



**YOUNG
WOMEN'S
TRUST**



EQUALITY AT WORK?

Positive Action in gender segregated apprenticeships

IN ASSOCIATION WITH



University of
Chester

INTRODUCTION

Some of Britain's crucial industries are struggling to recruit the staff they need.

As part of the Government's commitment to meeting this skills gap, a target was set in 2015 of three million new apprenticeship starts by 2020. However, it is questionable whether the Government will meet this target or its wider aspiration to make apprenticeships more accessible.

Despite this skills gap, women continue to be significantly under-represented in many parts of the economy – with little progress having been made in recent years. While there are more female than male apprentices, women remain locked out of sectors with significant skills gaps and which offer good pay and good prospects.

The percentage of female engineering apprentices actually declined from 4.6% in 2002 to 3.1% in 2015.¹ In construction there are just three female to every 98 male apprentices; and in Information Technology (IT) 35 females to 186 males.

Addressing this chronic under-representation will give women more opportunities to enter areas of work with better quality apprenticeships, prospects and pay² than where they are currently working – such as in the retail or caring sectors.

Given this background and building on our key 2016 report, *Making Apprenticeships Work for Young Women*, YWT commissioned Professor Chantal Davies of the University of Chester to carry out research into the use of Positive Action (PA), with a special focus on its use in apprenticeships within engineering, construction and IT.³

The research consisted of:

- A survey of over 4,000 young people aged 18-30 carried out by Populus Data Solutions;
- A survey of 800 HR decision-makers carried out by YouGov to understand attitudes towards use of Positive Action in apprenticeships;
- Series of focus groups and semi structured interviews with sector bodies, apprentices and science, technology, engineering and mathematics (STEM) representatives.⁴
- Data triangulation with literature and data from a roundtable discussion in March 2018 hosted by the Equality and Human Rights Commission (EHRC roundtable) looking at the use of Positive Action in relation to under-representation on the grounds of disability, race and gender in apprenticeships across England, Scotland and Wales.

Through this research we found that there is very significant confusion about Positive Action and whether and how it can be used – despite the fact that the majority of employers were committed to measures to bring about gender equality. While not a panacea or sufficient in isolation, our research suggests Positive Action is being chronically under-utilised, which in turn is acting as a barrier to addressing the under-representation of women in key sectors within apprenticeships and beyond.



¹ Skills Funding Agency (2015), *Apprenticeship Achievements by framework code, level and gender 2002/3-2014/15* <https://www.gov.uk/government/statistical-data-sets/fe-data-libraryapprenticeships#apprenticeship-starts-and-achievements>.

² Young Women's Trust research shows that male apprentices get paid 21% more per hour, leaving women potentially over £2000 worse off per year.

³ Positive Action refers to use of special measures taken to redress inequality.

