting will provide employers with consistent baseline data against which to track the effectiveness of their efforts to hire and retain disabled people in greater numbers over time. This will enable employers to introduce and observe changes in measurable KPIs regarding disability employment.¹⁰ Also, if disability employment data is collected in a systematic and comparable manner across employers (as we recommend should be the case), this will enable employers to benchmark their disability employment figures against national, regional and sectoral averages.



⁹ disabilityatwork.co.uk/wp-content/uploads/2022/05/Disability@Work-submission-to-the-Disability-Workforce-Reporting-Consultationfinal.pdf

¹⁰ iod.com/app/uploads/2022/11/IoD-Future-of-Business-recommendations-to-government-ACCESSIBLE-ba71de640fa9484c5b0da79b83bef4b0.pdf

3. If disabled people feel the data they provide will not be treated confidentially by their employer, or will impact their career progression negatively, they may be unwilling to report their disability status. In such instances, the workforce disability prevalence figures that employers report are likely to be unduly low. Mandatory disability employment reporting therefore incentivises employers to ensure they have a positive diversity and inclusion climate in which disabled employees feel confident to report their disability status in order to avoid the potentially negative reputational effects associated with reporting low numbers. This might involve ensuring disabled people have the adjustments they require, and ensuring awareness across the organisation of the aforementioned business benefits of employing disabled people in larger numbers.
4. Disability employment reporting will provide disabled people with the data they need to identify the employers that are more likely to hire and retain them, thus enabling them to focus on these employers in their job search activity. Employment advisers will also be able to draw on this data in assisting disabled people in their job search activity.
5. Disability employment reporting will enable employers' organisations and government to identify the organisations with the highest disability employment prevalence, and to then investigate the causes of this high prevalence. If this is found to result from the adoption of certain disability employment policies and practices, employers' organisations and the government would then be able to disseminate these policies and practices across the economy more widely, thus further helping improve disability employment outcomes.
6. Disability employment reporting will enable reform of other government disability employment policies, including the government's Disability Confident scheme and government rules on social value in procurement. Regarding Disability Confident, certification is currently based on the policies and practices organisations say they have adopted. However, evidence shows that workforce disability prevalence is barely any different in Disability Confident than in non-Disability Confident organisations.¹¹ Given this, Disability@Work¹² and the Institute of Directors¹³ as well as the Disability Employment Charter,¹⁴ the Work and Pensions Select Committee,¹⁵ the Lord's Public Services Committee,¹⁶ and the Centre for Social Justice Disability Commission¹⁷ have proposed that the certification criteria should be reformed so it is based on whether employers meet certain thresholds regarding the percentage of disabled employees in their workforce. Mandatory disability workforce reporting would provide much of the data necessary for this reform to be enacted. Regarding government rules on social value in public procurement (as outlined in PPN 06/20),¹⁸ these rules already enable disability employment commitments in tendering organisations to be taken into account in contract award decisions. Mandatory disability employment reporting would allow for tendering organisations to be assessed based on the percentage of disabled employees in their workforce, thereby rewarding organisations that provide greater social value.

¹¹ disabilityatwork.co.uk/wp-content/uploads/2023/12/Disability@Work-Disability-Confident-research-brief-December-2023.pdf

¹² disabilityatwork.co.uk/wp-content/uploads/2023/12/Disability@Work-Disability-Confident-research-brief-December-2023.pdf

¹³ iod.com/app/uploads/2022/11/IoD-Future-of-Business-recommendations-to-government-ACCESSIBLE-ba71de640fa9484c5b0da79b83bef4b0.pdf

¹⁴ disabilityemploymentcharter.org

¹⁵ committees.parliament.uk/publications/40930/documents/200444/default/

¹⁶ publications.parliament.uk/pa/ld5901/ldselect/pubserv/12/1202.htm

¹⁷ centreforsocialjustice.org.uk/wp-content/uploads/2021/03/CSJJ8819-Disability-Report-190408.pdf

¹⁸ gov.uk/government/publications/procurement-policy-note-0620-taking-account-of-social-value-in-the-award-of-central-government-contracts

Considerations in the design of a mandatory reporting system

Effective disability employment and pay gap reporting both rely on the ability to collect valid information from employees regarding their disability status. Getting the design of the questions and the system to gather this information right is therefore critical if disability employment and pay gap reporting are to have the desired positive effects. It is important to note that if the government introduces mandatory disability employment as well as pay gap reporting, this would result in barely any greater additional administrative costs for employers given that employment reporting would simply require them to report data that they would need to collect anyway for the purposes of calculating their pay gaps.

