New report on improving workplace diversity and inclusion.

On 20 March 2024, the Government-appointed "Inclusion at Work Panel" published its report on improving workplace diversity and inclusion. In our briefing, we round up the key points for employers to note.

The Inclusion at Work Panel (the **Panel**) was appointed in June 2023 to identify the interventions that increase fairness, inclusion and diversity, make the most compelling arguments in favour of good practice and, finally, develop a new "Inclusion Confident Scheme", complementing other such kitemarks such as the employers Disability Confident Scheme. The Panel concluded its work in December 2023 and published its final report on 20 March 2024. The report summarises the conclusions reached and why and sets out proposals for what the Government should do support more effective practices.

Key findings

Employers reported to the Panel that diversity and inclusion (**D&I**) was a complex and sometimes sensitive workplace agenda, with competing definitions and unclear evidence. Although employers reported wanting to "do the right thing", there were numerous barriers including the size of the organisation and its resources, lack of time to test new ideas and fear or saying or doing the wrong thing. In particular, employers reported concerns that issues of freedom of speech or expression affect D&I discussions in the workplace.

Non-legally trained managers and leaders reported finding it difficult to navigate the Equality Act 2010 and its duties. They also mentioned fear of legal action, conflicting or unclear HR policies and that bullying, harassment and discrimination were becoming "weaponised" in employment grievances. Some also suggested that well-intentioned actions to improve D&I were inadvertently breaking the law.

All agreed that more and better data and evidence would improve D&I strategies and interventions – noting that both quantitative data (e.g. on recruitment, retention, progression and pay rates) and qualitative data (e.g. from staff surveys) would be valuable, especially if it was in some way endorsed by the Government.

Key recommendations

The Panel concluded that a principles-based D&I framework would suit the needs of most employers, and should embed these six key guiding principles:

- meaningfully diverse workplaces are desirable and beneficial;
- visible diversity alone does not automatically make an organisation meaningfully diverse or inclusive;
- diversity and inclusion (and equity) decisions are rarely impartial – concerted efforts should be made to mitigate the impact of ideological biases;

- the impact evidence on D&I is mixed and often inconclusive – initiatives grounded in robust evidence should take primacy and employers should be open to learning and change; and

- D&I activities should be cost effective – employers have a responsibility to use money dedicated to D&I in a way that demonstrably achieves intended outcomes.

Ultimately, the Panel made three key recommendations to Government:

1. The Government should endorse a new D&I framework which sets out the criteria employers might apply to their diversity and inclusion practice to embed effectiveness and value for money. The proposed framework should be based on the six principles discussed above and focus on helping employers embed evidence-informed practices and adopt sophisticated recruitment and retainment practices.

2. The Government should fund, and work with, a research partner to develop a digital tool which allows leaders and managers to assess the rigour, efficacy and value for money of a range of D&I practices.

3. The Equality and Human Rights Commission should explain and clarify the implications of recent legal rulings for HR policies and staff networks. In particular, guidance should make clear an employer's legal duties and

responsibilities relating to the protected characteristic of belief and set out guiding principles to help employers manage situations where conflicts of belief arise. On top of this, the Panel felt the Government should promote its guidance on Positive Action in the Workplace (published in April 2023) and commit to regularly updating it, so that employers know to apply the positive action provisions in the Equality Act 2010 correctly.

However, the Panel did *not* recommend the introduction of a new Inclusion Confident Scheme at this stage for two reasons. First, it concluded that existing similar schemes already cover the concept of inclusivity in some way. The Panel was concerned that introducing another accreditation or compliance scheme would risk duplication. Second, the very broad and subjective definitions of "inclusion" make a precise and useful scheme near impossible.

The Government has yet to confirm whether these recommendations will be taken forward.

You can read the full report **here**.

BDBF is a law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please contact Principal Knowledge Lawyer Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.