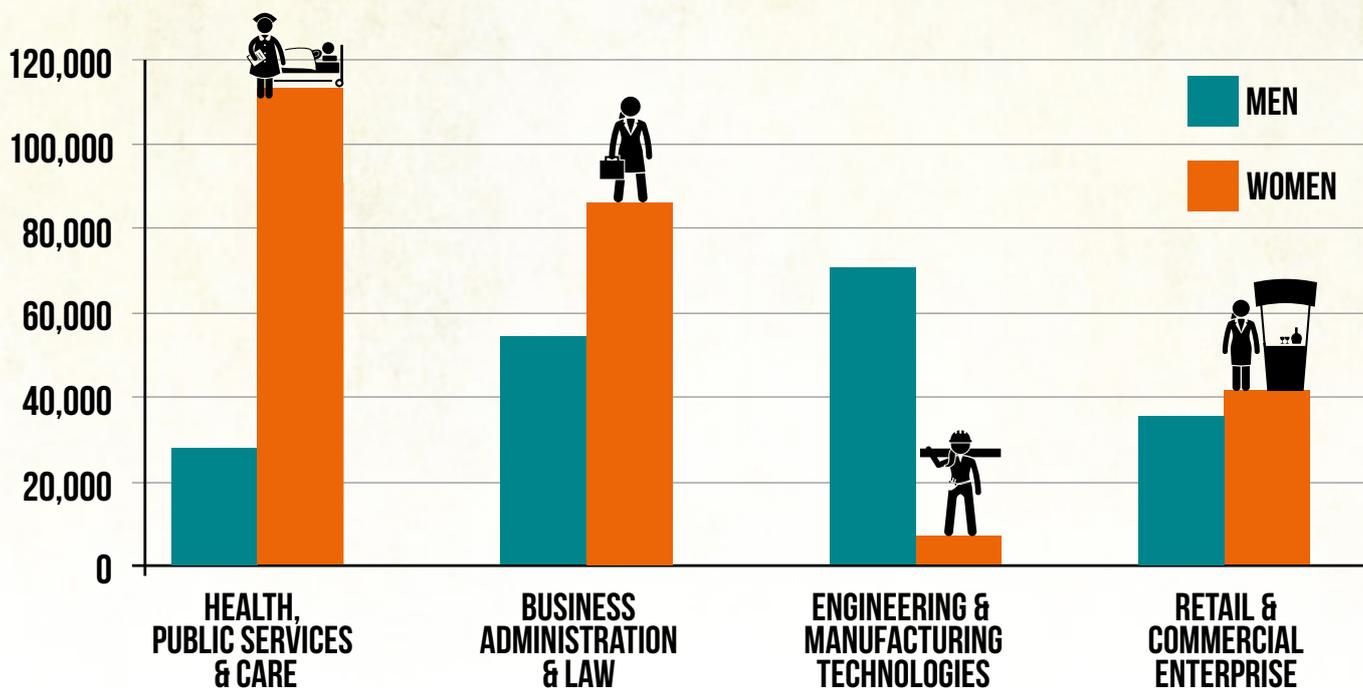
⁴ Special thanks to Sophia Moreau for her assistance.

WHERE ARE THE WOMEN?

Women made up 54% (262,820) of apprenticeship starts in England in 2016/17 compared to 46% (228,520) by men. In all, 86% of all apprenticeships were in only four subject areas: health, public services and care; business administration and law; retail and commercial enterprise; and engineering and manufacturing technologies. Women dominate three of these areas, accounting for the higher representation of females in apprenticeships overall (see Figure 1 below).

Women, however, are hugely under-represented in many sectors, and in higher level apprenticeships. There are worrying trends in construction, planning and the built environment, where there were only 630 females compared to 20,580 male apprentices in 2016/17.⁵ This has continued in 2017/18.

FIGURE 1: Apprenticeship starts in top four subject areas in England for 2016/17



Women are losing out in terms of pay as well. Young female level two and three apprentices are receiving a mean hourly pay of just £6.85 an hour compared with £7.12 for their male counterparts.

WOMEN ARE UNDER-REPRESENTED IN HIGH VALUE, HIGH PAY SECTORS, AND ALSO IN SENIOR POSITIONS



WOMEN ARE FUNNELLED INTO JOBS WITH INFERIOR PAY AND FEWER OPPORTUNITIES

⁵ HM Government. (2018) *FE data library: apprenticeships*. Available from: <https://www.gov.uk/government/statistical-data-sets/fe-data-library-apprenticeship>

REASONS TO ADDRESS SEGREGATION

The Women and Work Commission (2009) estimated that removing barriers to women in gender-segregated sectors could be worth between £15 billion and £23 billion to the UK economy. Diversity has also been shown to have huge benefits for creativity and innovation, produces better results and leads to more innovative outcomes.⁶

With the UK due to leave the European Union, the skills gap the UK faces is likely to be exacerbated – for example, almost 20% of children currently in school need to enter the engineering sector to fill the skills gap.⁷ However unless more is done to tackle gender segregation within apprenticeships and wider employment, these skills gaps will remain or worsen.