If disability employment and pay gap reporting are to be meaningful, it is essential that employers identify who their disabled employees are in a consistent and standardised manner. For this reason, the process by which employers identify their disabled employees needs to be carefully laid down by government. In the absence of a standardised government-led approach, many employers may remain unsure how to measure, collect and analyse disability data. Also, if employers take different approaches, the value of the data would be undermined as it would not be possible to compare the data systematically across organisations, or to develop regional and industry benchmarks.

Data on disability is more difficult to measure and to collect than data on other protected characteristics such as gender, given that disability is a complex and multi-faceted concept with legal, social, cultural and functional components.¹⁹ It is also not fixed over time and is affected by changing impairment and/or environmental factors. Furthermore, the hidden nature of many impairments and the stigma which can attach to disability can lead to non-disclosure and/or mismeasurement. Hence, it is essential that the government introduces a workable reporting system that is not overly complex, and is based on a recognised and standardised definition of disability.

As such, Disability@Work and the Institute of Directors recommend a straightforward approach that would require employers with 250 or more employees to ask their employees on an annual basis about their disability status using: (i) a standardised question; and (ii) a standardised data collection method. We elaborate on this recommendation below.

A standardised question

We argue that in asking their employees about their disability status, employers should be required to use a standardised question from which they should not be permitted to deviate. This is important given that small differences in question wording can yield large differences in reported disability figures.²⁰ Hence, if employers use different wording from each other it would not be possible to compare the figures across organisations, use the figures to underpin reform of other schemes (e.g. Disability Confident and social value in public procurement), or develop averages for benchmarking purposes.

Our view is that employers should use the Labour Force Survey (LFS) question in asking employees about their disability status. The LFS is the government's main source of national disability statistics, and is used to monitor progress towards meeting national disability employment commitments.

¹⁹ Wass, V. (2016) chapter 2 in Fevre et al. (2016) Closing disability gaps at work. disabilityatwork.co.uk/2016/11/06/closing-disability-gaps-at-work-deficits-in-evidence-and-differences-in-experience/

²⁰ Bajekal, M., Harries, T., Breman, R. and Woodfield, K. (2004) Review of disability estimates and definitions. DWP In-house Report 128.

The question asks respondents: “Do you have any physical or mental health conditions or illnesses lasting or expecting to last 12 months or more?”. If respondents answer in the affirmative, they are asked the follow-up question: “Does your condition or illness reduce your ability to carry out day-to-day activities?” (Yes, a lot; Yes, a little; Not at all). Respondents answering “Yes, a little” or “Yes, a lot” are defined as disabled.

This question has several advantages:

- It has already been piloted and validity tested by the ONS.
- It is consistent with the Equality Act 2010 definition of disability.
- It is consistent with the social model of disability, given it invites respondents to reflect on whether it is obstacles or barriers in society that result in their condition or illness having limiting effects, rather than assuming their condition or illness has limiting effects.
- The question asks employees whether their condition or illness reduces their ability to carry out day-to-day activities, rather than asking whether it affects their ability to carry out their job role. This reduces the likelihood that employees will not identify as disabled because their employer has put extensive reasonable adjustments into place that have minimised the impact of the employees’ condition or illness at work.

We appreciate there is likely to be considerable debate over how the question should be worded, given different stakeholder organisations may understandably call for the question to gather information on the specific impairments on which they focus. For example, mental health charities may suggest the question needs to separate out the proportion of the workforce with mental health impairments from the proportion with physical health conditions or impairments. However, while this is an important consideration, other stakeholders will likely make similar appeals of equal merit. Since it would not be feasible to develop a universal standard question that refers to all impairments in detail, the government should resist calls to list or name specific conditions or impairments within the question. This is consistent with how disability as a protected characteristic is defined in UK equality legislation, and the national policy focus on the overall disability employment gap.²¹

²¹ disabilityatwork.co.uk/wp-content/uploads/2022/05/Disability@Work-submission-to-the-Disability-Workforce-Reporting-Consultationfinal.pdf

A standardised data collection method

We argue that as well as using a standardised question, the reporting process should also use a standardised data collection method, which would require all employers to collect the data in the same manner. There are several potential methods by which employers might collect data on their employees' disability status including anonymous staff surveys, information collected during recruitment, and invitations to declare disability to the employer's HR records. A standardised data collection method is important given that these different methods can produce substantial variation in the reported figures. Hence, if employers were to use different data collection methods it would not be possible to compare the data across employers in a meaningful way.

