



ASLEF

THE
INSTITUTE
OF
EMPLOYMENT
RIGHTS

>>> **On Track with Diversity**
2019 edition

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This publication, like all IER publications, represents not the collective views of the Institute but only the views of the authors. The responsibility of the IER is limited to approving the publication as worthy of consideration within the labour movement.



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FOREWORD BY MICK WHELAN, GENERAL SECRETARY

I want to see fewer people who look like me.

WHEN I stood up at our assembly of delegates – our annual conference – at the Marriott Hotel in Leeds in May I was pleased to see how diverse the Thomas Ambler room looked. Because I have spent 35 years on the railway, and 35 years as an active trade unionist, and I know how many train drivers look just like me. Middle-aged, male, and white.

That's why I was so pleased to see so many more young members, women drivers, and black, Asian and minority ethnic reps at our Annual Assembly of Delegates this year.

Because, while the trade union movement has not always been at the progressive cutting edge on some of these issues, this trade union is committed to equality and diversity in the railway industry.

As a trade union, we can only recruit, as members, those who have been selected, and trained, to work as drivers by the train and freight operating companies. But we work with these companies, every day of every week, to ensure they encourage women, as well as men, and black and minority ethnic, as well as white, people to become train drivers.

But the harsh facts are that, in 2019, only 6.5% of train drivers in England, Scotland and Wales are women; just 8% are from an ethnic minority; and only 15% are under 35. These percentage figures do not represent the communities we serve because 51% of the people in this country are female; 20% in the last census identified as ethnic minority; and 23% are aged 18 to 35.

Since our last *On Track with Diversity* report was published in 2012, we have seen something of a cultural shift. Old-fashioned gender stereotypes, reinforced by popular children's television programmes such as *Thomas the Tank Engine*, based on those perennial bestselling books written in the 1940s, '50s and '60s by the Rev Wilbert Awdry, have given way, to some extent, to posters, adverts, magazine features and TV documentaries showing positive images of women driving modern locomotives.

Plus, ASLEF has been pushing companies to allow more part-time and flexible working agreements. We know the lack of such arrangements has been a barrier in the past to women coming into our industry as many women still take on the primary responsibility for child care if they have a family. There is, we believe, light at the end of the tunnel. Especially if the recommendations at the end of this report are implemented by those of us who work in the rail industry.

And there is good news we should shout about. We believe that 'a train driver is a train driver is a train driver' – regardless of gender, sexuality, religion or race – and statistics compiled by the Government Equalities Office reveal that train drivers are now the best of British. Because train driver is the job with the smallest gap in wages between men and women of any occupation in the United Kingdom. While the overall gender pay gap in Britain is 18.4%, for train drivers it is just 0.7% (the gap, small though it is, is explained because more women than men work part time in our industry).

Train drivers are highly unionised and protected by strong collective bargaining agreements – factors which have helped deliver this success story. Although nobody has to belong to a trade union, 96% of the train drivers in England, Scotland and Wales choose to be members of ASLEF. We have 20,370 members and the highest density – the proportion of union members in an industry – of any trade union in this country.

We know the rail industry needs to do more to improve its recruitment policies – that's why we



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commissioned this report from the Institute of Employment Rights. I want to thank Nadia Motraghi and Ijeoma Omambala of Old Square Chambers for the detailed research, analysis, and recommendations in the following pages. As a union, we will work closely with the Train Operating Companies (TOCs) and Freight Operating Companies (FOCs) to ensure this happens.

When we asked Carolyn Jones, director of the IER, to work with us on this report, we said we wanted to examine the numbers of women, BAME, and young people in the rail industry. We did not ask Nadia and Ijeoma to look at LGBT+ or disabled drivers as the data is unreliable. Not everyone is comfortable with being out in the workplace, or of revealing certain disabilities, and we knew those figures would not be accurate.

ASLEF has been at the forefront of promoting diversity in our industry, and we will continue to work with the train and freight operating companies to ensure that train drivers are more representative of the communities they serve in 2020 than they have been in the past. That is the challenge. And I know it is a challenge to which we will rise.

So, next year, when I get up to speak at our annual conference, or address a branch meeting anywhere in England, Scotland or Wales, my aim is to see even fewer people who look just like me.



EXECUTIVE SUMMARY

The Executive Summary of the 2012 ASLEF 'On Track with Diversity' Report began with these words:

"ASLEF has a genuine commitment to the implementation of equal opportunities in the railway industry. However, it is apparent that among train drivers in Britain, most of whom are ASLEF members, the vast majority are white, male and middle-aged."

Whilst those words remain true in 2019 there have been significant developments and there has been positive change.

As before the aims of this 2019 report are to consider the current situation, review the data and trends, analyse the information collated and make recommendations as to what steps ASLEF might take to increase diversity within the grade of train driver and in turn to increase the diversity of its membership.

The report focuses on recruitment and selection methods and procedures by train and freight operating companies and considers whether the current approach to recruiting and selecting staff operates against the employment of women, people from black and ethnic minority (BAME) backgrounds and/or young people up to the age of 35.

One obvious explanation why most train drivers are white, middle-aged men is historical. There was no expectation, prior to the nationalisation of British Railways in 1948, that women would be employed in manual industries. It was in fact not until after the passing of the Sex Discrimination Act that Britain saw its first woman train driver and London its first woman tube driver. The stereotypical image of the train driver as a white man in dirty overalls remains all pervading. The sector is living with the legacy of that historical anomaly.

Although the rail industry benefited from the influx of immigrants in the late 1950s and BAME representation among train drivers increased as a result of the 1988 Train Crew Concept, which saw many move from the back of the train as a guard to the front as a driver, the representation of BAME people as drivers remains woefully low.

In 2012 only 4.2% of train drivers were women and only 5% were from BAME communities. Many train and freight operating companies employed no women or BAME people at all. Others had a much better record.

The 2012 report looked at why so few women and BAME work as train drivers when the proportion of women and BAME members is increasing in most other white, male dominated industries. It concluded that one obvious explanation for the under-representation of women and BAME workers was that very few women and BAME people actually apply for train driver roles in the first place.

This report revisits that issue and considers whether there has been any improvement in the numbers of particularly under-represented groups applying for train driver roles. It also considers developments in the recruitment process for train drivers since 2012 and asks whether there is evidence to suggest a likely positive impact on recruitment and retention figures for under-represented groups going forward.

In this report we consider further evidence on why under-represented groups do not apply to driver roles. We suggest some tentative answers to that based on our research for this project, which included a survey of all train and freight operating companies and interviews with a number of companies.

A lack of knowledge about the range of roles available in the rail sector remains a barrier to widening the pool of applicants. Since the 2012 report ASLEF has continued to work with Train Operating Companies (TOCs) and Freight Operating Companies (FOCs) with a view to achieving a more diverse workforce. To this end in 2019 ASLEF representatives have taken up a seat on the Rail Delivery Group's Diversity and Inclusion Board.

In 2018, Mick Whelan, General Secretary of ASLEF noted that ASLEF had been at the forefront of



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promoting diversity in the rail industry, “working hard to encourage train companies to ensure that train drivers are more representative of the communities they serve.”

In 2018, ASLEF began working in partnership with DB Cargo and Freightliner to secure greater diversity amongst freight drivers.

There is evidence that both train and freight operating companies have recognised the importance of working with schools and colleges to tackle gender, race and age-related stereotypes and to raise the profile of the industry and the opportunities which it has to offer.

The Prince's Trust, working with some TOCs including GTR, runs a short course for 16-25-year olds called 'Get Into Railways' aimed at developing young people's skills. TOCs and FOCs and Network Rail offer a variety of rail services apprenticeships. There is a current commitment to bring 20,000 apprentices into the industry by 2020.

Perhaps most significantly 2019 sees the launch of the Train Drivers Academy as a freestanding organisation, devised and funded by industry stakeholders. A number of ASLEF representatives have been heavily involved in the development of the Academy. The Academy, which operates online, is intended to improve the recruitment and training of train drivers. By pooling resources to standardise the training process it is hoped that operators will benefit from quality assurance and economies of scale.

Phil Barrett, the Rail Delivery Group's (RDG) rail modernisation team leader who headed up the Train Drivers Academy project said, “Drivers are a critical resource for the industry and the aim is to increase bandwidth for training drivers and to have enough trainees going through the system.”

Recognising one of the diversity issues facing the industry he also said, “We are also planning to improve the quality of driver training by working together and we very much want to improve diversity because there aren't enough female drivers.”¹

Operators will undertake the training of recruits themselves but will utilise standardised industry training resources, adopt industry best practice and promote innovative techniques. The training offered by the Academy will focus on two core elements. Part A will allow trainees to obtain their formal certification. Part B will cover the necessary driving hours, traction, route and company specific training necessary to become a qualified train driver. There will also be a level 3 train driver apprenticeship standard which combines Parts A and B with additional Maths, English Language, IT and communication skills training. ASLEF representatives have been closely involved in the development of the driver apprenticeship programme.

One particular issue which was highlighted by the 2012 research was the limited availability of part-time work. Historically ASLEF had not sanctioned part time working because of a concern that it would be misused by employers and have a negative impact on the terms and conditions of its members. Companies saw part time work as split shifts which operated as a greater deterrent to women workers as they were centred around the rush hour peaks.

However, research from almost every other sector indicates that a requirement to work full-time acts as a deterrent to female applicants. Increasingly TOCs and FOCs have been able to reach agreement with ASLEF as to flexible working arrangements that do not undermine job security or hard-won terms and conditions of employment. This has led to an increase in the availability of flexible working and alternative shift arrangements and an apparent consequential increase in the recruitment and retention of women drivers.

Clearly, the lack of flexible working arrangements does not explain the fact that disproportionately few BAME men apply for train driving jobs. But again, image is important. The current image of the train driver remains that of a white man although TOCs and FOCs are making greater efforts to employ recruitment and advertising material which reflects the presence of BAME people in local communities. More imaginative recruitment campaigns and community engagement activities are being deployed in

¹ RailStaff
News 13
March
2019

a bid to demonstrate that BAME people will be welcome.

The 2012 report indicated that its research suggested that for cultural reasons the train driving role is not one which parents from certain BAME communities would encourage their children to aspire to, as it was not perceived to have high status. Promoting the technical and other demands of the role alongside information about the rewards and other benefits of the job may begin to breakdown that particular prejudice.

Being clear about the positive attributes of the train driver role, the level of reward, the opportunities for career progression and job security is also likely to encourage applications from a younger demographic and begin to address the under-representation of drivers under the age of 35.

The Equality Act 2010 makes greater provision than before to undertake positive action initiatives in order to address under-representation. Companies are permitted (although not obliged) to target under-represented groups by taking special measures such as encouraging women, those under 35 and BAME people to apply for jobs; and by staging events and training courses which focus on under-represented groups.

Further, the Equality Act 2010 implements the Public Sector Equality Duty which obliges those organisations who carry out public functions, such as train operating companies in the public sector, government regulators and government departments which issue franchises, to give serious consideration to what steps it can take to advance equality of opportunity, which includes positive action measures to address under-representation.

There are a number of train operating companies which have taken advantage of positive action initiatives to try to encourage under-represented groups such as women and BAME people to apply. These initiatives continue to include adverts which are designed to present companies as inclusive and welcoming; adverts targeted specifically at women and placed where women are likely to read them; events and open days to encourage younger people, women and BAME people to apply; ensuring that interview panels are trained in preventing bias and internal recruitment strategies including anonymising application forms to encourage recruitment from a more diverse pool.

This report gives some further consideration to what steps ASLEF as a union can take to continue its pressure on TOCs and FOCs to increase diversity amongst train drivers. Clearly, the buck stops with the train and freight operating companies themselves who are responsible for recruitment. As Mick Whelan, General Secretary of ASLEF observed, "As a trade union we can only recruit as members people who have been selected and trained to work as drivers by the train and freight operating companies. But we work with those companies, every day of every week..." It remains an ASLEF priority to ensure they are encouraged and pressed to make train drivers more representative of the communities they serve.

It is important that ASLEF continues to support initiatives recommended in the 2012 report such as raising awareness of the importance of equality and diversity issues among staff and its membership, encouraging more young people, women and BAME members to be active within the union. Further development of ASLEF's position on flexible working patterns could also improve the recruitment and retention of a more diverse pool of train drivers. It is not just women or parents who seek more flexibility in their working arrangements. It is a potential benefit to employees from a variety of backgrounds in a wide range of circumstances. Current research suggests that those under 35 also value the opportunity to work less than full time hours in order to support choices around work/life balance and to pursue other interests.