Apprenticeships also need to serve young women better if they aren't to continue to be left behind in the jobs market and face a continued gender pay gap.

⁶ Royal Academy of Engineering (2009) Inspiring women engineers. Available from: <https://www.raeng.org.uk/publications/reports/inspiring-women-engineers> [Accessed 3rd April 2018].

⁷ Protected characteristics include sex, age, disability, race, religion, sexual orientation, marriage and civil partnership, gender reassignment and pregnancy and maternity.

HOW TO ADDRESS GENDER SEGREGATION

Positive Action is one way in which apprenticeships can address the skills gap, and tackle disadvantage and under-representation. The phrase “Positive Action” is often confused with “Positive Discrimination”, and employers often do not understand the term. The main differences are:

Positive Action (legal)

Uses special measures to redress disadvantage and under-representation, to achieve equality of opportunity.

Positive Discrimination (not legal)

Achieves equality of outcome by recognising the inherent disadvantages groups with specific characteristics (e.g. disability, ethnicity, gender) face. Decision makers use this characteristic to evaluate individuals.

Examples of Positive Action include encouraging under-represented applicants to apply for roles through focused advertising, mentoring and additional training opportunities targeted at women. It does not include selecting a woman, where women are under-represented, if she is less experienced or skilled than a man, just because she is a woman.

Our research found that Positive Action is often misunderstood. Moreover, some employers feel its use leads to the alienation of those not included within Positive Action measures and others are anxious about the legal boundaries between Positive Action and discrimination.

“I didn't actually know what it was, no idea what Positive Action meant as a statement, but it turns out that....lots of people are doing it.”

“I suspect it means something different about everybody.”

“To me, Positive Action is creating a level playing field so that no one is disadvantaged in any way from progressing or moving forward to taking part in something.”

“I’ve been worried about breaking any legislation, saying...for example can we advertise for females solely...I don’t know whether that would even be legally possible or not.”

THE LEGAL FRAMEWORK FOR POSITIVE ACTION: EQUALITY ACT 2010

The legal basis of Positive Action is section 158 of the Equality Act. This specifies that an employer can take proportionate measures to address disadvantage, differing needs or disproportionately low participation of people with protected characteristics.⁸

In this case, a person is permitted to implement ‘proportionate’ measures to overcome or minimise the disadvantage, meet differing needs, or enable or encourage participation of under-represented groups.

When women are clearly under-represented in the workforce the following are the most relevant sections of the Equality Act:

Section 158

This allows employers to conduct appropriate activity to encourage and enable women to apply for roles.

Section 159 – the “tiebreak clause”

This section is relevant where two candidates are as qualified as each other in respect of transparent criteria and can allow employers to employ or promote women over men.

⁸ Protected characteristics include sex, age, disability, race, religion, sexual orientation, marriage and civil partnership, gender reassignment and pregnancy and maternity.



SMALL BUSINESS, BIG CASE

Small and medium-sized enterprises (SMEs) felt the least able to use Positive Action. Without external guidance and support, many saw the cost of implementing robust and effective initiatives as prohibitive. They reported a lack of support from larger organisations, and limited funding to engage in Positive Action meant they would not use it.

However, as 90% of UK businesses are SMEs, this needs to be addressed. Participants in the EHRC roundtable suggested that Government support or sector body grants/funding could be used to help employers address under-representation using Positive Action. They also said easier access to data and training for SMEs would enable more effective implementation of Positive Action measures. This training should be free at the point of delivery.

The most common suggestion for encouraging SMEs to use Positive Action was through the procurement process (both public and private sector). Requiring SMEs to use Positive Action and holding them to account on equality measures makes Positive Action a business case for SMEs, which can be more persuasive than explaining that they should have an ethical incentive to increase female apprenticeships.

“The biggest construction client is the Government, so if the Government lets them get away with it, which is what they are, then we need to make the Government accountable at procurement level!”



