

Following a consultation that closed in June 2025, (for our thoughts on the proposals at the time, please see [here](#)) the government has [confirmed](#) that it is going ahead with mandatory ethnicity and disability pay gap reporting for large employers (those with over 250 employees) to increase transparency and help tackle barriers in the workplace.

The government has also published the [outcome to the consultation](#), which it confirms shows widespread support for the proposals (seemingly 87% of respondents supported the proposals), but keep in mind that “respondent” here is a reference to any person contributing to the consultation outcome and not to employers only. It would be materially misleading to suggest that employers favour these measures to the same extent.

This is not a wholly new idea. As per our [blog](#), the previous government issued official guidance for voluntary ethnicity pay reporting in April 2023, but that left a great deal more to the discretion of the employer than is now proposed and did not include any reference to disability.

Key points to note are:

- The government will develop legislation to introduce mandatory ethnicity and disability pay gap reporting for large employers. This will include a mix of primary legislation and supporting regulations, which will set out the detailed reporting requirements. The consultation outcome includes draft legislation in [Annex A](#), which the government has confirmed is indicative of the model any such legislation will follow, but will be subject to further refinement. The government’s intention is that it will seek to build on the current gender pay gap reporting to simplify the process and make it easy for employers to record their data.
- The government has also promised guidance and practical tools to support employers with the proposed new reporting requirements, including:
 - Guidance on how employers can improve employee declaration rates on ethnicity and disability
 - Detailed step-by-step guidance on how to make the calculations
 - Advice on actions to address ethnicity and disability pay gaps
- The reporting framework will be broadly the same as for gender pay gap reporting, which is clearly good news because affected employers are familiar with this and have set up their systems accordingly. Only employers in Great Britain with 250 or more employees will be caught, and they will be obliged to report on the same set of six pay gap measures as for gender pay (mean and median differences in average hourly pay, pay quartiles, mean and median differences in bonus pay and the percentage of employees receiving bonus pay for the relevant protected characteristic). Furthermore, the key dates and deadlines will be the same as for gender pay gap reporting, namely (for private sector employers) a “snapshot date” of 5 April, and a reporting date of 4 April the following year. All data will have to be reported online.
- Employers with fewer than 250 employees will not be required to report, but will be encouraged to report voluntarily.
- It will also be mandatory for affected employers to report on the overall breakdown of their workforce by ethnicity and disability, and to provide the percentage of employees who did not disclose their ethnicity and disability. The government believes this additional data will give context to employers’ ethnicity and disability pay gap figures. It also seeks to mitigate against what would be a fairly dire unintended consequence of the legislation, if employers then sought to recruit fewer ethnic minority or disabled people to avoid higher pay gap figures. The requirement to publish declaration rates is intended to allow employers to explain if their data may have been affected by low rates. Indeed, low self-reporting/declaration is likely to be a key issue for many employers. Not all employers currently collect this data and even those that do will inevitably not have complete data. Concerted efforts will need to be made by employers to obtain such information (which will not simply be a case of asking for it, but will also involve creating a culture in which employees feel willing, able and safe to disclose such personal data) to enable any reliable analysis to take place.
- Large employers will be required to publish action plans to tackle any ethnicity and disability pay gaps as part of their reporting. The government intends to harmonise approaches so that employers can produce a single equality action plan on the same service covering sex, race (including ethnicity) and disability, when all the reporting requirements are in force – recognising that some actions may be beneficial for multiple groups (for example, flexible working).

Given the government’s track record on practical guidance and its usefulness in the real world, are we allowed to say that we will believe it when we see it?

