

Government consults on major reform of the equal pay framework (UK)

July 2026

On 14 July, the government launched a [consultation](#) on proposed wide-ranging reforms to the UK's equal pay and pay discrimination framework, in acknowledgement that the current equal pay system is far from fit for purpose. The government states that the current system "encourages protracted and adversarial disputes, multiplying the time and expense involved". Indeed, if [Baroness Smith of Malvern's statement to the Lords](#) is to be believed, seemingly there are "tens of thousands of claims stuck in the system and cases taking a decade or more to resolve, [meaning that] workers are trapped in endless litigation and employers face intractable uncertainty. No one benefits from this." Similarly, the government's view is that the existing regime "does not do enough to protect those who need it, including disabled employees, those from ethnic minority groups and outsourced workers".

It is therefore seeking views from stakeholders including employers, trade unions, individuals and representative organisations on proposals to fix the areas of the system that are currently falling short, as well as on its planned expansion of the equal pay system.

The government's plan for reform consists of two phases:

1. Fixing the current system by streamlining procedures and strengthening transparency and enforcement; and (only once the government is satisfied the system is improved)
2. Broadening protections to close gaps in the law, particularly for ethnic minority, disabled and outsourced workers

The consultation seeks views on both phases.

Key dates

- **Consultation published** – 14 July 2026.
- **Consultation period** – 15 weeks, closing on 27 October 2026.
- **Implementation** – The government has indicated that any reforms would be implemented only after an extended implementation period, with the first phase of reforms taking effect before any broader (Phase 2) expansion of rights

Phase 1: Fixing the system

The government's proposals for reform include:

- **Pay transparency** – With possible reforms including (i) requirements for employers to publish information about pay and conditions in job adverts (as many readers will know, this would start to bring the UK into line with the measures being brought into force in Europe under the Pay Transparency Directive), (ii) stronger measures applying to employers who have been found (or are suspected) to be in breach of the equal pay scheme and (iii) the reinstatement of the statutory questionnaire procedure to be used in pay discrimination cases only (cue a collective groan from those who remember this procedure from the first time around).
- **Strengthened enforcement** – With proposed mechanisms for earlier resolution of disputes, improved access to information during claims and tougher enforcement mechanisms. This includes a proposal to establish an "Equal Pay Regulatory and Enforcement Unit", intended to reduce the enforcement burden on individuals, as well as an overhaul of the rules of procedure for equal pay claims in order to unblock the logjam caused by decade-long legal cases, particularly in relation to "equal value" claims where delays have been most acute. The work of the unit would include improving the tools available and producing clear guidance on points of contention, such as what factors may or may not justify pay differences, as well as of course enforcement. The home for the proposed unit is yet to be established, and the government seeks views on whether this should be the Equality and Human Rights Commission, the new Fair Work Agency or elsewhere.

Depressingly, there seems to be no proposal to address the delays by more old-fashioned methods, such as hiring more Employment Judges, procuring more Tribunal offices, etc. Concerns about what is statistically a tiny handful of extended judicial processes in a few equal pay claims, may seem somewhat disingenuous when listings for shorter and more prosaic hearings on other matters are already reaching well into 2029 in some Employment Tribunals. On the other hand, the second phase could always make things worse.

Phase 2: Bringing more people in

The second phase (which will not be implemented until the government is satisfied that Phase 1 has been effective) involves addressing gaps and inconsistencies in the framework currently affecting disabled people, those from ethnic minority groups and "outsourced workers". "Outsourced workers" seems intended to capture all forms of labour supply arrangement (i.e. agency work, contractors and umbrella companies, etc.), so that there can be no practice of outsourcing services in order to avoid equal pay obligations that apply to in-house employees. The government's stated aim is to ensure that all those parties involved in the supply of labour (principals, intermediaries and service providers) would need to take all reasonable steps to uphold pay equality.