No doubt ASLEF will continue to work in partnership with the TOCs and FOCs to support any positive action initiatives which they may be encouraged to implement.

Over the coming months, we will continue to work with ASLEF as ASLEF monitors and assesses the extent to which our recommendations have been implemented and to critically examine what further action can be taken to ensure the industry remains on track with diversity.



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CHAPTER ONE

Introduction

- 1.1 ASLEF has a genuine commitment to the implementation of equal opportunities in the railway industry. However, it is apparent that among train drivers in Britain, most of whom are ASLEF members, the vast majority are white, male and middle-aged.
- 1.2 ASLEF is keen to ensure that it has a diverse membership, reflecting the diversity of the communities which rail companies serve and the range of people who have the potential to become train drivers. Obviously, that can only happen if those employed at the train driver grade in the railway industry represent the diverse communities of those with the skills and potential to become a train driver.
- 1.3 In order to understand the reasons for the lack of diversity in the sector, in 2012 ASLEF commissioned an independent report from the Institute of Employment Rights, entitled 'On Track with Diversity' authored by Muriel Robinson, an independent legal professional. The aim of the report was to consider the current situation; review the data and trends; analyse the information and make recommendations regarding what steps ASLEF might take to increase diversity within the grade of train driver and in turn increase the diversity of the membership.
- 1.4 Most discrimination is unwitting, and it is often systems and infrastructure which result in discrimination against certain groups. In seeking to understand why the train driving grade is still dominated by white men, the 2012 report considered the systems in place to select and recruit staff to ascertain whether those recruitment systems inadvertently excluded or discouraged any particular group.
- 1.5 While aware that equality and diversity is an issue for all groups sharing a protected characteristic, the 2012 report focussed on two groups in particular: women and black and ethnic minority¹ people.
- 1.6 The 2012 report began by looking at the methodology employed to research the current situation and identify relevant practices and procedures. It considered the background and history of railway developments and looked at figures gathered which highlighted exactly how many female and black and ethnic minority train drivers are employed in each of the train and freight operating companies.
- 1.7 This report builds on the solid foundation of the 2012 report, adopting the same approach but extending its analysis to a consideration of the situation of drivers under the age of 35.
- 1.8 In this report in chapter 2, we use our research to analyse why there are so few people under 35, women and BAME train drivers in 21st century Britain. We consider what progress has occurred since the 2012 report and how it has been achieved.
- 1.9 In chapter 3, we review the legal context and consider what steps ASLEF might take within the confines of the law to positively encourage and support people from under-represented groups to become train drivers in the future.
- 1.10 In chapter 4 we focus on some positive action initiatives undertaken by a new train operating company, MTR, which has recognised the value in ensuring the diversity of the train driver grade. We also consider good practice adopted by other TOCs and FOCs.
- 1.11 In chapter 5 we make a series of recommendations for ASLEF to consider, including not just what ASLEF as a union can do but also what steps ASLEF can take in partnership with the TOCs and FOCs to encourage them to work harder to change the composition of the workforce.

This report builds on the solid foundation of the 2012 report... but extending its analysis to a consideration of the situation of drivers under the age of 35.

¹ The 2012 report referred to black and ethnic minority people as BEM for short. In this report we refer to BAME (Black, Asian and minority ethnic) which reflects current practice in 2019.

Methodology

- 1.12 In order to develop a picture of the current situation, we have deployed a number of methods to gather the information contained and analysed in this report. We reviewed some literature and research on the historical development of the train driver role in the rail industry in the second half of the twentieth century, which included helpful input from colleagues at ASLEF with comprehensive knowledge of the industry.
- 1.13 The union's own statistical breakdown of the current numbers of women and black and ethnic minority members employed by each of the train and freight operating companies in 2018, provided the essential information around which this report is structured and analysed.² With a union density of around 96%, these statistics, although not comprehensive, allow for a reasonably accurate indication of the numbers of women and black and ethnic minority drivers working for each of the train operating companies around the country.
- 1.14 The report Women in the Railway Survey, a report for ASLEF by the Labour Research Department published in Summer 2012, provided very helpful background data and opinions to assist in the analysis of the current situation regarding women in the industry.
- 1.15 The 2004 Rail Safety and Standards Board (RSSB) review of processes used for the selection and recruitment of train drivers with particular reference to the use of psychometric testing was consulted, as well as other reports published by RSSB, and our conclusions were informed by colleagues at ASLEF working on these issues.
- 1.16 To build up a picture of current industry practices, we developed an updated pro forma questionnaire which we circulated to all train and freight operating companies for completion.³ Thirteen train operating companies responded, and the information provided, although not comprehensive, was nevertheless helpful in informing our understanding of the recruitment and selection procedures currently employed. We are grateful to those companies that responded.
- 1.17 We are particularly grateful to staff at MTR for taking the time to meet with us and for sharing their experiences. We are also grateful to the eleven companies who assisted us by taking part in our industry survey. We have included a discussion about the positive action initiatives which MTR is undertaking in chapter 4, together with some examples of other initiatives in place at TOCs and FOCs across the UK.
- 1.18 The information gleaned from these sources provides a very valuable insight into how these companies have sought to increase diversity across the roles in their organisations and what initiatives might usefully be employed by other companies.
- 1.19 Whilst it is important to acknowledge those train and freight operating companies who were willing to engage with us on this important piece of work, and to acknowledge ASLEF's ongoing commitment to taking forward the equalities and inclusion agenda, it is disappointing to note that a significant number of companies felt able to ignore our invitation to provide information and to engage with us. It will require energy and commitment from *all* parties in the industry to make and consolidate meaningful progress.⁴ A major step forward would be to see the government requiring equality impact assessments, monitoring and reporting to be included in all future invitations to tender for rail franchises.

Background and history⁵

- 1.20 Why are most train drivers white middle-aged blokes? Well, one explanation is obviously historical. As in other manual industries, historically train drivers were inevitably male. Following the nationalisation of British Railways in 1948 the vast majority of trains were steam hauled. With the exception of some electric traction predominately in the south of England

A major step forward would be to see the government requiring equality impact assessments, monitoring and reporting to be included in all future invitations to tender for rail franchises.

² Appendix A

³ Appendix B

⁴ Appendix C contains a list of all companies asked to complete our questionnaire and a list of all those who responded.

⁵ Summary of historical perspective supplied by Simon Weller, ASLEF National Organiser <http://www.herstoria.com/discover/railwaywomen.html>

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the system was designed to be worked by two men on the locomotive, the driver and fireman. Steam locomotives are very labour intensive requiring a small army of cleaners, fire droppers, fire-lighters, coal trimmers and fitters etc. in addition to the drivers and firemen.

- 1.21 Women either did not work or worked for “pin money” in industries considered appropriate for their sex. There was therefore no expectation that women would be represented in the industry and this “small army” was inevitably exclusively male. Although women were employed in large numbers in the industry during the war (though not as train drivers), as with other industries, they were replaced by men following the end of the war and it was some considerable time before the country saw any meaningful representation of women in the sector.
- 1.22 Yet that premise, that women were not expected to be employed in manual industries or that they would work for pin money, no longer holds, and increasingly the woman in a household may be the main earner. There is now an expectation, in many quarters, that women will be represented across sectors, including manual industries, in fact in equal numbers and certainly on equal pay, with men. While in a large number of industries women are increasingly represented in higher and higher numbers, that is not the case in the rail industry generally and particularly not in relation to the train driver grade.
- 1.23 In the post-war era, with women no longer being welcome, there were labour shortages. Both British Railways and London Transport encouraged West Indian migrants to come to Britain and help relieve the shortages and thus we saw an increase in the numbers of black and ethnic minority men being employed in certain roles in the sector.
- 1.24 As labour became increasingly more expensive and modernisation was on the agenda, British Railways began a programme in the late 1950s and early 1960s of replacing steam traction with diesel railcars, diesel locomotives and some mainline electrification. These required far less labour to operate and maintain and along with the Beeching’s infamous “Reshaping Britain’s Railways” resulted in a requirement for less staff. Following dieselisation and line closures the displaced engine cleaners, firemen and maintenance staff were “put back” (junior drivers became firemen), in turn displacing the less senior firemen thereby causing redundancies.
- 1.25 This carried on into the 1970s and 1980s as services were reduced and single manning agreements on the footplate became the norm following the final cessation of steam heat in the mid-1980s. Up until this point, diesel locomotives had been hauling coaching stock designed to be worked and heated by steam locomotives. The diesel locomotives needed steam generators to heat the coaches and these boilers needed a driver’s assistant to tend the fairly unreliable equipment.
- 1.26 By the late 1980s a significant proportion of drivers who had started on the railways in the 1950s (including the first generation of West Indian migrants) would soon retire. Having seen only sporadic recruitment in the previous decades British Rail faced a serious driver shortage. This led to the introduction in 1988 of the Traincrew Concept: a new promotion structure that allowed older existing staff in other grades to become drivers. Previously no-one over the age of twenty-three was permitted to enter the line of promotion to train driver. Further, this concept encouraged rail workers, including guards, many of whom were BAME, to step up to the front plate, thus increasing representation from the BAME communities in the train driver role.
- 1.27 The Traincrew Concept temporarily filled the hole in driver numbers in the early 1990s but by later in that decade the overall driver shortage was exposed by privatisation. In the late 1990s and early 2000s the largest systematic recruitment and training program of train drivers since the end of the war took place. The vast majority of these new recruits came from outside the



Hannah Dodds,
first female
underground train
driver

rail industry and fundamentally changed the age profile of the UK's train drivers. Age and seniority were no longer intrinsically linked. However, the overall demographic remains both white and male.

The Current Situation

- 1.28 While the rail industry benefited from the influx of immigrants in the late 1950s and the BAME representation among train drivers increased as a result of the 1988 Train Crew Concept, the current situation does not suggest that any positive influence of role models has been long lasting.
- 1.29 Similarly, although large numbers of women worked in the industry in the wars, and while women were engaged as engine cleaners "to the disgust of the train driver's union ASLEF who refused to recruit them",⁶ no women were employed as train drivers. This is interestingly in contrast with women who were taken on in relatively large numbers as civilian pilots in the second world war in the Air Transport Auxiliary.⁷
- 1.30 It was not until 1978 that Britain saw its first woman train driver. Karen Harrison has described her first years as "ten years of hell and ten years of heaven" and commenting on the reaction of her male colleagues said "to a lot of men I was the proverbial turd in the swimming pool"⁸ The first woman tube train driver, Hannah Dodds, also qualified as a train driver in the late 1970s. She is quoted on an episode of The Tube saying "trains run a better service since women came on board".⁹
- 1.31 Since then however, progress towards equality in the train driver grade has been incredibly slow. A very good indication of the current numbers and proportions employed can be gained from a consideration of the composition of the current membership of ASLEF (See appendix A). While this table shows only the numbers and proportions of members (we were unable to get accurate figures of those employed across the industry), given ASLEF's very high union density, these figures are strongly indicative of the numbers and proportions employed as drivers by train and freight operating companies. This shows that in 2018, 6.5% of the membership was female, 8.3% was BAME and 15.8% of the membership was under 35.
- 1.32 In terms of women, Heathrow Express, now part of Great Western Railways, was one of the best performing organisations with 31% female members followed by Hull Trains, with 25% female members. In 2018, 30% of Southern's trainee driver roles were taken up by women, up from the 18% achieved in 2017.
- 1.33 Where a company employs a relatively small number of women, the addition of just one female driver can make a big difference to the statistics. There are still a number of companies where no women members are employed at all, these include COLAS IM, Eurotunnel, Island Line Trains, Metrolink and Tubelines.
- 1.34 ASLEF's success in building relationships and maintaining effective collective bargaining has resulted in a success story in terms of real progress to real pay equality. The job with the smallest gap in wages between men and women working in any occupation in the UK is that of driving trains. While the overall gender pay gap in Britain is 18.4%, for train drivers it is just 0.7%.¹⁰ That gap is largely due to the greater number of women than men working part time hours. Mick Whelan, ASLEF general secretary, identified a number of important factors that contributed to the train driver gender pay gap success story. These included the facts that train drivers are highly unionised and covered and protected by strong collective bargaining agreements. In welcoming the gender pay gap information he warned against complacency declaring that ASLEF would continue to work with TOCs and FOCs to make sure that they improved rail industry recruitment and workplace policies.¹¹

It was not until 1978 that Britain saw its first woman train driver. Karen Harrison described her first years as 'ten years of hell and ten years of heaven.'

