



ASLEF

THE
INSTITUTE
OF
EMPLOYMENT
RIGHTS

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

ABOUT THE AUTHORS



Nadia Motraghi of Old Square Chambers has been in practice as a barrister since 2004. She specialises in employment and equality law and professional regulation. She regularly provides training, conducts investigations, determines complaints and authors reports concerning equality and diversity issues.

Her cases have taken her to Tribunals and Courts across the country as well as on numerous appeals, including up to the Court of Appeal and Supreme Court.

She is recognised as a leading barrister in *Chambers & Partners* and the *Legal 500* who describe her as 'phenomenally bright and keen', 'knows her subject inside out', 'incredibly tenacious in negotiations and on her feet', and 'an excellent advocate who never disappoints', known for her 'standout litigation work' and for acting as a 'trusted adviser on non-contentious matters'.



Ijeoma Omambala is an independent legal professional. Ijeoma is an accredited mediator, a consultant, trainer and legally qualified Chair of regulatory disciplinary tribunals. She has been in practice as a barrister since 1989 specialising in employment, equality and public law. She is on the Equality and Human Rights Commission panel of approved counsel.

Ijeoma has a particular interest in equality, diversity and inclusion best practice. She has worked closely with anti-racism and xenophobia groups and campaigns in the UK and the EU. She has written and spoken widely on sex equality, harassment and equal pay in the workplace.

ISBN
978-1-906703-43-1

June 2019

Published by ASLEF
and the Institute of
Employment Rights

ASLEF
75-77 St John Street,
Clerkenwell,
London EC1M 4NN
www.aslef.org.uk

IER
4th Floor
Jack Jones House
1 Islington
Liverpool L3 8EG
www.ier.org.uk

Design and layout by
Upstream (TU)
www.upstream.coop

Printed by Rap
Spiderweb (www.rapspiderweb.com)

£8 for trade unions and
students
£30 others

ACKNOWLEDGEMENTS

In producing this report, the authors are particularly grateful for the support, guidance and knowledge of Lee James, Equalities Advisor and Nigel Gibson, Executive Committee.

They also wish to thank Muriel Robison who authored the original 2012 Report, Karen Monaghan QC for her pro bono advice on the public sector equality duty for the original report and John Hendy QC for his insightful suggestions. In addition, the authors are indebted to Paul Siniecki and Kelly Forrest of MTR Crossrail for their knowledge sharing and to Hamid Motraghi, Chair of the Home Office Network and Chair of the Civil Service Race Forum for sharing best practice in equality strategy.

Finally a special thank you to Carolyn Jones of the Institute of Employment Rights for her encouragement and support without which this Report could not have been produced.

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.



ON TRACK WITH DIVERSITY 2019

CONTENTS

FOREWORD	2
EXECUTIVE SUMMARY	4
CHAPTER ONE	
Introduction	7
Methodology	8
Background and history	8
The current situation	10
CHAPTER TWO	
Female train drivers: Where are we now?	12
BAME drivers: Where are we now?	13
Drivers: 18-35	14
Selection methods	15
CHAPTER THREE	
The legal context	18
CHAPTER FOUR	
Positive action initiatives	23
Great Western Railway	23
Arriva Rail London	24
Greater Anglia	25
DB Cargo UK	25
MTR Crossrail	26
CHAPTER FIVE	
Recommendations for action	30
APPENDICES	
Appendix A: Statistical breakdown of ASLEF's female, BAME and young members by company	34
Appendix B: Pro Forma Questionnaire sent to companies	35
Appendix C: Questionnaire returns by company	37

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' – 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



ON TRACK WITH DIVERSITY 2019

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



ON TRACK WITH DIVERSITY 2019

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.



ON TRACK WITH DIVERSITY 2019

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>

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.

IER officers

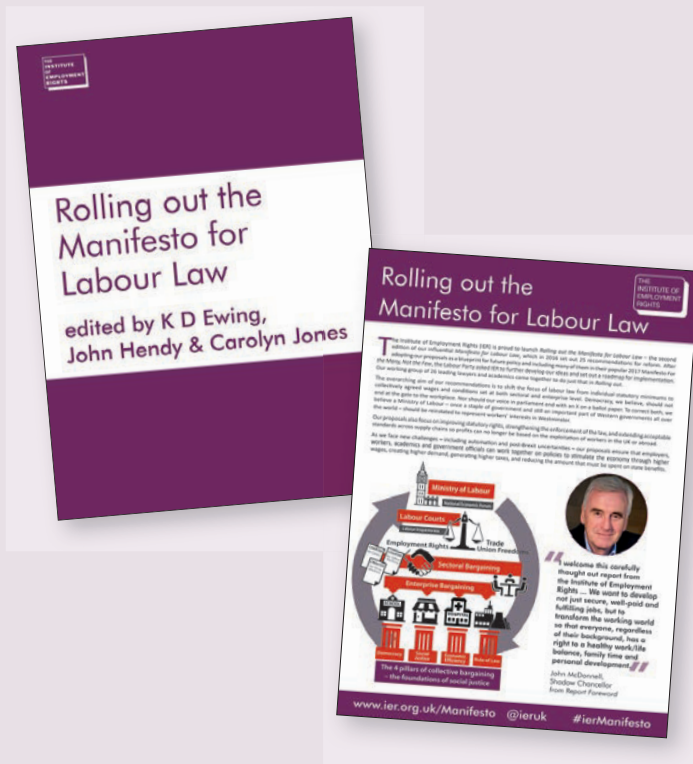
President **Professor Keith Ewing**
 Chair **John Hendy, QC**
 Treasurer **Geoff Shears**
 Director **Carolyn Jones**

For more information and a full list of IER members visit www.ier.org.uk

The Institute of Employment Rights
 4th Floor Jack Jones House
 1 Islington
 Liverpool, L3 8EG
 Tel: 0151 207 5265

Email: office@ier.org.uk

Twitter: @ieruk



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.



ASLEF **77 St John Street, London EC1M 4NN**

Tel **020 7324 2447** Fax **020 7490 8697**

Email **info@aslef.org.uk**

www.aslef.org.uk

IER **4th Floor Jack Jones House, 1 Islington, Liverpool L3 8EG**

Tel **0151 207 5265** Fax **0151 207 5264**

Email **office@ier.org.uk**

www.ier.org.uk

Published by ASLEF and the Institute of Employment Rights, June 2019

£8 trade unions and students

£30 others