YOUNG PEOPLE'S VIEWS ON POSITIVE ACTION

Young people interviewed in a Young Women's Trust's survey thought that work experience schemes, advertising and women's mentoring/support networks would be the most effective Positive Action measures organisations could take to address women's under-representation. Using appealing images/ language in adverts and targets were the least popular measures.

TABLE 4: Young People Survey attitudes towards specific Positive Action measures

POSITIVE ACTION MEASURE	FEMALE AGREE	MALE AGREE
Work experience schemes for women	77%	62%
Support for women before they apply for jobs	75%	63%
Mentoring/support networks for women once they have been appointed	75%	60%
Advertising vacancies where women are more likely to see them	73%	66%
Workplace open days for women	70%	55%
Support for women writing CVs/job applications	69%	55%
Free one on one telephone or online support for women to help with confidence and employability	66%	55%
Setting targets for the recruitment of women	58%	42%
Using language/images in adverts which may particularly appeal to women	53%	48%

EFFECTIVE OUTREACH IN SCHOOLS, CAREERS SERVICE AND WORK EXPERIENCE SCHEMES

Outreach in education may improve the pool from which employers can select apprentices. For successful outreach it is necessary to engage with educators, careers advisors and parents.

Interviews found that initiatives should be introduced as early as possible in schools and colleges to establish norms and break down embedded perceptions of "men's work" or "women's work". Providing women with role models in traditionally male-dominated subjects and engaging them in these subjects are seen as likely to increase the number of women applying for jobs in these sectors later in life.

"We have to start with education and I suppose gender education with children at all levels. So opening up the eyes of girls to the fact that they can do this kind of work and they can do it well and can enjoy it."

SOMEONE LIKE YOU

Several interview and focus group participants referred to the importance of media campaigns to promote female visibility within gender-segregated sectors. For many participants, increasing visibility is vital to breaking down stereotypes, so that women could justifiably feel “that could be me”.

Similarly, young people surveyed thought creating awards for successful women within non-traditional sectors was inspiring and a way to encourage female participation. They also favoured the use of women mentors, although this was criticised by some as attempting to ‘fix’ the person rather than ‘fix’ the system. Making women visible, inspiring them and supporting them were considered critical in encouraging women to apply for roles in non-traditional sectors.

Other respondents suggested that formulating a 50/50 gendered shortlist would be beneficial in improving women’s representation: half of young people agreed with setting gender targets and employers moderately support gendered shortlists.

“It would be great if there were at least half men, half women at an interview for each role and that be the standard.”



THE TIEBREAK CLAUSE: A MISSED OPPORTUNITY

In addition to the general confusion about Positive Action, most people interviewed did not understand how to apply the tiebreak. Employers often incorrectly thought it was positive discrimination and were reticent to use it for fear of legal liability based on ‘reverse discrimination’.

In contrast, most interview and focus group participants’ attitude towards the tiebreak was positive. Some felt that the issue of gender segregation within relevant sectors was so embedded that the use of the tiebreak is a sensible way to address it. However, several participants were concerned about tokenistic use, such as women being perceived as having been recruited or promoted simply because of their gender.

“I wouldn’t want a woman to feel, or anyone to ever think that she got the job because she’s a woman and not because she won it on merit.”

Although more than half of HR decision-makers interviewed in our survey agreed that the law provides sufficient scope to increase diversity through Positive Action, a glaring 47% of the professional, scientific and technical sector didn’t know what provisions are in place. This is surprising considering there have been campaigns carried out by organisations to raise awareness, particularly in engineering.

Despite interview and focus group participants’ generally positive attitude towards the tiebreak, not a single one had formally used tiebreak provisions, nor were they aware of other organisations using it.

“If they were of equal merit I suspect right now given our targets we would appoint the woman anyway [laughs], so we might do it indirectly without realising there’s a thing called tiebreak.”

“Ooh but that feels like it’s risky to use, like how do you ever definitively prove that two people are equally qualified ...”