6 <http://www.herstoria.com/discover/railwaywomen.html>

7 <http://www.airtransportaux.com/firsteight.html>

8 http://en.wikipedia.org/wiki/Karen_Harrison

9 <http://www.thisislondon.co.uk/news/pioneering-first-female-tube-driver-dies-6375023.html>

10 Government Equalities Office Gender Pay Gap Statistics 2018

11 ASLEF News 4 April 2018

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- 1.35** In terms of BAME members, unsurprisingly TOCs in London and the South East tend to have better representation rates. First Tram Operations has 32.4% BAME members, Heathrow Express now part of Great Western Railways, has 31% BAME members, Arriva Rail London 26.8% BAME members and London Underground Ltd has 25.1% BAME members. East Midland Trains was held up as an exemplar for race equality in UK workplaces in 2017 when it was identified as one of the UK's best employers for Race by 'Business in the Community'. Its recruitment team had undertaken a lot of work in seeking to encourage a more diverse workforce by tackling unconscious bias using anonymised candidate screening and running targeted recruitment campaigns.
- 1.36** Except for Tubelines, the same TOCs and FOCs with no women members also have no BAME members.
- 1.37** Perhaps benefitting from recent recruitment initiatives, members under the age of 35 are represented in significant numbers in some TOCs. 44.3% of drivers in MTR Crossrail, a new franchise, are under 35. 31% of members at Heathrow Express, 28.2% of members on Thameslink Great Northern, 23.8% of members on North East Metro Operations Ltd are under 35. Five other TOCs and FOCs have more than 20% of members under 35. COLAS IM, Eurotunnel and Metrolink have no members under 35 years of age.



CHAPTER TWO

Female train drivers: Where are we now?



- 2.1 In the UK in 2012 only 4.2% of 19,000 train drivers were women. Just 1.4% of freight drivers were women. These figures are perhaps not surprising in an industry where men overwhelmingly dominate supply and train driver roles with women occupying only 16.4% of jobs across the entire UK rail industry.¹ The representation of women in freight operating companies has improved but progress has been slower. ASLEF's membership figures for 2018 indicate that women make up 6.5% of its membership across all Train Operating Companies (TOCs) and Freight Operating Companies (FOCs). It follows that by any account, women are vastly under-represented amongst the train driver sector.
- 2.2 The 2012 report identified two key issues which affected the numbers of female train drivers. The first was a disproportionately low number of applications from women. The second was the lack of availability of part time or flexible working arrangements.
 - > **Lack of applicants**
- 2.3 The 2012 report identified the stereotypes of a train driver as a man and the role as a physical, dirty manual job, as disincentives to female applicants.
- 2.4 It is clear from our research that women remain under-represented amongst applications for train driver roles, including for trainee roles. TOCs and FOCs are now aware that these and other stereotypes remain barriers to female entry to the industry. Many have adopted measures to provide a more modern and representative picture of the train driver role. These measures include modifying recruitment material and language, making promotional or information videos, and championing female role models. However, it appears that whilst views of the industry are changing slowly, and some urban TOCs like MTR Crossrail are bucking the trend, these initiatives have not yet had a sufficient impact on the career choices being made by women.
 - > **Availability of part time/flexible working arrangements**
- 2.5 The 2012 report recounted indications from TOCs that they were keen to introduce more options for part time working arrangements but that this was resisted by trade unions. The report noted that the lack of part time or flexible work was likely to be a deterrent to women. It also observed that reduced hours and job sharing were measures which did not have the wholehearted support of the unions.
- 2.6 Since 2012 ASLEF has amended its charter which now includes the following clause:

‘Short term or fixed term contracts are unacceptable employment arrangements. However, ASLEF will actively seek to negotiate with TOC/FOCs part time contracts but not to the detriment of establishment numbers.’²
- 2.7 The Charter also now includes a clause which calls for “pro-active recruitment of persons of those groups e.g. women and ethnic minorities who are currently under represented among our member grades in the industry.”
- 2.8 ASLEF has also adopted an Equality and Diversity Charter which includes the following commitments:
 - That any decision made or policy agreed by ASLEF, either internally or externally will be done so ensuring there is no discrimination towards any member.
 - To actively work with TOCs and FOCs to tackle the barriers that lead to the under-

1 ONS Research 2018.

2 Revised ASLEF Charter agreed AAD 2018

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representation of those with protected characteristics within the industry.

- To develop and adopt diversity policies and practices which seek to change cultures and attitudes within the industry and of the ASLEF membership, providing where appropriate training and education on equalities issues to achieve this.
- To actively work alongside the main and regional groups of the TUC, Labour Party, labour and trade union bodies, NGO's and other like-minded organisations to promote and defend equality within society.

2.9 In addition, ASLEF has agreed its first, specific part time working links with MTR Crossrail. The agreement provides that training for the train driver role will still be undertaken on a full-time basis due to the cost of providing training and the length of time it takes. However, once the candidate has qualified as a driver, part time working rotas will be available on certain routes.

> *Suitable and affordable childcare*

2.10 This issue was not identified as a barrier to entry in the 2012 report. However, it appears that at least at the point of entry, childcare costs may be an issue. The availability of suitable childcare provision remains an issue. Train drivers are shift workers, often working early mornings and at night. Traditional childcare arrangements are not designed to cope with demands for provision of services at these times.

2.11 Once qualified and established in post, women drivers benefit from good pay and benefits and other terms and conditions as negotiated by ASLEF and therefore have access to significantly higher earnings than in traditionally 'female' sectors.

BAME drivers: Where are we now?

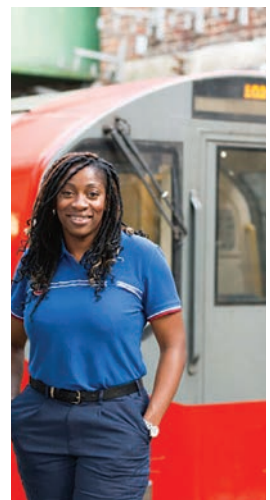
2.12 In 2012 approximately 4.5% of ASLEF members were BAME employees. In 2018 that figure was 8.3%. Then, as now, there are some TOCs and FOCs who do not employ any BAME drivers.

2.13 Whilst not focussed specifically on trainee drivers, a report by the Strategic Transport Apprenticeship Taskforce (STAT) published in July 2018³ noted that the proportion of women starting road and rail apprenticeships has remained static at 20% whilst BAME representation has risen from 14% to 19%.

2.14 The 2012 report identified stereotypes of train drivers as white men, racial prejudice and cultural attitudes which meant that some communities did not regard train driving as an appropriately prestigious or professional role, as barriers to entry for BAME people.

2.15 There have been significant resources targeted towards shifting this narrative. These have included ensuring that BAME people are included in images used in TOC and FOC recruitment and other corporate material.

2.16 Greater attention is focussed on the use of racially and culturally appropriate language and behaviour. In some organisations those engaged in recruitment are provided with training to help them identify unconscious bias and to minimise its impact on selection decisions. This has led to the adoption of 'blind screening'⁴ in some companies such as East Midlands Trains, where all identifying candidate information is removed from the application form with a positive effect on the number of BAME candidates employed. One step further is the process of 'blind auditioning' which removes all protected characteristic information from the application stage and replaces it with skills-based assessments derived from the job description which directly test the key skills required for the role. The process outcomes for HS2's apprentice cohort was 44% women, 36% BAME using this mechanism with very positive feedback from all applicants.



³ Transport Infrastructure Skills Strategy Two Years On

⁴ An unfortunate description which is however prevalent in HR and other fields.

Operating companies are beginning to see the value of encouraging BAME employees who are already with them to take the next step and, for example, make the move from customer assistance and platform roles to trainee driver positions..

- 2.17 A more innovative approach to providing career progression and ensuring retention of BAME employees is beginning to emerge. Operating companies are beginning to see the value of encouraging BAME employees who are already with them to take the next step and, for example, make the move from customer assistance and platform roles to trainee driver positions. These staff already understand the company's values and are currently an under-used and under-valued resource.
- 2.18 In some operating companies this more inclusive approach has seen the provision of help with the application process, interview coaching and mentors to members of staff who express an interest in progressing to more skilled and demanding roles.
- 2.19 Employers have embarked on equality and diversity training programmes for employees and managers, hoping to change organisational cultures and make them more inclusive and ethnically diverse. Mentoring, the provision of pastoral support and the use of buddy schemes also have valuable roles to play in the retention of BAME employees once they have been appointed.
- 2.20 Trade unions have reviewed their own practices and also placed greater efforts into challenging unacceptable behaviours wherever they are encountered. Since 2012 ASLEF has offered a variety of equality and diversity training opportunities at regional and national levels. In 2017, ASLEF introduced its 'Mind the Gap' campaign which promoted dignity and respect across its membership, in particular by challenging inappropriate language and behaviour in the workplace.
- 2.21 ASLEF also offers a Level 2 equality and diversity certificate to its representatives through its education project as well as access to online training modules. In 2017 ASLEF hosted an Equalities Weekend Training school. The event was open to any member who was interested in finding out more about the equalities agenda within the union and the workplace.

Drivers: 18-35

- 2.22 In 2018, approximately 15.8% of ASLEF's members were aged between 18 and 35. Responses received from TOCs and FOCs indicate that most companies require trainee drivers to be 21 years old at the point of employment. One or two permit applications from drivers who are 20 years and 6 months of age provided that they will be 21 by the time they complete their training. LUL allows its employees to drive trains at 18.
- 2.23 Perhaps because of the anticipated increase in the need for drivers due to the expansion of the sector, there has been a lot of activity designed to widen the pool for recruitment. Young people have been a particular focus. There is evidence that both train and freight operating companies have recognised the importance of working with schools and colleges to tackle gender, race and age-related stereotypes and to raise the profile of the industry and the opportunities which it has to offer.
- 2.24 The Prince's Trust, working with some TOCs including GTR, runs a short course for 16-25-year olds called 'Get Into Railways' aimed at developing young people's skills. TOCs and FOCs and Network Rail offer a variety of rail services apprenticeships. There has been an emphasis on developing and improving the variety of apprenticeships on offer. This is considered in more detail elsewhere in this report. There is a current commitment to bring 20,000 apprentices into the industry by 2020.
- 2.25 The report by the Strategic Transport Apprenticeship Taskforce (STAT) published in July 2018⁵ identified "... a number of programmes underway to help young people and their influencers understand the opportunities in transport."



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- 2.26 The National College for High Speed Rail (NCHSR) opened in Autumn 2017 with campuses in Birmingham and Doncaster. It offers courses from Level 4 upward including apprenticeships such as the new High-Speed Rail and Infrastructure Advance Technician apprenticeship.
- 2.27 NCHSR has pro-actively attracted students from diverse backgrounds by targeting male and female school leavers and those looking to re-skill. In 2017-2018 17% of enrolments were from women and 35% were from candidates with a BAME background.
- 2.28 In 2019 the Train Drivers Academy was launched as a freestanding organisation, devised and funded by industry stakeholders. The online academy is tasked with making improvements to the training and recruitment of train drivers in order to increase the number of trainee drivers in the industry.
- 2.29 Recognising the need to support and engage with its young members, in 2016 ASLEF began a 'Young Members' Forum' pilot project. The forum was made up of eight elected members from each district. Its remit included the collation of data on driver recruitment within the rail industry and the active development of strategies to promote younger recruitment into the driving grade. In November 2017 ASLEF held its first young members conference and at the 2018 ASLEF Conference the Young Members' forum was adopted as a formal part of the rule book and became the 4th representative committee.
- 2.30 There has been then, a recognition of the importance of drawing 'new blood' into the sector and to the driving grade. This has led to a number of programmes designed to attract younger candidates for trainee driver roles. It remains to be seen whether there are specific structural barriers beyond those identified in relation to the protected characteristics of race and sex which affect the progression and retention of these younger drivers.

Selection methods

- 2.31 The 2012 report reviewed the selection methods then employed by TOCs and FOCs. It confirmed that almost all train operating companies used the same four stage recruitment process, namely:
- Stage 1: attracting applicants
 - Stage 2: sifting/shortlisting
 - Stage 3: assessment centre involving psychometric testing and criterion-based interview
 - Stage 4: final selection interview.
- 2.32 The 2012 research indicated that the methods and approaches used at the four stages varied quite widely, even in relation to the assessment centre.