- There will, however, understandably be some important differences from gender pay gap reporting, especially when it comes to data collection and analysis:
 - **Ethnicity data** – The government has confirmed that employers will be expected to ask employees to report their own ethnicity using the classifications in the [Government Statistical Service ethnicity harmonised standard](#), as used in the 2021 census. Employers should follow the Office for National Statistics (ONS) guidance on how to aggregate different ethnic groups. In practice, this means that individual ethnic groups would be aggregated into one of five broader ethnic groups (White; Asian or Asian British; Black, Black British, Caribbean or African; mixed or multiple ethnic groups and other ethnic groups). The guidance for employers will include further advice about how to aggregate different ethnic groups.
 - All in-scope employers will be obliged to report a binary comparison as a minimum. The only exception to this will be if an employer does not have the minimum threshold number of employees to make that comparison without compromising confidentiality (see below).
 - The consultation included various options about how this binary comparison could be made. Taking into account the consultation responses and stakeholder feedback, the government’s preferred approach is to require a binary comparison of White (including White Other) with all other ethnic groups combined (to avoid high earners in the White Other group skewing the pay gap figures for all other ethnic groups combined, which could mask potential disparities within organisations).
 - To add further transparency, the intention is that employers will also be required to report comparisons between the five broad ethnic groups if they meet the minimum employee threshold (level of the threshold is yet to be decided). For example, if the threshold is 10, an employer would need to have at least 10 employees in each of the five broad ethnic groups. The White ethnic group would be the main “comparator,” against which the other four groups would be compared, for example, White and Asian or Asian British (the government intends to build in exceptions to this as it develops the detailed reporting requirements, that is, if there are insufficient numbers of employees in any of the five broad ethnic groups).
 - Employers will not be required to provide more granular comparisons than using the five broad ethnic groups, as the government’s view is that it is unlikely, even for very large employers, that comparisons between up to 19 ethnic groups (which is the full number of ONS ethnicity classifications) would be feasible when considering minimum thresholds and the need to protect confidentiality. It would also represent a significant burden on employers to undertake such a large number of comparisons.
- **Disability data** – For disability pay gap reporting, the government is also proposing to take a binary approach and require employers to compare the pay of disabled employees with non-disabled employees, and to use the definition of disability in the Equality Act 2010 as the basis for identifying disabled employees. The issue of disability will also be determined on a self-declaration basis (leaving it up to employers to make that judgment would be disastrous), but as we stated at the time of the consultation, it is possible to wonder if that has been fully thought through as an idea. After all, if you invite employees to say they are disabled then those at the margins, or with unresolved or latent grievances may be tempted to tick that box. That puts the employer on notice of that status, though not of the impairment alleged and so triggers immediately a full set of duties to explore reasonable adjustments for issues of which it had no prior awareness, as well as to consider in every case of misconduct or poor performance whether it arose from a condition of which it was aware, but simultaneously knew nothing. Any subsequent redundancy or disciplinary process, or other detriment of any description thereafter could be alleged to be a product of that disclosure. It is also possible to query whether the reporting would tell the reader anything useful given that in contrast to issues of race or sex, less favourable treatment (including as to pay) on grounds of disability is entirely lawful if it can be justified. That is a question to be decided per individual and so not something which could properly be dealt with in an employer’s report.
- A minimum threshold (level yet to be decided) will apply across all the pay gap calculations to build in safeguards and avoid sensitive data being disclosed.

The government had proposed to introduce additional mandatory reporting obligations for large employers in the public sector (namely: ethnicity and disability pay differences by grade or salary bands; plus, data relating to recruitment, retention and progression by ethnicity and disability), but will not be going ahead with these proposals.

Although we do not yet have an indication of when these provisions will be introduced, affected employers should add “preparation for mandatory ethnicity and disability pay gap reporting” to their ever-growing “to do” list, as collecting and analysing this data is likely to be very time-consuming.

As with the gender pay reporting, the existence of gaps around ethnicity and/or disabilities does not necessarily signify any unlawful discrimination. There may be good reasons for those gaps. However, the government’s expectation is that employers will nonetheless see such gaps as a bad thing and take steps to address them. This won’t necessarily be through pay levels, but instead through closer consideration of under-representation at certain levels within the business – at what stage does it arise, at the point of recruitment or a later stage and what could be done to bring retention and advancement rates into closer alignment with white or non-disabled colleagues? Is this a case for positive discrimination (in the limited circumstances where that is permitted), or should you be looking at which impact might be had upon your disability pay gap by a review of potentially helpful adjustments?

If you would like to discuss these latest proposals and what changes are likely to be necessary in your business, please speak to one of the following or your usual contact in the Labour & Employment team.

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