The government proposes to achieve this by "levelling up" protections so that rights and remedies are more closely aligned across the different regimes, although the law would remain distinct, i.e. equal pay claims would continue to relate only to sex, while pay discrimination relating to race or disability would be brought as discrimination claims under the direct and indirect discrimination provisions of the Equality Act 2010, as well as discrimination arising from disability and the reasonable adjustment provisions (where relevant).

All in all, levelling up is an admirable aim, perhaps, but it is almost impossible to imagine how this will work in practice, and at first blush the proposals (as summarised below) don't seem to make things much simpler nor suggest that this is going to in any way ease the pressure on an already creaking Tribunal system. If you will forgive the literary reference, it also runs the risk of all going a bit "Animal Farm" with some rights being "more equal" than others.

Overview of Phase 2: "Levelling up" proposals

The principal measures proposed to achieve this are (in summary):

1. Contractual modification remedies

In successful race or disability pay discrimination claims, Employment Tribunals could be given the power to require the amendment of discriminatory contractual terms, similar to the effect of the sex equality clause in equal pay cases.

2. Equal pay audits and job evaluation schemes

Where an employer is found to have engaged in race or disability-based pay discrimination, Tribunals could be empowered to order an equal pay audit and a job evaluation scheme, with the intention of mirroring and strengthening existing equal pay enforcement mechanisms.

3. Equal value claims for race and disability

The government proposes allowing race and disability pay discrimination claims to be brought where work is "rated as equivalent" or of "equal value", even where the claimant and comparator perform different roles. This would significantly expand the scope of potential claims for those who experience pay discrimination on the basis of race or disability, with the aim of aligning their options with those already available under the existing gender-based equal pay framework.

4. Hypothetical comparators in equal pay claims

In the current equal pay regime, the use of hypothetical comparators is not permitted. An actual comparator must be used. In contrast, direct discrimination provisions can use a hypothetical comparator, and indirect discrimination provisions permit the use of a different hypothetical analysis to establish whether a provision, criterion or practice concerning pay would put people sharing the same protected characteristic at a particular group disadvantage.

The consultation explores introducing hypothetical comparators into the sex-based equal pay regime in limited situations, reducing reliance on identifying an actual comparator and potentially making claims easier to bring and harder to defend.

5. Extension of Tribunal time limits

The government proposes giving Tribunals the discretion to extend time limits for equal pay claims on a "just and equitable" basis, aligning them more closely with other discrimination claims under the Equality Act 2010.

6. Creating a duty on employers to take all reasonable steps to uphold pay equality in their contractual arrangements

The government is concerned that the current equal pay scheme does not prevent the outsourcing of services being used by employers to avoid equal pay obligations that would otherwise apply to their own in-house employees providing those services. However, the government does not seem to have very clear ideas on how this new duty might best be designed and so seeks views on that and/or whether other steps could be taken to achieve this aim.

Next steps: Join with us in responding to the consultation

The government has confirmed that it will consider responses before deciding whether and how to legislate. As such, we strongly recommend that employers consider responding to the consultation.

As a firm, we will be submitting a response based on our significant experience in equal pay litigation. Please do get in touch with your usual firm contact if you would like us to factor your views and comments into that response, and we will keep you informed of our plans, including any events we propose to run in relation to these proposed changes.

In good news, the government has also confirmed that it will seek an extended implementation period before any measures are commenced, purportedly to ensure everyone has time to prepare for the change and to ensure a smooth transition for employers and the Tribunal system.

That being said, although legislative changes are some way off, employers should note the direction of travel. The proposals would increase scrutiny of pay structures, widen potential avenues for claims relating to race and disability, and place greater emphasis on pay audits, job evaluation and proactive compliance. Employers may therefore also wish to review existing pay governance arrangements and equality monitoring processes ahead of any future reforms.

Contacts



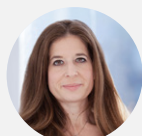
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