Stage 1: Attracting applicants

- 2.33 In 2019, the position remains that there is no shortage of applicants for train driving. Our research indicates that applications for vacancies are routinely over-subscribed. By way of example, Arriva Rail London reported having received as many as 6500 applications in response to a single driver posting; South Eastern routinely receive 10 applications for each vacancy and DG Cargo UK reported approximately 20 applications per advertisement for a qualified driver.
- 2.34 The issue remains attracting a more representative pool of candidates for appointment. Whilst some TOCs and FOCs remain unconvinced of the need to increase representation, industry wide the business case for diversity has largely been won. A spokesperson for Network Rail observed, "Network Rail now recognises that better performing teams are those that are

diverse in their make-up. Teams evenly balanced between men and women perform best. A 20% critical minimum threshold mix delivers notable improvements such as more engaged and motivated teams, lower sickness rates, higher productivity and more collaboration.”

- 2.35** The majority of the companies that responded to our questionnaire made efforts to advertise roles in places and publications where they were more likely to be seen by under represented groups. There was an increased use of social media and websites to advertise vacancies and some innovative programmes to raise awareness of the opportunities offered by the train driver role.
- 2.36** 54% of Respondent companies required candidates to complete applications online. One Respondent recruited internally for all its train driver roles. 54% of Respondents monitored applications received at least in relation to sex and race. Some included other protected characteristics in their monitoring data.

Stage 2: Sifting/ shortlisting

- 2.37** This phase is clearly a critical phase of the recruitment process since it is the point at which most candidates are rejected. 27% of Respondents utilised third parties to conduct this exercise. Those third parties applied industry standards. All of the remaining Respondents had human resources input to the sifting decisions. There was no uniformity in practice. Some operators worked to specific criteria for the purposes of decision-making. One Respondent, Arriva Rail London, reported that it had jointly devised role relevant criteria with the Occupational Psychology Centre. Other Respondents took a general view of the application form overall.
- 2.38** The monitoring of outcomes by protected characteristic was not routinely carried out by our Respondents.

Stage 3: Assessment centre

- 2.39** The 2012 report noted that the industry wide steering group formed in 2006, (the RSSB Diver Selection Governance Group (DSGG)) considered an initial report on the psychometric testing methods used in the assessment process in August 2011 and did not recommend any immediate changes to the assessment methods of the scoring. At the time of the report the RSSB was working on a research project to develop a new train driver psychometric assessment process.
- 2.40** The latest research by the RSSB has confirmed that the process used for the train driver’s psychometric assessment is considered “fair, valid and reliable.”⁶ It does however recommend that further improvements in the process should be explored. Concerns had been raised that the way the test is set could unconsciously discriminate against female, black or ethnic minority candidates. The research acknowledges that the selection process has some “residual adverse impact.” The RSSB has made its findings available to its members and to the DSGG to identify recommendations for updates and improvements in the future. Its recommendations focus on making changes to pass marks to certain tests, requirements for further commissioned research and options for further reducing adverse impact within the current train driver psychometric assessment process. It is the last of these series of recommendations that is of particular relevance to the subject matter of this report.
- 2.41** The report identifies the following ideas for DSGG and RACF to explore and debate:
- Anonymising people from their classification within protected groups during initial selection stages; so, assessing applications without knowledge of age, gender or ethnicity

⁶ Validation Study of the Train Driver Psychometric Assessment Process, RSSB January 2019

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- Monitoring scores given assessors for tasks that involve behavioural observations or oral answers (like role plays, group exercises, the MMI and the driver manager interview) to ensure that they are not presenting conscious or unconscious bias in their marking
- Continuously evaluating the pass/fail rates of applicants at their companies. This will allow companies to identify whether adverse impact is likely to exist in its selection process and will allow for the identification of areas for improvement
- Consider the type of support and information candidates are given and could be given during the selection process to help reduce adverse impact
- Monitor the attraction and retention rates of candidates within protected groups to help determine if improvements are required.⁷

No doubt ASLEF will wish to press the TOCs and FOCs to ensure that these measures are adopted in order that its commitment to positive action in respect of the recruitment and retention of under represented groups can be made real.

Stage 4: Interview stage

- 2.42** The majority of the Respondents had an HR presence at the final interview stage. Almost 82% of Respondents required the interviewing manager to have received equality and diversity training and many Respondents indicated that that training included an element on unconscious bias. Most Respondents monitored outcomes by reference to at least the protected characteristics of sex and race at this stage of the process.
- 2.43** It is encouraging that a review of recruitment and selection practices in the industry does produce clear signs of progress. It can be hoped that the introduction of transparency to the process and a greater use of evidence-based decision making will lead to a greater presence of members of under represented groups in the industry.
- 2.44** What is also apparent is that there is still work left to do. More in reaching out, recruiting, supporting and retaining individuals across all under represented groups.



CHAPTER THREE

The legal context

- 3.1 It is clear from the above analysis that both today and historically there are and have been too few women train drivers and the same is true of the representation of BAME drivers. A feature of this report has also been to identify that drivers aged under 35 are similarly under-represented.
- 3.2 The reasons for under-representation are multi faceted. One very important part of the strategy in devising solutions is to understand the legal framework. This is both to understand how the law and legal framework can be used to further ASLEF's aims to increase diversity and also to understand the limitations of the law and indeed where the law may prohibit particular action from being taken.
- 3.3 The Equality Act 2010 is the source of the main domestic law on equality and consolidates the previous domestic legislation. The Act identifies particular 'protected characteristics' that an individual has and then goes on to identify forms of discrimination that the individual may not be subject to connected to those characteristics. Sex and race are two of the protected characteristics identified in the Equality Act, as is age.
- 3.4 The Equality Act is clear: it is unlawful discrimination for an employer to treat a person less favourably because of their protected characteristic. This is known as direct discrimination. In short, treating a woman differently because of her sex or a BAME person differently because of their race is against the law.¹
- 3.5 Nevertheless, there are cases where employment tribunals have found that the rejection of a woman amounted to direct sex discrimination. In the case of *Plank v GNER Ltd*, (2003),² the employment tribunal found that the claimant had been discriminated against because of her sex in being turned down for the position of trainee train driver in circumstances where she had outperformed most of the successful (male) candidates in the psychological assessment process. In coming to its decision, the tribunal took into account the fact that the company employed only 5 female drivers out of a total of 310. The company's case was not helped either by the fact that the driver team manager on the interview panel had remarked that they would be "scraping the bottom of the barrel" if they had to employ a woman.
- 3.6 However, in the case of age, in certain circumstances directly discriminating against a person because of their age may not amount to unlawful discrimination. The Equality Act provides that age discrimination may be justified as a proportionate means of achieving a legitimate aim. For example, if a Train Operating Company (TOC) had an upper age restriction on trainee drivers it would recruit because it was concerned that once trained the driver would have limited time to work as a driver before retirement so that it would not recoup the cost of the training, this may not be unlawful.
- 3.7 However, a substantial cause of under-representation is not explained by direct discrimination whether overt or unconscious.
- 3.8 Much discrimination is indirect and unintentional and results from rules, policies or practices which are applied equally to all, but which in the way that they operate have the result of particularly disadvantaging a group sharing a particular protected characteristic. On the surface the rule etc may look neutral and appear to set a level playing field but in fact it places certain groups at a disadvantage. This is called indirect discrimination and will be unlawful unless the employer's use of the rule is justified in all the circumstances. The test to be applied is whether the rule is a proportionate means of achieving a legitimate aim, known as objective justification.

...treating a woman differently because of her sex or a BAME person differently because of their race is against the law.

¹ See section 13 Equality Act 2010.

² Equal Opportunities Review, 1 July 2003, Issue 119



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- 3.9 Assessment centre tests, such as verbal tests and mechanical comprehension tests, which are applied equally to all applicants may however result in more BAME or women failing the test. On the face of things then, the tests are a form of indirect discrimination. Rules or policies of this sort can of course be justified if the skills which are tested are necessary to be competent and efficient in the job and to ensure health and safety. If however, they cannot be justified for objective and valid reasons, then the courts and tribunals will find that there has been unlawful indirect discrimination.
- 3.10 The Supreme Court, the UK's highest court, has recently considered employer work based recruitment tests in the context of indirect discrimination and given a judgment which makes it easier for employees to bring claims of indirect discrimination. In *Essop v Home Office*,³ the employees were civil servants who had to pass a Core Skills Assessment (CSA) to become eligible for promotion to higher grades. The Home Office commissioned a report which revealed that BAME and older candidates had lower pass rates than white and younger candidates. The reasons for this disparity were unknown.
- 3.11 The Supreme Court concluded that the employees did not have to show why the tests put BAME and older candidates at a disadvantage, all they needed to show was a connection between the test and the disadvantage suffered by the group and disadvantage suffered by the individual. There was no need to show that the disadvantage was related to the protected characteristic. Employees in this position will have valid indirect discrimination claims, unless use of the test can be objectively justified.
- 3.12 In reaching this decision, the Supreme Court identified that there could be many reasons (or "context factors") why a policy or practice puts a group at a disadvantage including genetic reasons (such as strength or height); social (such as childcare patterns) or traditional employment practices (such as the presumption that some jobs are 'men's jobs' and others are 'women's jobs'). Many of these context factors are well-known potential barriers in the recruitment and retention of train drivers from protected characteristic groups.
- 3.13 The Supreme Court concluded that it is good practice for employers and others to actively monitor the disparate impact of their policies and practices on particular groups and anticipate their need to objectively justify them.
- 3.14 TOCs and Freight Operating Companies (FOCs) using assessment centre tests should be monitoring rates of success by reference to protected characteristic groups and should be identifying whether any groups are put at particular disadvantage by being required to pass them before progressing in the recruitment process. Where group disadvantage is shown, the employer will need to consider carefully whether continued use of the test is justified and whether it is a proportionate means of achieving a legitimate aim or whether there are other methods which could achieve the same aim in a less discriminatory manner.
- 3.15 The 2012 report identified another potential example of indirect discrimination while conducting its research. This was the tendency of certain companies to favour those with a military background in its recruitment decisions. If such a policy is in practice, it would self-evidently disadvantage women and BAME people (who are less likely to have military backgrounds) and it would have to be justified on objective grounds. It is difficult to see how it could be justified on objective grounds.
- 3.16 In one very well-known case which created legal precedent, Ms Edwards, who was a train driver with London Underground, found that she was unable to comply with a new shift system which was introduced because, as a single parent, she could no longer manage her child care commitments which she had been able to do under the old system. The courts found that this shift system particularly disadvantaged women who were far more likely to

The Supreme Court concluded that it is good practice for employers and others to actively monitor the disparate impact of their policies and practices on particular groups and anticipate their need to objectively justify them.

3 [2017] UKSC 27

be lone parents with childcare responsibilities. They found too that it could not be justified, particularly given the fact that London Underground had considered introducing an alternative system which would have catered for the needs of single parents.⁴

3.17 Rules which require full-time working are a classic example of indirect discrimination because they tend to disadvantage those who need to work part-time, the majority of whom are still women. In certain circumstances, it may well be possible to justify the need for full-time working but courts and tribunals will balance the perceived need for full-time working against the discriminatory effect on women. In the case of *Gammie v Network Rail*,⁵ Ms Gammie had completed Network Rail's training programme to qualify as a signaller when she went on maternity leave. She requested to return on reduced hours but her request was rejected. The tribunal considered Network Rail's justification for the full-time working requirement, namely economic and operational impact, was far outweighed by the discriminatory impact on women in general, and Ms Gammie in particular, where she was forced to resign. The tribunal noted that the employer's operational reasons related to staff shortages would in fact have been minimised if they had taken the claimant on for 24 hours each week, rather than the standard 35.

3.18 So while rules which require full-time working might amount in certain circumstances to indirect discrimination, employers are in any event required to give serious consideration to any requests from staff for flexible working arrangements. This is a statutory 'right to request' which is open to all employees with more than 26 weeks service. Before June 2014, the right only applied to the parents of children under 17 or 18 in the case of parents of disabled children or to those caring for a dependent adult.

3.19 Any request must be given serious consideration by the employer and can only be refused in a limited number of circumstances, which are admittedly wide-ranging.