Similarly, the EHRC roundtable demonstrated the lack of employer understanding of the tiebreak. Participants felt that detailed guidance is needed on use of the tiebreak and how, in practice, to apply the criteria: ‘as qualified as’.

QUOTAS VS TARGETS

Quotas are numerical goals that must be achieved in a certain time framework.⁹ Targets, however, are softer aspirational goals with no mandatory enforcement mechanism. At the moment, the Government is increasingly relying on targets, not only to increase overall numbers of apprenticeships but also in relation to those recruited with protected characteristics.

More than any other measure, participants were divided on the use of quotas. Some viewed them as highly effective or as a painful but necessary measure, whilst others preferred the use of more moderate targets or expressed concern about using such measures to increase representation.

"In some instances, they are almost a blunt instrument to say, "You need to do this because everything that you've done before isn't working""

"We have a lot of targets in my industry, we always find loopholes for why those targets aren't met."

"I agree that quotas really focus the mind...."

It was felt that quotas could be useful but only if they drive organisations to use more extensive Positive Action and good practice:

"Quotas often look at senior women and then that's just sort of ticking a box, whereas it needs to be cultivated through the pipeline so you need to start looking at your graduate recruitment, then your promotion, then your retention of women and then the progression, and that's the overall aim, rather than starting with just a quota."

Some employers expressed concern that imposing quotas could mean merit becomes less important in the recruitment process and could lead to women being appointed as a token gesture while not being truly valued as apprentices and employees.

Culture and conditions

There was acknowledgement among employers that if working environments are not appealing to women, industry sectors will fail to retain them. Harassment,¹⁰ inflexible working patterns and the low pay of the current national apprenticeship minimum wage (too low to cover costs of childcare or other living costs), act as barriers for young women to take up apprenticeship opportunities.¹¹

"They are keen to join but then we lose them – firstly it is really difficult to enter the industry (it is actually very complicated and difficult) and then we lose them by the way we work. Lack of flexibility, adversarial working environment, long hours, poor organisation, poor people management."

Proactive steps such as mentoring, promoting female role models and providing networking opportunities for women to engage, share experiences and support each other may improve conditions.¹² However, equal opportunities and harassment policies and procedures need to be properly implemented and not simply amount to 'empty shells'.¹³

⁹ Selanec, G. & Senden, L. (2012) *Positive Action measures to ensure full equality in practice between men and women, including on company boards*. European Network of Legal Experts in the Field of Gender Equality: European Commission.

¹⁰ The Smith Institute (2014); Clarke et al., (2015); Newton & Williams, (2013).

¹¹ Newton & Williams, 2013, (2013) *Under-representation by gender and race in Apprenticeships: Research summary*. London, TUC.

¹² The Smith Institute, 2014; Clarke et al., 2015; Newton & Williams, 2013; Amaratung et al., 2006; WISE, 2014; WISE, 2017.

¹³ Hoque & Noon, (2004) 'Equal opportunities policy and practice in Britain: evaluating the 'empty shell' hypothesis'. *Work, Employment & Society*. 18(3). 481-506.

CONCLUSION

Positive Action is an important tool in the fight against discrimination and disadvantage within apprenticeships and beyond. As there is no fixed formula, it should be applied as a framework based on ERE: evidence, response and evaluation.

1. EVIDENCE:

Organisations and sector bodies should collect data on the need, under-representation and disadvantages within apprenticeship sectors to create a robust evidence base. This data should be analysed regularly to assess trends and the need for action to address under-representation.

2. RESPONSE:

Employers should appropriately respond to their evidence on gender inequality; use Positive Action measures to level the playing field; and take an individualised approach to redress this. This research shows guidance on Positive Action needs to be developed, but this should not delay action from being taken.

3. EVALUATION:

Organisations should evaluate the implementation of Positive Action and continually monitor their progress towards achieving gender equality within apprenticeships.