Therefore, our recommended approach is for employers to collect data on an annual basis by distributing to all their employees a standard government form that cannot be altered or changed. Employers might choose to distribute this form either electronically or using a paper-based form for employees who do not have access to electronic communication in their day-to-day job roles.

This follows the tried-and-tested approach taken in the US under Section 503 of the Rehabilitation Act 1973.²² This requires employers with federal government contracts to report the percentage of their workforce that is disabled to the Office of Federal Contract Compliance Programs within the Department of Labor, with employers being required to use a standardised form when asking their employees about their disability status (form CC-305).

Important to note is that employees are asked on this form to provide their name and employee ID number, hence the data is not anonymous. We advocate a similar non-anonymous approach in the UK, as it would otherwise not be possible for employers to match the data on employees' disability status to the organisation's pay records, and hence calculate their disability pay gaps.

It would be anticipated that employers would provide assurances to the workforce that although the data is non-anonymous it would be treated as confidential, not least to maximise response rates and accuracy of reporting. To avert the possibility that employees do not know their employee ID number, or that they state a name on the form that is different from their name on the organisation's HR records, we would recommend that these sections of the form are pre-populated by the employer.

We would also advocate, as in the US, that the form explains to employees why they are being asked to complete it (i.e. it is a legal requirement for the employer to ask them to do so, the data will help the employer understand their workforce characteristics, and it will help the employer improve the support it offers to disabled employees). It is likely that this will help increase response rates. The form should also reassure employees that the data will be treated confidentially.

One concern that employers sometimes raise is that even in carefully designed systems large numbers of employees will not respond to questions about their disability status. However, NHS England has a response rate of 84% to requests for staff to identify whether they are disabled on their staff records, while the Equality and Human Rights Commission has a response rate of 91%, with 18% of respondents declaring a disability,²³ which is a higher response rate than for certain other protected characteristics, including marital status and sexual orientation. This suggests that concerns over response and declaration rates may be exaggerated. Nevertheless, to provide additional contextual information on employers' disability employment data, employers should be required to report the response rate regarding the percentage of employees who responded when asked about their disability status.

²² dol.gov/agencies/ofccp/section-503

²³ assets.publishing.service.gov.uk/media/66e17231ffd9de94d398eb15/EHRC_Annual_Report_and_Accounts_2023-2024_Final_certified.pdf





The importance of a narrative, and the use of a single hybrid measure

As outlined above, one concern with disability pay gap reporting is that it might provide an unfairly negative portrayal of employers that are taking positive steps to hire more disabled people,²⁴ especially employers that have hired disabled people initially into lower organisational levels or lower pay grades with a view to promoting them in the future. Such employers may thus have larger disability pay gaps than employers not attempting to hire more disabled people.

Disability employment reporting will, as outlined above, provide important contextual data that will help mitigate this concern. However, we also recommend that employers are given the option to provide a narrative alongside their disability pay gap and employment figures. This would allow employers to explain and demonstrate whether their disability pay gap is due, for example, to the positive steps they have taken to hire larger numbers of disabled people into the organisation, or from hiring disabled people who are unlikely to be able to move into higher pay bands given the nature of their impairment.

Going beyond this, however, to supplement disability employment and pay gap reporting, Disability@Work and the Institute of Directors suggest an additional hybrid pay gap/employment metric that accounts for both the employer's disability employment levels and their disability pay gap. This would provide a single comparative indicator that would disincentivise employers from avoiding hiring disabled people out of fear that it would damage their disability pay gap statistics. The hybrid pay gap/employment metric is calculated by dividing the organisation's median disability pay gap by the percentage of its workforce that is disabled, with lower scores representing more positive outcomes.²⁵ For example, an employer with a median disability pay gap of 10% but a disability prevalence rate of just 5% would receive a hybrid score of $10/5 = 2$. However, an employer with a larger median disability pay gap of 20% but a disability prevalence rate of 15% would receive a more favourable score of $20/15 = 1.33$.

²⁴ Work and Pensions Committee (2021) Disability Employment Gap: Second Report of Session 2021-22. committees.parliament.uk/publications/7005/documents/72950/default/

²⁵ disabilityatwork.co.uk/wp-content/uploads/2022/05/Disability@Work-submission-to-the-Disability-Workforce-Reporting-Consultationfinal.pdf



Summary

Both Disability@Work and the Institute of Directors view the inclusion of mandatory disability pay gap reporting in the draft Equality (Race and Disability) Bill as a positive step forward. However, as we argue above, our view is that the Bill also needs to include mandatory disability employment reporting.