3.20 Employees with less than 26 weeks service do not have a statutory right to request flexible working but some employers do allow all staff to make such a request.

3.21 There is no legal obligation however on an employer to state at the outset that jobs are available on a part-time or job-sharing basis, although any refusal may result in a claim of indirect discrimination or a subsequent request for flexible working arrangements.

3.22 And while there is no obligation on an employer to take a candidate on part-time, the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations, which apply to all those who work hours other than full-time, oblige employers to observe comparable terms and conditions for part-time workers relative to their full-time counterparts (unless there is a very good objective business reason). This means that a driver working standard shifts, say, two days per week inside of four shifts per week, will be entitled to 50% pro rata pay, pensions, holidays etc.

3.23 While on the one hand the law prohibits less favourable treatment of people because of their sex, race or age,⁶ the Equality Act does allow employers to take positive initiatives to encourage more women and BAME people into the workplace where they are under-represented.

3.24 As far back as the mid-1970s, the Sex Discrimination Act 1975 and the Race Relations Act 1976 contained provisions for addressing under-representation of both women and ethnic minorities. The so-called 'positive action' provisions of these Acts allowed employers and training providers to specifically target women or ethnic minorities where they were under-represented in the workforce through measures such as including statements in adverts that "women are particularly encouraged to apply", holding targeted recruitment fairs or providing focussed training designed for women or BAME people in particular.

While...the law prohibits less favourable treatment of people because of their sex, race or age, the Equality Act does allow employers to take positive initiatives to encourage more women and BAME people into the workplace where they are under-represented.

⁴ *London Underground v Edwards* 1998 IRLR 364 CA

⁵ Equal Opportunities Review 1 October 2008, Issue 181

⁶ Unless in the case of age it can be objectively justified

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- 3.25** The Equality Act 2010 goes further than its predecessors in permitting special measures or positive action initiatives where equality groups have been particularly disadvantaged in the past or where there is low participation or under-representation of one of the protected characteristic groups. The Act allows employers (and indeed unions) to take any action which is reasonable and appropriate in the circumstances which enables or encourages people from that protected characteristic group to overcome or minimise the disadvantage or to meet any particular needs of the group or encourages people from that group to participate in an activity, including any selection and recruitment process. This means that all the initiatives described above would continue to be permitted by the Equality Act 2010, including adverts particularly encouraging people from the protected characteristic groups to apply and targeted recruitment fairs and training events.
- 3.26** This does not mean, of course, that under-represented groups get any special concessions at the point of recruitment, which is inevitably determined on merit, except, that is, in one particular situation. It has been recognised, in the Equality Act 2010, that special provisions might be needed in relation to recruitment and promotion in particular to ensure that where there has been under-representation in the past, that can be addressed. Section 159 of the Equality Act 2010 therefore allows sex, race and age to be taken into account in circumstances where two candidates for a job might be equally well qualified in a tie-break situation. In such circumstances, the Equality Act will allow an employer to favour the person from the under-represented group. As the Court of Justice of the European Union has said “the mere fact that a male and female candidate are equally well qualified does not mean that they have the same chances.”⁷
- 3.27** These positive action initiatives are of course voluntary: there is no legal obligation to implement positive action measures. But for those employers who recognise the positive benefits which a diverse workforce brings, they give the full backing of the law to any policies which they might implement to try to address under-representation.
- 3.28** However, those train companies operating under public ownership (such as London Underground and London North Eastern Railways (LNER)) are under a positive duty to give careful consideration to what action they might take to prevent discrimination, promote equality and foster good relations between and among the equality groups. The Public Sector Equality Duty, which came into force in April 2011, requires ‘public authorities’ in the exercise of their functions to “have due regard to the need to eliminate discrimination, harassment, victimisation...advance equality of opportunity...and foster good relations.”⁸ Thus, all train operating companies in public ownership will be under this obligation which entails a requirement to positively consider what steps can be taken to address unequal equality outcomes. Given the clear-cut evidence of extreme under-representation of both women and BAME in the train driving grade, this is an issue demanding attention if such train operating companies are to be seen to be meeting the requirements of the Public Sector Equality Duty.
- 3.29** The Public Sector Equality Duty applies to all organisations which carry out public functions, at least in relation to those public functions. There are a number of organisations operating in the rail sector which are public authorities for the purposes of the Equality Act 2010 and which, along with train operating companies in public ownership, are obliged to fulfil the requirements of the Public Sector Equality Duty.
- 3.30** Clearly governmental or quasi-governmental bodies such as the Office of Rail Regulation, the Department for Transport, Transport Scotland, Transport for London and the Passenger Transport Executives will all be subject to the Public Sector Equality Duty, obliging them to give consideration to mainstreaming equality considerations in relation to all the work they do.



⁷ *Marschall v Land Nordrhein-Westfalen*
1998 IRLR 39

⁸ The Equality Act
2010 section 149

- 3.31** The roles and functions of these bodies could be carried out in a way which facilitates the promotion of equality and diversity in the rail industry in general, and in the train driver grade in particular. The Office of the Rail Regulator is responsible for issuing licences to the companies which operate Britain's trains, and the Department for Transport is responsible for granting franchises to train operating companies. In order to fulfil their obligations to meet the Public Sector Equality Duty, such organisations should have due regard to equality considerations in the exercise of all their functions, including the issuing of licences and the granting of franchises. If no account is given to equality considerations in the tendering process for issuing franchises, then questions may be asked about whether or not these organisations are in fact fulfilling their duty to consider the need to advance equality of opportunity.
- 3.32** A number of listed public bodies⁹ are obliged to comply with certain specific duties which are designed to ensure that such bodies are complying with the requirement to meet the public sector equality duty goals of eliminating discrimination, advancing equality of opportunity and fostering good relations. While government departments, such as the Department for Transport, as well as the Passenger Transport Executives, are listed, the TOCs in public ownership are not, and nor indeed is the Office of the Rail Regulator.
- 3.33** From 2017, any organisation that has 250 or more employees must publish and report specific figures about their gender pay gap.¹⁰ Organisations with fewer than 250 employees may voluntarily report on their gender pay gap. The gender pay gap is the difference between the average earnings of men and women, expressed relative to men's earnings. For example, 'women earn 15% less than men per hour'.
Employers must both:
- publish their gender pay gap data and a written statement on their public-facing website
 - report their data to government online – using the gender pay gap reporting service.
- 3.34** We understand that train drivers have the lowest gender pay gap of any profession, so that women receive on average 0.7% less than men, which is mostly associated with part-time working. However, as the legal requirement applies to organisations rather than to professions, individual train and freight operators' aggregated figures covering all roles are nowhere near as positive.
- 3.35** Clearly, transparent reporting will highlight that under-representation of women is a particular problem in the rail industry and will encourage action to improve diversity statistics and address gender equality issues.
- 3.36** It is interesting that some operators are already seeing the potential positive value of recruiting more female drivers as part of the gender pay data initiative. As drivers belong to the higher grades, it has not gone unnoticed that recruitment of a relatively small number of female drivers could make a significant positive impact in the gender pay gap data.

⁹ See Schedule 19 Equality Act 2010

¹⁰ The Equality Act 2010 (Gender Pay Gap Information) Regulations (SI 2017/172) came into force on 6 April 2017 for large private and voluntary sector employers. Mandatory GPG reporting for large public sector employers was introduced on 31 March 2017 by the Equality Act (Specific Duties and Public Authorities) Regulations (SI 2017/353).



CHAPTER FOUR

Positive Action Initiatives

- 4.1** It is notable that changes in the franchises to operate trains has had an impact on the ability of some of the train operating companies (TOCs) featured in the 2012 report to maintain and develop their equality, diversity and inclusion initiatives. When franchises change hands the impetus to promote equality can be lost, if only temporarily, as other priorities take hold.
- 4.2** It was also striking that the opportunity to embed the good practice highlighted in the 2012 report has not been consistently taken by TOCs and freight operating companies (FOCs). In many instances there is no collection of workforce data that would enable recruitment and retention issues to be identified and addressed and no systematic monitoring of processes or outcomes that would allow the effectiveness of any measures that have been adopted to be assessed. These basic omissions are surprising and disappointing in the 21st century.
- 4.3** For our 2019 report we circulated updated pro-forma to all train and freight operating companies to find out about recruitment processes, monitoring activity and the make-up of their staff. One of the issues we faced in collating this report was that many TOCs and FOCs were not able to provide data which enabled us to focus on the particular circumstances affecting the driver grade, although many had good quality data about their overall workforce. Nonetheless, below we review some initiatives that TOCs are taking in order to address the historic under-representation of women, BAME workers and those aged between 18-35 in the driver grade.
- 4.4** It is instructive to note that in 2019 despite the continued woeful representation of women, BAME and employees under 35, only one of the FOCs we surveyed was actively engaged in any positive action initiatives to improve the diversity of their workforces. It is hoped that ASLEF's recent deepened engagement and partnership with FOCs will lead to a significant improvement in their driver diversity measures in the future.
- 4.5** As well as looking at some examples of good practice across the industry in this Chapter we also focus on the activities of MTR Crossrail, a new franchise with some innovative approaches to the recruitment and retention of employees who are more representative of the communities they serve.

Great Western Railway

- 4.6** GWR operates long distance intercity services along the Great Western mainline to and from South West England and South Wales, and provides commuter/outer suburban services to the Thames Valley, parts of Berkshire, Buckinghamshire and Oxfordshire. It carries around 105 million passengers a year.
- 4.7** It has developed and mainstreamed a number of recruitment and retention initiatives which have produced what it has described as encouraging results. Whilst these initiatives are not all targeted specifically at driver roles, they are likely to have a positive effect on the organisational culture and reinforce efforts to attain an inclusive and diverse working environment.

Recruitment – attracting candidates

- 4.8** In order to drive up its recruitment of under- represented groups GWR has paid particular attention to its use of language and images in recruitment and promotional material.¹ Job adverts have been re-written to remove any suggestion of gender bias. GWR has developed a gender-neutral uniform. It has also embedded a wide range of family friendly policies.

¹ Research indicates that words that are associated with male stereotypes give women a lower sense of belonging: Gaucher, D., Friesen, J., & Kay, A.C (2011) Evidence that Gendered Wording in Job Advertisements Exists and Sustains Gender Inequality, *Journal of Personality and Social Psychology*.

- 4.9 In an effort to encourage BAME people to join it, GWR has introduced images and videos which include members of under-represented groups. In order to reach out to younger people GWR has run social media recruitment campaigns using Facebook, Twitter, LinkedIn, Instagram and Glassdoor. GWR has also run campaigns with diversity focused groups in an attempt to widen its pool of applicants.
- 4.10 GWR has also identified the benefit of working with other organisations in order to improve diversity. To this end it has engaged with the Prince's Trust and has run three programmes of 'Get Into Rail' a year in a bid to encourage younger applicants to consider roles in the rail industry. GWR has also sought to position itself as an organisation working within the communities it serves and is involved with community groups in the celebration of key cultural events.

Fair selection

- 4.11 To ensure that its processes concentrate on the skills, behaviours and knowledge necessary to perform the job, GWR has introduced conscious and unconscious bias training for its managers.

Retention

- 4.12 GWR has also recognised the importance of retaining its staff. It has therefore introduced internal staff networks and established a clear diversity and inclusion strategy which includes and values trade union participation. GWR has also formed an inclusion group made up of employees and joined a number of networks including Women in Rail and Stonewall.

Arriva Rail London

- 4.13 ARL is a TOC owned by Arriva Group that operates the London Overground under a concession agreement with Transport for London. It links 23 of London's 33 boroughs and the City of London carrying approximately 660,000 passengers each week day and employs about 1,500 people.
- 4.14 In 2018, ARL's total driver headcount was 649 of whom: 8.94% were women, 29.12% were BAME and 25.58% were aged between 21-35 years. ARL revealed that it typically received between 2,000-6,500 applicants per trainee driver posting. In 2018, 8.2% of its trainee drivers were women, 26.23% were BAME and 59% were aged between 21-35 years.

Outreach

- 4.15 ARL provided information on its current focus which is the recruitment of more women drivers. Its initiatives have included holding Open Days for female candidates and placing adverts for driver grade roles on websites with high female usage such as www.workingmums.com to reach out to female audiences.
- 4.16 ARL also participated in the "Women with Drive" TfL- led work placement initiative. Its programme gave five women the chance to experience the world of train driving in ARL for a two-week placement.