SUMMARY OF RECOMMENDATIONS

If the Government wants to hit its target of three million apprenticeships by 2020 and make apprenticeships more accessible, entrenched gender disparities need to be addressed as a priority. In each stage of the apprenticeship, from recruitment through to employment, females are missing out. This is damaging for current and potential apprentices and does little to address the UK's skills shortage. We are therefore urging gender considerations to be central to apprenticeship programmes, and for Positive Action to be used as a framework to make gender equality within apprenticeships a reality.

It is clear from our research that there is fundamental confusion around the legality and boundaries of Positive Action in relation to apprenticeships and employment. While there are isolated examples of effective use, Positive Action is often misunderstood and applied in a tokenistic way – and is consequently ineffective. We are therefore proposing the following recommendations:



1. Employers should make greater use of Positive Action to recruit women apprentices in sectors where they are under-represented.

- a) Employers should use Positive Action measures. This could include targeting where and how jobs are advertised, outreach, work experience placements, taster events, pre-application support, coaching and formal mentoring schemes for potential and current female apprentices.
- b) Employers should work with education, training and careers providers to embed a consistent approach to using Positive Action.
- c) Employers should consider using the 'tiebreak' provision under Section 159 of the Equality Act to shortlist and ultimately appoint someone from an under-represented group when two or more candidates are as qualified as each other.
- d) Larger employers should use the procurement process to incentivise their supply chain to address gender segregation.
- e) Organisations should use gender targets to drive Positive Action measures, with incentives for meeting targets. Young Women's Trust welcomes moves from companies such as ITN who are using gender and diversity targets as performance indicators for bonus payments for chief executives.
- f) Employers should mitigate disadvantages to women within recruitment practices, for example by considering using blind CVs or removing unessential minimum qualification levels.
- g) Employers should offer all staff, including apprentices, part-time and flexible working opportunities.
- h) Positive Action needs to be understood, signed-off and promoted at a leadership level within organisations, with training in place for key staff and relevant data collected and analysed.

2. Sector bodies should be promoting Positive Action, providing greater clarity and cohesion.

- a) Sector bodies should actively promote using Positive Action alongside wider equalities and diversity measures and provide clear and consistent guidance on good practice.
- b) Sector bodies should focus on promoting the use of the 'tiebreak' under section 159 of the Equality Act 2010 to address under-representation in apprenticeships. They should develop, disseminate and promote in-depth and robust guidance on 'tiebreak' use.

- c) Sector bodies should encourage and support employer collaborations and networks to address women's under-representation and promote Positive Action.
- d) Awards, campaigns and kitemarks should be used by sector bodies to promote employer use of positive action.
- e) The use of incentives in procurement should be encouraged by sector bodies as a means of promoting greater take up of Positive Action.

3. Government should visibly support, publicise and promote the use of effective and robust Positive Action to address women's under-representation in apprenticeships.

- a) Government should endorse new guidance on the effective use of Positive Action. We recommend that the Equality and Human Rights Commission is tasked with producing this.
- b) The Government should lead by example and use public sector procurement as a tool to promote Positive Action in the supply chain – backed up by relevant funding, training and resources.
- c) The Government should collect more in-depth data on apprenticeships that allows for intersectional analysis, including on applications, starts, progression, retention, performance and employability.
- d) The Government should consider committing funding and additional support to employers to enable and reward engagement with Positive Action. The apprenticeship levy could be a means of addressing this.
- e) The Government should use national and sector-based gender targets to encourage employers to appropriately use Positive Action. We recommend setting time-limited targets to measure and incentivise sufficient progress made against gender goals.
- f) Longer-term, if targets are not effective, the Government should explore using quotas to address women's under-representation. These quotas should be at apprenticeship as well as leadership level.
- g) The Government should review the legislative framework under the Equality Act 2010. This should include assessing whether Section 159 (the tiebreak provision) is adequate to enable employers to take proactive measures to address under-representation, and options for whether it should go further.



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