The approach we recommend to mandatory disability employment and pay gap reporting can be summarised in the following four-step process:

- Employers with 250 or more employees should ask their employees on an annual basis about their disability status using: (i) a standardised question; and (ii) a standardised data collection method.
- Employers should use this data to calculate the percentage of their workforce that is disabled, their mean and median disability pay gap, and the percentage of employees in each pay quartile who are disabled. They should also calculate their hybrid pay gap/ employment metric.
- Employers should report these disability employment and pay gap figures, along with the response rates regarding the percentage of employees who responded when asked about their disability status, on their own website and also to the government. The government should then publish these figures on an official government website.
- Employers should be given the option to submit a narrative to government to accompany their employment and pay gap metrics and they should be encouraged to publish this on their own website. Where a narrative is submitted to government, this should be published by the government alongside the organisation's disability employment and pay gap figures.





A considerable number of organisations already report a range of disability metrics. This includes all the government's strategic suppliers (e.g. Balfour Beatty, Mitie, Serco), who are required to report to the Cabinet Office the percentage of their workforce that is disabled; the major broadcasters (the BBC, ITV, Channel 4, Channel 5 and Sky) all of whom have signed up to 'Diamond' (a system for tracking on- and off-screen diversity);²⁶ the Workforce Disability Equality Standard in NHS England, which requires NHS employers to report ten specific measures that compare the workplace and career experiences of disabled and non-disabled employees;²⁷ annual standardised workforce reporting in the civil service and government departments of the percentage of their workforce who are disabled, reported by pay and grading levels;²⁸ and statutory reporting of workforce disability prevalence in higher education institutions to the Higher Education Statistics Agency.²⁹ In addition, the Chartered Institute of Personnel and Development reports that over three quarters of employers already have all or at least some of the infrastructure in place to facilitate mandatory disability employment reporting.³⁰

There are therefore already many examples of good practice disability employment reporting across the UK. If mandatory disability employment as well as pay gap reporting is introduced in the draft Equality (Race and Disability) Bill following the principles outlined above, this would extend this good practice across the UK as a whole.

²⁶ disabilityatwork.co.uk/wp-content/uploads/2019/12/Proposal-for-transparent-reporting.pdf

²⁷ england.nhs.uk/about/equality/equality-hub/wdes/

²⁸ ons.gov.uk/employmentandlabourmarket/peopleinwork/publicsectorpersonnel/bulletins/civilservicestatistics/2018#proportion-of-disabled-civil-servants-increases

²⁹ hesa.ac.uk/data-and-analysis/sb256/figure-6

³⁰ CIPD/ YouGov survey 2019, reported in: centreforsocialjustice.org.uk/wp-content/uploads/2021/03/CSJJ8819-Disability-Report-190408.pdf

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Disability@Work was established in 2013 with the aim of conducting high quality policy-relevant research on disability in the workplace and the labour market, and to then encourage governments and employers to use this research to inform workplace practice and labour market policy. Disability@Work publishes its research as academic papers in highly-rated peer-reviewed international journals and also as briefs which it distributes widely to practitioners and policymakers. It is a founder member of the Disability Employment Charter, and regularly appears before Parliamentary Select Committees. It works closely with a wide range of stakeholders, which have recently included the All Party Parliamentary Group for Disability, the Centre for Social Justice Disability Commission, the Department of Work and Pensions, Disability Rights UK, the Foreign, Commonwealth and Development Office, and the Royal Society of Arts. For further information, please go to: disabilityatwork.co.uk

The Institute of Directors is a non-party political organisation, founded in 1903, with approximately 20,000 members. Membership includes directors from right across the business spectrum, from media to manufacturing, professional services to the public and voluntary sectors. Members include CEOs of large corporations as well as entrepreneurial directors of start-up companies. The IoD was granted a Royal Charter in 1906, instructing it to "represent the interests of members and of the business community to government and in the public arena, and to encourage and foster a climate favourable to entrepreneurial activity and wealth creation." The Charter also tasks the Institute with promoting "for the public benefit high levels of skill, knowledge, professional competence and integrity on the part of directors", which the IoD seeks to achieve through its training courses and publications on corporate governance.

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