Communications

- 4.17 ARL's communication team focus on providing inclusive news items and images to promote diversity at ARL in the media and to stakeholders. For example, it took part in a feature on Overground night workers on BBC London, and provided content for supplements in 'Metro' during Black History Month, to encourage more women and people with diverse backgrounds to consider a career in the rail industry.

Support for employees, promoting diversity

- 4.18 ARL is the first TOC to sign up to the new national inclusion standard and has formed an



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Equality, Diversity and Inclusion forum. It is in the process of establishing LGBTQ, BAME and gender networks across its business.

- 4.19 ARL also reported the revival of an Overground Women's Network which aims to meet every six weeks to discuss any issues that have arisen and to plan events to promote a more equality focused environment.

Greater Anglia

- 4.20 Greater Anglia is a TOC owned as a joint venture by Abellio Transport Holdings who also operate the Scotrail franchise and the Merseyrail concession. It serves, Cambridgeshire, Essex, Norfolk and Suffolk and operates the Stansted Express rail link between London Liverpool Street and Stansted airport.

Female only information day

- 4.21 Greater Anglia did not provide information on the breakdown of its driver grade by the protected characteristics of sex, race or age. Its questionnaire response identified its current positive action priority as getting more women into the driver grade. It noted that in 2018 it hosted a female-only driver information day. Of the 50 women who attended, 36 are now being taken through Greater Anglia's driver assessment process.
- 4.22 Interestingly, Greater Anglia do not carry out monitoring of the recruitment and assessment process itself. It does not monitor the drop out rate during the training and/or probationary periods and it does not conduct exit interviews. In the absence of such monitoring it may be difficult to make any proper assessment of the effectiveness of any action it is taking to try and improve the gender diversity of its driver workforce.

DB Cargo UK

- 4.23 DB Cargo is a wholly owned subsidiary of the German Deutsche Bahn AG. It is the UK's largest rail freight services provider operating 260 locomotives across the UK. It has approximately 2,500 employees of whom 8% are women and 5% are BAME employees. 39% of DB Cargo's total workforce are employed as train drivers. Its CEO, Hans-Georg Werner states that DB Cargo is committed to providing equal opportunities for all and says that he sees no reason in this day and age why one gender should be treated differently from another.
- 4.24 Dr Amy Pressland, a specialist HR Projects Manager working with DB Cargo UK collated data from women working in the railway industry in the UK, France and Spain. She was particularly interested in the challenges they faced. Predictably, sourcing suitable affordable childcare was cited as a significant obstacle. More surprisingly the provisions of appropriate clothing and facilities for women continued too be an area of concern. Drawing on these findings DB Cargo identified its recruitment practices as a tool by which it could continue efforts to broaden its appeal and to attract a greater mix of applicants and create a more diverse workforce. It identified strategies such as striving for gender balanced recruitment and the use of gender-neutral language where possible. Alongside this the company recognise the importance of raising the profile of the industry and the opportunities it offers to women and to other under-represented groups.
- 4.25 The company has revamped its recruitment advertisements to show younger people, females and BAME people in an attempt to appear more inclusive.
- 4.26 It works closely with the charity, 'Women in Rail.' A number of its female employees participate in the 'Women in Rail' mentoring programme as mentors and mentees. DB Cargo UK has adapted its working practices so that junior drivers are based at depots so that traditional barriers to the recruitment of women such as the absence of toilet and changing facilities will be removed.



Apprenticeships and Junior Driver Roles

- 4.27** DB Cargo UK's two most significant recent initiatives are the introduction of a Junior Driver role in August 2018 and the launch of a Level 3 Train Driver Apprenticeship programme in January 2019. In the context of an acute shortage of train drivers in the UK, these measures were identified as an excellent way of developing a new pipeline of talent and creating the next generation of train drivers.
- 4.28** The Junior Driver role has been developed in conjunction with ASLEF. It is designed to give employees practical training and experience of driving a train within the confines of the company's yards, sidings and terminals. It is an entry level programme designed to operate as a development platform for individuals to progress to mainline train driver positions.
- 4.29** The Level 3 Apprenticeship is an eighteen-month training programme. It was launched as a 'Street to Seat' Trainee Driver Apprenticeship which gives trainees a recognised qualification to validate their internal technical training and their vocational training. The National College for High Speed Rail is the main apprenticeship provider, DB Cargo provides the technical driver training element. The first cohort of seven Level 3 apprentices include one woman and three BAME trainees.

MTR Crossrail

- 4.30** MTR Crossrail operates the Crossrail concession under an agreement with Transport for London Rail (RfL) which commenced in May 2015. It operates suburban and commuter rail services together with the Heathrow Connect service between Paddington and Heathrow airport. It will run the Elizabeth line services for London and the South East running from Reading and Heathrow in the west to Shenfield and Abbey Wood in the east. When completed the line is expected to carry up to 200 million passengers a year and to serve 41 stations.
- 4.31** As a relatively new TOC, working with progressive partners and serving a diverse area, MTR Crossrail has had the opportunity to consider what represents best diversity and inclusion practice in the 21st century and to strive to embed it in its workplaces. Whilst it undertakes diversity and inclusion activities across the protected characteristics covered by the Equality Act 2010 in this report we focus on their work around gender, ethnicity and age.

Innovative agreements

- 4.32** MTR Crossrail's concession agreement with RfL builds a diversity monitoring and reporting requirement into the contract.² The agreement sets out the scope of the diversity information to be provided and the frequency with which the collated information should be provided to RfL. The obligation to monitor extends beyond employees to agents and consultants and to direct and indirect subcontractors where possible.
- 4.33** The MTR Crossrail concession agreement also includes specific strategic equality and diversity key performance indicators (KPIs) which include:
- Number of positive action initiatives in employment
 - Number of adverts in BAME / Women / Disabled / Equality and Diversity (E&D) Target Group Press
 - Membership of E&D networks & forums.

- 4.34** This ensures that the company's equality and diversity work is focussed on measures which are closely connected to the needs of the business. The KPIs provide a structure to the diversity information reported. In addition, the information collected permits MTR Crossrail to assess how effectively its chosen initiatives are working in helping it to achieve its stated goals.

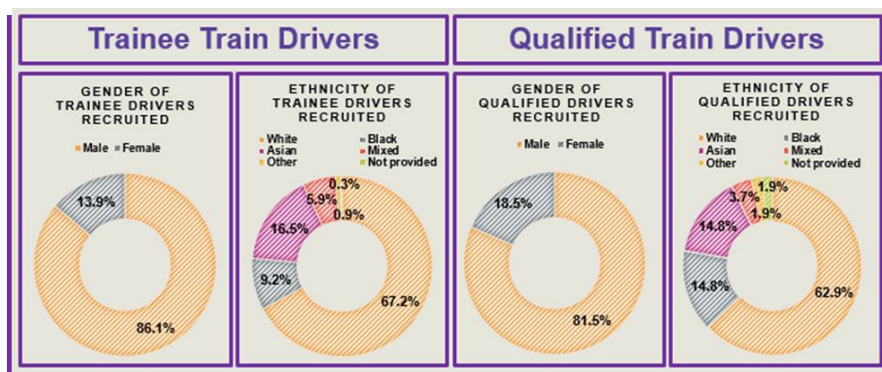
MTR Crossrail's concession agreement with RfL builds a diversity monitoring and reporting requirement into the contract.

² Paragraph 6 of Schedule 15.3 of the Concession Agreement.

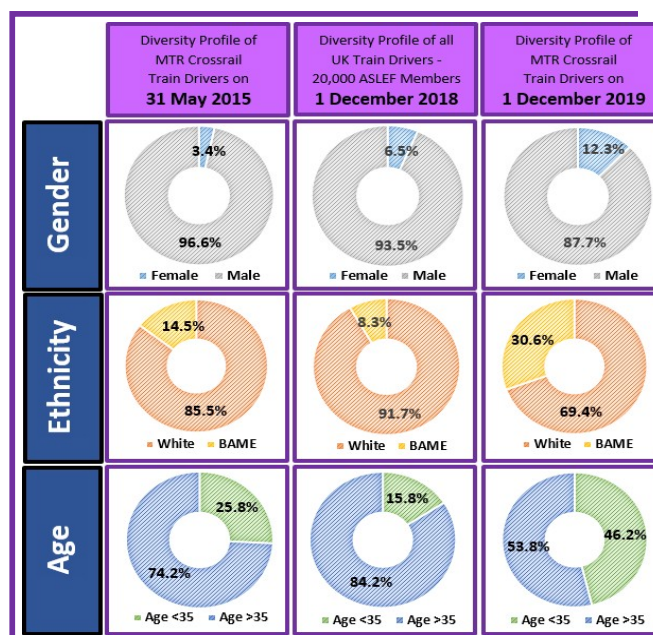
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Collection, monitoring and reporting of diversity information

- 4.35 MTR Crossrail recognises the value that collecting and then analysing diversity information can bring to an organisation. Its collection of data runs from the beginning to the end of the recruitment process and beyond. It therefore has valuable information about applicants for its roles and how they fare in the recruitment journey. If applicants become employees it continues to seek feedback and input through workplace surveys such as its annual employee engagement survey.
- 4.36 MTR Crossrail also reports on initiatives designed to achieve the recruitment of a diverse workforce, their progress and their outcomes. It is one of the few TOCs to systematically monitor and report diversity information for trainee train drivers as well as qualified train drivers by gender and ethnicity.
- 4.37 The gender and ethnicity of all Trainee Train Drivers and Qualified Train Drivers recruited up to 30 November 2018 is shown below:



- 4.38 The graphic below compares the current diversity profile of all MTR Crossrail train drivers against the profile at the start of the concession agreement and against ASLEF's TOC/FOC train driver diversity profile published in December 2018. It is a striking illustration of the progress that has been achieved to improve the diversity profile of its drivers.



MTR Crossrail has engaged in a broad range of innovative positive action initiatives as it seeks to raise the profile of the rail industry and to reach out to under-represented groups.

Training

4.39 MTR Crossrail has an Equality and Diversity Training Action Plan which includes the following KPIs:

- Percentage of staff trained annually in E&D
- Number of line managers completing E&D training
- Number of E&D training sessions
- Number of cases of harassment and bullying on E&D grounds

Induction

4.40 New employees at MTR Crossrail attend an induction which now includes a diversity workshop. Attendance is recorded and employees complete a feedback and evaluation form at the end of their induction.

4.41 In 2016 MTR Crossrail delivered a ½ day diversity training course for all employees which included interactive, drama-based training, group work and role playing. The course was designed to tackle perceptions and stereotypes and to challenge understanding of diversity and equality.

4.42 In addition, all employees complete annual refresher training which is delivered using a mix of platforms such as employee briefings and intranet or classroom sessions.

Line managers

4.43 Line managers attend a 'Managing Diversity' training course which provides an overview of the Equality Act obligations and considers how to make the best use of equality data as well as how to embed principles of equality and inclusion into organisational processes. MTR Crossrail is currently working on developing a new Recruitment Skills training workshop. In the past it has offered managers new to the company recruitment training which focused on unconscious bias in the interview process.

4.44 In addition, equality and inclusion features in MTR Crossrail's Management Development Programme. 2019/2020 will see the launch of 13 diversity and inclusion initiatives which include a diversity and inclusion game especially developed for MTR Crossrail.

> Positive Action Initiatives

4.45 As well as its systematic efforts to develop and embed an inclusive organisational culture described above, MTR Crossrail has engaged in a broad range of innovative positive action initiatives as it seeks to raise the profile of the rail industry and to reach out to under-represented groups. These include youth employment initiatives, work experience placements, Open Days and attendance at recruitment fairs. MTR Crossrail have also identified strategic partnerships for productive collaboration. In the past it has put on employability events at prisons, worked with Crisis, a homelessness charity and with Transitions, a specialist not for profit careers and employment service supporting refugees with skills and qualifications to find employment.

However, in this report we will focus on initiatives directed towards the train driver role.

Increasing representation

4.46 MTR Crossrail participates in TfL's 'Women with Drive' initiative which is aimed at women interested in a new career as a train or bus driver. It consists of a two-week pre-employment course at a designated college followed by a two-week work placement. The initiative is



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intended to provide women with an opportunity to develop their CVs and improve their interview skills to enhance confidence in applying for trainee train driver roles.

- 4.47** As mentioned above MTR Crossrail works with other organisations to improve diversity and inclusion. It works with Women in Rail to continue to provide a platform to champion diverse thinking and promote diversity in rail. It has signed up to Women in Rail's re-launched mentoring programme and put forward six mentors and five mentees to take part in the programme which will run from January to October 2019.
- 4.48** The company has also successfully run driver experience Open Days featuring women drivers which have raised awareness of the train driver role and the routes into employment as a trainee train driver.

MTR Crossrail have been announced as the winner of the Women in Rail 2019 Diversity and Inclusion award.

Apprenticeship scheme

- 4.49** MTR has attracted plaudits for its apprenticeship schemes. MTR Crossrail works closely with local schools and charities to promote opportunities and encourage applications from disadvantaged and under-represented groups. Over the past 18 months, eight apprentices have been recruited through a partnership with Young London Working, a Mayors Fund for London initiative. It describes its Train Driver Apprenticeship programme as perhaps its greatest success. The programme was launched in February 2016 in partnership with Train'd Up and over 230 Trainee Drivers have joined the Apprenticeship scheme.

Level 3 Apprenticeship Standard

- 4.50** During spring and summer 2018 MTR Crossrail collaborated with representatives from all TOCs and FOCs to develop a Train Driver Level 3 Apprenticeship Standard, replacing the Level 2 Framework. Functional Skills training now includes Maths, English and ICT, helping prepare the workforce for the Digital Railway. The programme is supported by the train drivers' union, ASLEF, with an elected Union Learning Rep available to support and mentor apprentices through the programme and encourage colleagues to take advantage of personal development opportunities.
- 4.51** In August 2018, MTR Crossrail was the first TOC to launch the Train Driver Level 3 Apprenticeship. By November 2018 50 trainee drivers had been inducted on to the programme with another 60 trainee drivers offered the opportunity between January and June 2019.
- 4.52** MTR Crossrail has also made a commitment to futureproof training and development in the industry by becoming the first train operator in the country to sign ASLEF's Charter for Apprentices.

CHAPTER FIVE

Recommendations for action

- 5.1 ASLEF has made it a key part of its Charter, revised in 2018, which serves as its platform for negotiation with train and freight operating companies (TOCs/ FOCs) to have pro-active recruitment of persons of under-represented groups in the industry such as women and people from BAME backgrounds.
- 5.2 A key area of progress made by ASLEF since the 2012 report has been that ASLEF has also included in its Charter a commitment to seek to negotiate part time contracts with operators, where this is not at the expense of establishment numbers. ASLEF specifically recognises within the Charter “the importance of providing alternative work life balance opportunities and encourage the implementation of job share agreements being made through collective means”.
- 5.3 ASLEF has an important role to play in contributing to the equality agenda, in terms of holding operators to account, working closely with operators to ensure the success of their various initiatives and by working with members to ensure that the equality agenda is mainstreamed and remains a centre piece of the ASLEF Charter.

We set out below some core recommendations for operators, followed by recommendations for ASLEF.

Recommendations for operators

- 5.4 Our research has shown that a range of different initiatives are being undertaken by TOCs and FOCs, as outlined in Chapter 4. While we acknowledge and approve of the various measures that are being undertaken, it is disappointing that a number of TOCs and FOCs did not engage and accordingly, the measures and the success (or lack of success) of any such measures used by those TOCs and FOCs cannot be analysed.
- 5.5 In our view, from the analysis of responses from the TOCs/ FOCs that did engage with ASLEF for the purposes of this report, we consider that the TOCs/FOCs have much to learn from each other in terms of best practice and strategies for success. This informs our recommendations below.
 - > **Gathering data and using an evidence based approach**
- 5.6 The research undertaken for this report has identified difficulties in identifying on an operator by operator basis the proportions of BAME, under 35s and women drivers, as these figures are often aggregated within broader pools of workers. We consider that this is unsatisfactory. Operators must gather, understand, monitor and evaluate their data. Data should be at the heart of what operators do and future improvements in the representation of under-represented groups are more likely to take place where operators used an evidence based approach.
- 5.7 While having an understanding of the broad picture of the number of women, or people from BAME backgrounds, or under 35s working in rail is useful, it does not stop there. There are, in our experience, specific challenges regarding recruitment and retention of women, people of BAME background and under 35s which should be separately identified and dealt with head on. One difficulty in aggregating figures for drivers as part of a wider pool is that it may not reveal where roles for the above mentioned groups are concentrated in more junior grades in the pool, as compared with the higher driver grades. We consider it essential that all operators are gathering data with sufficient specificity to capture the absolute numbers as well as proportions of women, people of BAME backgrounds and under 35s in driver grades and are able to monitor this over time.



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- 5.8 A second and important facet of data gathering is that each operator must take ownership for monitoring and evaluating data arising from recruitment processes, even where those are handled by third parties on its behalf.
- 5.9 Each operator, in our view, should be able to identify where in their recruitment process, or talent pipeline, there are significant drop offs in the success of under-represented groups in progressing to the next stage and begin to understand the reasons (or what was described by the Supreme Court discrimination case of *Essop* as the context factors).
- 5.10 Once these challenges become transparent, operators are in a position to address the difficulties and to evaluate whether that policy or practice is truly necessary, or in legal terms, 'objectively justified' (as explained in Chapter 3). It should also be borne in mind, from *Essop*, that even where neither the employer nor the employees can identify the reason or reasons why a particular policy or practice leads to group disadvantage of a protected characteristic group, the use of the policy or practice can still amount to unlawful discrimination.
- 5.11 Where specific areas of drop off of under-represented groups are identified, targeted action should be taken by the operator including by using workshops. By way of example, if a higher proportion from under-represented groups were unsuccessful at the application form stage, it would be advisable to consider holding workshops which provide guidance on preparing for the application form and how to best articulate answers in the application form.
- 5.12 If however, there is significant drop off of people from under-represented groups at the interview stage, another option to consider is whether to have independent panel members. This is one of the measures put in place at the Home Office to good effect and for which it has won awards on positive action and as part of its recruitment and talent development programmes.
- > **Talent development programmes**
- 5.13 From the data we have seen, women, people of BAME backgrounds and those aged under 35 are not only underrepresented in rail as a whole, but are especially under represented in the driver grade. The reasons for this should be understood.
- 5.14 However, this also means that within the wider rail industry there are a wider group of diverse candidates who are already in the rail industry, have industry knowledge, knowledge of the operator's values and health and safety training who may be highly suitable candidates to progress to the role of driver. We agree with the 2012 report that internal recruitment contributes to efforts to increase diversity in the train driver grade.
- > **Peer to peer workshops and recruitment events**
- 5.15 We recommend that operators use peer to peer workshops and recruitment events, where people from under-represented groups are available to speak about their journey into rail and into the role of driver. It is well known that contact with people within the industry is particularly effective in making a role appear more accessible and helps dispel myths regarding the role. In this regard, we recommend that the operators consider the outreach and recruitment events and placements offered by Arriva Rail London and MTR Crossrail.
- > **Equality and diversity proofing adverts**
- 5.16 We have been told by a number of operators, notably GWR, that they equality and diversity proof their job advertisements to help attract a diverse range of applicants. This is to be commended and we recommend this to all operators.
- 5.17 We consider that adverts for driver and other roles should be careful to ensure that the

positive benefits of the role of driver as well as working for the particular employer are emphasised, such as positive action statements welcoming part time workers, drawing attention to the operator's flexible working policy and stating in terms that applications from under-represented groups are particularly encouraged. A second aspect is to ensure that language which may be off putting for people from under represented groups is avoided such as any gendered reference to the role of driver as even subtle references by the use of pronouns such as 'he' in person specifications can serve as cues indicating who may truly be welcome to apply.

- 5.18 A third aspect of proofing the adverts is to ensure that the imagery is consistent with the message, by including images of drivers from underrepresented groups within the adverts and application materials. GWR is one exemplar in this respect. Case studies describing the individual journey of drivers from under represented backgrounds are particular useful in this regard in helping individuals from those backgrounds seeing a pathway they too may be able to take.
- 5.19 A fourth aspect of proofing the adverts is ensuring advertisements are placed on websites and in publications which will assist in drawing a wide pool of applicants, particularly from under-represented groups. Many operators appear alive to this challenge and Arriva Rail London's approach in using websites with high female usage such as www.workingmums.com is useful in this regard.

> ***Appointment of Champions at senior level***

- 5.20 We consider that one of the lessons learnt from other sectors, including central government, regarding widening participation, has been the appointment of a senior leader within the organisation to act as the Champion for a particular under-represented group. Such a person can serve as a symbol of the organisation's commitment to the under-represented group, as well as being a visible presence at events and importantly, ensure that where difficulties are encountered in moving the agenda forward, they can bring senior decision making and influence to bear.

We suggest that each operator makes a commitment to appointing senior leaders as Champions for the under-represented groups.

> ***Reverse mentoring***

- 5.21 In addition, we recommend that the senior leaders (including but not limited to the HR Director, Heads of Service Line or equivalent, the designated Champions and the Chief Executive) undertake reverse mentoring with drivers from under represented groups to better understand the challenges faced by individuals from those groups.

> ***Promoting the importance of diversity and equality among all staff***

Unconscious bias training

- 5.22 It is recommended that all operators introduce unconscious bias training for all employees across their organisation. It is particularly important that anyone involved in recruitment processes are trained as a matter of priority but there are benefits for everyone in undertaking this training, which helps participants to understand that we all have biases, to help identify what those are and how to mitigate against them.

Building an inclusive workplace and awareness training

- 5.23 Most of our recommendations are targeted at the process of recruitment. However, it is also important to ensure that each operator is also focussed on ensuring its organisation is an inclusive workplace for all across the organisation. Operators would do well to consider



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holding events, discussions and publicising events such as International Women's Day, Black History Month and other days of commemoration and celebration to contribute to the workforce seeing regular signs of their employer's commitment to an inclusive workplace.

> **Staff networks**

- 5.24 We learned from a number of operators that they have staff networks for particular under represented groups, most frequently for women in rail. This is a positive development and we would encourage all operators to follow suit. Staff networks can be particularly effective in articulating the challenges faced by that under-represented group in applying for particular or remaining in particular roles, as well as identifying potential solutions. We note that they are already in use at GWR and Arriva Rail London.

In our view, those staff networks need to have direct access to the appointed Champion.

> **Closer working partnerships with ASLEF**

- 5.25 We consider that there is much to be achieved by the operators and ASLEF working together in closer partnership. We note in this regard the DB Cargo introduction of a Junior Driver role and separately the Level 3 Train Driver Apprenticeship programme as outlined in Chapter 4. Both of these are likely to attract younger applicants to driving and serve as a development platform for individuals to progress to mainline train driver positions, as part of a drive to create a new pipeline of talent and to create the next generation of train drivers. The Junior Driver role was developed in conjunction with ASLEF.

Recommendations for ASLEF

- 5.26 It is well understood that ASLEF does not itself, recruit or employ train drivers and so cannot, on its own, improve the numbers and proportions of drivers from under represented groups. That said, ASLEF is committed to working pro-actively and positively with operators to achieve this goal.

> **Obtaining commitments from operators to provide data and contribute to future projects**

- 5.27 We recommend that ASLEF reaffirms its commitment to holding operators to account by making part of its negotiation agenda that operators will gather and report on data, disaggregated to identify the driver grade in particular, and to report on the same on a yearly basis; and that ASLEF secures the commitment of the operators to contribute to its ongoing 'On Track with Diversity' research initiatives.

> **Reviewing progress on a two-yearly cycle**

- 5.28 We further recommend that, consistent with the need identified to have an evidence based approach, ASLEF re-evaluates the progress made for under-represented groups (as well as the challenges, successes and failures) on a two yearly cycle. This will help ensure that equality and diversity truly remains at the heart of the ASLEF Charter.

> **Appointment of ASLEF Champions**

- 5.29 We suggest that ASLEF also consider appointing a Champion at senior level for each of the under-represented groups identified in this report, who is able to liaise directly with the appropriate Champion and/or senior leadership at each operator. The ASLEF Champion would be well placed to inform operators about the work being done at other operators and what further steps ASLEF recommend they take as well as being able to identify support which ASLEF can offer.

Appendix A: Statistical breakdown of ASLEF's female, BAME and young members by company

EMPLOYER (previous franchise name in brackets)	% Female	% BAME	% Young
ABELLIO GREATER ANGLIA (National Express East Anglia)	4.8%	3.2%	21.7%
ABELLIO SCOTRAIL (First ScotRail)	4.6%	0.7%	10.6%
ARRIVA CROSSCOUNTRY (Virgin Crosscountry)	3.7%	3.0%	4.2%
ARRIVA RAIL LONDON (London Overground)	9.4%	26.8%	22.7%
ARRIVA RAIL NORTH (Northern)	6.2%	1.4%	18.3%
TRANSPORT FOR WALES (Arriva Trains Wales)	4.6%	0.5%	6.7%
C2C RAIL	6.5%	6.5%	22.3%
CHILTERN RAILWAYS	4.0%	5.8%	10.5%
COLAS	8.3%	4.1%	8.3%
COLAS IM	0.0%	0.0%	0.0%
DB CARGO (UK) LTD (DB Schenker merged)	1.4%	1.5%	4.9%
DIRECT RAIL SERVICES	2.6%	0.6%	12.2%
EAST MIDLANDS TRAINS	6.1%	3.6%	17.1%
EUROSTAR INTERNATIONAL LTD	3.60%	8.9%	5.3%
EUROTUNNEL	0%	0.0%	0.0%
FIRST TRAM OPERATIONS LTD.	11.3%	32.4%	21.1%
FREIGHTLINER HEAVY HAUL	1.5%	1.1%	11.3%
FREIGHTLINER INTERMODAL	1.4%	1.0%	16.2%
GATWICK EXPRESS			
GB RAILFREIGHT	1.2%	2.8%	19.4%
GRAND CENTRAL	4.0%	4.0%	8.0%
GREAT WESTERN RAILWAY (First Great Western)	6.4%	3.0%	15.5%
HEATHROW EXPRESS (now part of Great Western Railway)	31.0%	31.0%	31.0%
HULL TRAINS	25.0%	0.0%	7.10%
ISLAND LINE TRAINS	0.0%	0.0%	11%
LONDON NORTH EASTERN RAILWAY (East Coast Mainline)	7.2%	2.2%	14.5%
LONDON UNDERGROUND LTD	13.8%	25.10%	14.6%
MERSEYRAIL	7.4%	1.70%	7.8%
METROLINK	0.0%	0%	0.0%
MTR CROSSRAIL	11.6%	22%	44.3%
NORTH EAST METRO OPERATIONS LTD	13.5%	1.7%	23.8%
SOUTH WESTERN RAILWAY (South West Trains)	5.6%	8.2%	13.7%
SOUTHEASTERN	4.3%	7.3%	21.1%
SOUTHERN	5.1%	10.9%	17.5%
THAMESLINK GREAT NORTHERN (First Capital Connect)	7.3%	9.7%	28.2%
TRANSPENNINE EXPRESS	4.8%	1.3%	14.7%
TUBELINES	0.0%	4.3%	8.6%
VIRGIN TRAINS WESTCOAST	3.6%	3.3%	5.3%
WEST MIDLANDS TRAINS (London Midland)	6.6%	9.2%	13.7%



ON TRACK WITH DIVERSITY 2019

Appendix B: Pro Forma Questionnaire sent to companies

ASLEF/IER PROJECT: ON TRACK WITH DIVERSITY: AN UPDATE

In 2012 ASLEF and IER published a report called On Track with Diversity. The report was the culmination of responses to a questionnaire and interviews conducted amongst train operating companies. The result was a well-received publication containing a series of recommendations on how to improve equal opportunities in the railway industry.

We are pleased to say that ASLEF has now asked the Institute of Employment Rights to assess to what extent the original recommendations have been met and to consider current levels of diversity against our 2012 benchmarks.

To complete our study effectively, we are once again looking for your help. We want to update our previous findings about recruitment and selection procedures for train drivers and identify examples of best practice, so that we can have an accurate and comprehensive picture of the current situation.

The questionnaire below replicates the one you may have completed in 2012 but with additional questions relating to age. In this questionnaire we refer to "equality groups". Although we appreciate that it may not be possible to get information beyond the sex and race of applicants and successful candidates, we are interested in any other information which organisations collect about job applicants and staff, including disability, religion, sexual orientation, and age.

RECRUITMENT AND SELECTION ARRANGEMENTS

Advertising stage

1. When the organisation has a vacancy, how do you go about filling it?
2. Do you advertise both internally and externally? (include all informal and formal mechanisms for advertising)
3. Where do you advertise?
4. Do you advertise on social media?
5. Do you attempt to appeal to under-represented groups with your adverts? If so, how?

Application stage

1. Are applicants required to complete an application form?
2. If so, can you supply a copy of it?
3. If not, is it a CV or letter or what?
4. Are applicants advised of the criteria against which applications will be determined?
5. If so, how?
6. Do you include an equal opportunities monitoring form with the application form?
7. If so, what explanation is given to applicants about how any information provided will be used or shared?
8. Do you require any other information from applicants at this stage, e.g. medicals, references?
9. If not at this stage, at what stage is additional information gathered, if at all?
10. Do you have a minimum and/or a maximum age limit for applicants? If so, what age?

Sifting stage

1. How do you determine which applicants get through to the next stage?
2. Do you have specified criteria against which to determine who gets through to the next stage or is a general view taken about the application form as a whole?
3. If you have specific criteria, who sets the criteria?
4. What are the criteria? Please supply a copy?
5. Are those from any particular backgrounds favoured? If so, what backgrounds and why?
6. Are those with particular skills or prior experience favoured? If so, what skills or prior experience and why?
7. Who is responsible for determining who gets through to the next stage? How is that done?
8. How many stages do candidates go through? Is there a long list then a short list?

Interview stage

1. Who determines how the interview panel is made up?
2. Are there particular categories of people who are required to be on the panel? E.g. job grade, gender balance, representation from ethnic minority, representation from trade union?
3. Are the interviewers required to undergo training in equal opportunities/bias in recruitment and selection training? How frequently is such training undertaken?

4. Is there a set list of questions which each applicant is asked? Who sets the questions and how?
5. To what extent are follow-up questions allowed?
6. Is there a list of factors (skills, qualifications, experience) against which each person is marked?
7. How are scores determined? Is there a scoring sheet?
8. How is the final decision arrived at?
9. If two candidates are deemed equally well suited for the job, what weighting is used to determine who should be successful?
10. Are there any special procedures in place when interviewing pregnant women?

Other forms of assessment

1. Under what circumstances are new entrants to the company's driving grade required to go through psychometric testing and where does this sit within the recruitment process?
2. What information can you provide about the process?
3. Who conducts the psychometric testing?
4. Are there any other forms of test or assessment which applicants are put through e.g. fitness tests?
5. Do you monitor, by equality group and background, those who pass and those who fail at this stage? If so, can you supply statistics over the past 5 years?

Who applies?

1. How many people applied for each job advertised (in the last 5 years)?
2. How many candidates said they applied as a result of seeing advertisements or recruitment material on social media?
3. Do you monitor, by equality group, the numbers of each group who apply? If so, please provide the monitoring information collated over the last five years?
4. How many candidates under 35 applied for each vacancy advertised? How many of these candidates were appointed?
5. Do you monitor the sectors applicants are seeking to move from?
6. Are you able to say the proportion of internal and external appointments in relation to each recruitment exercise undertaken?

Who gets the jobs?

1. Do you monitor, by equality group, who is successful?
2. Are you able to advise what age, background/sector/job the successful candidates come from?

Training and probation

1. Do you monitor the drop out rate during (i) initial training and (ii) the probationary period?
2. If so, please advise the drop-out rate during each period.
3. Do you monitor which equality groups those who drop-out belong to?
4. If so, please provide that information for the last five years

Monitoring of staff

1. Are you able to give a break-down of staff belonging to any or all of the equality groups?
2. Please provide a breakdown of staff by age group including the category 21-35.
3. Do you monitor, by equality group, those who leave their jobs?
4. Do you conduct exit interviews and if so is it possible to get an analysis of the reasons for leaving, if possible broken down by equality group?
5. What is the commonest reason given by employees under 35 for leaving their jobs?

Positive action initiatives

1. Has your organisation undertaken any initiatives in the past to encourage underrepresented groups to apply?
2. Have these initiatives included the use of social media? If so which social media?
3. Has your organisation undertaken any initiatives to ensure under-represented groups remain in post?
4. Have these initiatives included the use of social media? If so which social media?
5. Has any analysis been done of their effectiveness?
6. How effective do you consider they have been?



Appendix C

COMPANIES WHO RETURNED QUESTIONNAIRES

First Tram Operations
DB Cargo
Abellio Greater Anglia
GB Railfreight
MTR Crossrail
Abellio Scotrail
Merseyrail
Arriva Rail North
Eurostar International Ltd
Arriva Rail London
Southeastern
Great Western Railway
Freightliner Heavy Haul & Intermodal

COMPANIES WHO DID NOT RETURN QUESTIONNAIRES

West Midlands Trains
Crosscountry
DRS
Transport for Wales: Rail Services
GTR
East Midland Trains
Tube Lines
c2c Rail
First Hull Trains
Transpennine Express
North East Metro Operations Ltd
Virgin Trains
South West Railway
Chiltern Railways
LUL
Island Line
Colas IM
Heathrow Express
LNER
Grand Central Railway

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ON TRACK WITH DIVERSITY 2019

THE
INSTITUTE OF
EMPLOYMENT
RIGHTS

About the Institute

The Institute of Employment Rights seeks to develop an alternative approach to labour law and industrial relations and makes a constructive contribution to the debate on the future of trade union freedoms.

We provide the research, ideas and detailed legal arguments to support working people and their unions by calling upon the wealth of experience and knowledge of our unique network of academics, lawyers and trade unionists.

The Institute is not a campaigning organisation, nor do we simply respond to the policies of the government. Our aim is to provide and promote ideas. We seek not to produce a 'consensus' view but to develop new thoughts, new ideas and a new approach to meet the demands of our times.

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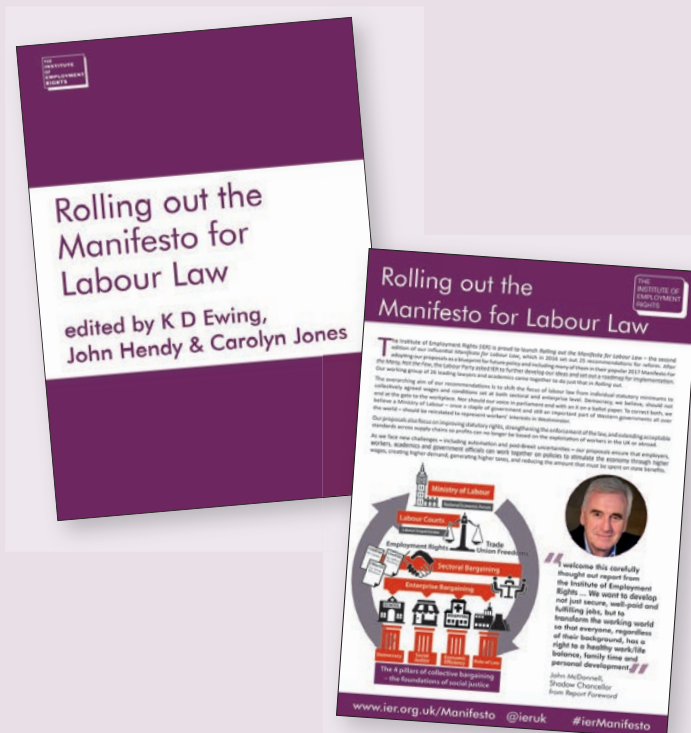
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In 2012 ASLEF commissioned the Institute of Employment Rights to produce an independent report into levels of diversity amongst train drivers in Britain, the vast majority of whom are ASLEF members. That report made a series of recommendations on actions the union and employers could take to increase the numbers of women and BAME drivers on the railways.

In 2018, IER was approached by ASLEF once again with a request to update the 2012 report. *On Track with Diversity 2019 edition*, considers to what extent the 2012 recommendations were implemented and the impact they have had on extending diversity.

In this report the authors, Nadia Motraghi and Ijeoma Omambala, two lawyers specialising in equality and diversity laws and practices from Old Square Chambers, review and analyse the current situation, extending the diversity criteria to include the position of young people up to the age of 35. They go on to make a series of recommendations, the aim of which is to ensure the industry remains on track with diversity.



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