Equal Pay and Pay Discrimination

Action for Race Equality consultation response

October 2026

About Action for Race Equality

Action for Race Equality (ARE) was founded in 1991, and over the last 30+ years we have worked to champion fairness, challenge race inequality, and pioneer innovative solutions to empower young people.

We work to end racial disparities and discrimination faced by Black, Asian, and Mixed Heritage people in employment, promoting employer best practice that supports fairness and race equity. For ARE, a more equal society is when young people's race, ethnicity, or faith are not barriers to their achievements. Employment is central to this.

ARE welcomes this call for evidence. Equal pay is a key tenet of race equality and justice, yet longstanding disparities in employment and pay persist. Structural barriers in the labour market disproportionately affect Black, Asian and Mixed Heritage people and disabled people, pushing them into insecure work and low pay, with consequences that reverberate across other areas of life. The equal pay system must work for all employees, regardless of background.

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Pay transparency

Question 1: Do you agree or disagree with the proposal to require employers to publish pay information either in job adverts, or in writing to the candidate before the interview (if there is no job advert)? Strongly agree

Transparent pay information is a positive reflection on the employer; it demonstrates honesty and builds trust. This is particularly important for young people who are facing a difficult job market. Publishing pay information also underpins an equitable workplace, in which employees are appropriately compensated for their time, knowledge, and skills.

Glassdoor, the job search website, found that salary is the main consideration for 64% of UK job seekers. Pay transparency helps candidates make informed decisions and hold employers accountable. Due to the cost-of-living crisis, this has become more pronounced as, 75% of job seekers are more likely to apply for a role that outlines salary. This illustrates that clarity on pay has a considerable impact on successful recruitment.

Government research reveals that racial, ethnic, and religious identity has a significant impact on pay. Bangladeshi and Pakistani employees have the largest pay gap, and on average Black people are paid 7.8% less than White British employees. Pay inequalities are a concern across all ethnic groups. According to British Future, 25% of ethnic minority and 18% of White respondents believe closing the racial pay gap and equal pay for equal work is a priority.

Pay gaps are driven by systemic and structural barriers such as lack of progression and underrepresentation in leadership. While publishing pay information is good practice, it should be viewed as part of a wider strategy to end pay disparities.

Question 3: What pay information or conditions would be proportionate for this requirement? Examples might include salary, collective bargaining provisions, annual adjustments, or other financial benefits.

Employers should publish a clear salary range, which offers flexibility while signalling to candidates the scope of remuneration. Research shows employers are more likely to publish salary ranges than specific salaries (62%) when advertising jobs publicly. CIPD also recommends employers should indicate where new starters begin on the scale and how pay progresses over time.

Recruitment materials should outline the variables that may impact pay such as an annual pay review, performance-related pay, bonuses, commissions, pensions, and overtime rates. Employers should also clarify contract length and whether there is a probation period, including salary increases once probation is completed.

In addition, employers should also disclose training and development opportunities that may lead to higher pay in the future. Publishing this level of pay information reflects fair and honest recruitment and supports efforts to address the structural barriers that contribute to low pay among Black, Asian and Mixed Heritage people in the labour market.

Job evaluations and pay audits

Question 5: Do you agree or disagree with the proposal to reduce the list of current exceptions of when an Employment Tribunal must order an equal pay audit after finding an equal pay breach? Strongly agree

There has only been one equal pay audit to date, which suggests the current exceptions are preventing its use to reveal equal pay breaches. The proposals must improve access to justice, particularly for ethnic minority employees. Black, Asian and Mixed Heritage people are more likely to experience in-work poverty due to low pay. Reducing the list of exceptions would enable Employment Tribunals to identify the extent of pay inequalities within the organisation.

Government data found that in 2012, 18% of tribunal claims were made by people from Black, Asian and Mixed Heritage and Other ethnic groups, despite comprising 10% of the total working-age population. This overrepresentation reinforces the need for an accessible and open system that can offer effective redress to workplace inequalities.

Employment Tribunals should follow a consistent process when ordering an equal pay audit. The government must also consider the time scales within which employers are expected to complete audits, and whether employers will be required to report back to the Tribunal on their plans to address the pay breaches.

Question 7: Do you agree or disagree with the proposal that an Employment Tribunal must also order the implementation of a non-discriminatory job evaluation scheme alongside an equal pay audit, where it has found an equal pay breach? Strongly agree

An equal pay audit exposes pay disparities while a non-discriminatory job evaluation scheme helps employers assess the value of different roles in the organisation. The consultation already acknowledges that if a non-discriminatory job evaluation scheme is not in place, an equal pay audit is less likely to reliably identify pay discrimination. Therefore, job evaluations are complementary to equal pay audits in supporting employers to understand their pay practices.

The EHRC maintains that a job evaluation scheme is one of the most important tools for reviewing and assessing the whole pay system and ensuring employers meet obligations under the Equality Act 2010. Acas also notes that job evaluations help employers understand training needs for individual jobs, improve levels of trust and encourage dialogue between managers and employees. Together, these tools help identify and address pay differences, benefitting both the employer and employee.

Pay transparency: impacts and scope

Question 13: If the proposals set out in this chapter were implemented, how might employers change how they operate? For example, regarding recruitment practices or pay and conditions.

Action for Race Equality and Business in the Community (BITC) co-convened the Race Equity in Employment Task Force to address entrenched racial disparities in employment and improve outcomes for Black, Asian and Mixed Heritage young people aged 16-24. As part of that work, ARE held roundtables with employers in London and Manchester.

We know that many employers have adopted inclusive recruitment practices. For example, Manchester Metropolitan University (MMU) incorporates inclusive recruitment toolkits to guide fair hiring, alongside diverse interview panels. Crucially, panel members must complete equality, diversity, and inclusion training before participating.

MMU and another employer, Europia, favour sharing interview questions in advance, which helps reduce candidate anxiety and build confidence. Employers also pointed to the value of blind recruitment processes, assessing candidates based on their responses rather than individual traits. In addition, employers highlighted removing bias from job descriptions and simplifying "HR jargon." Job descriptions should also be clear and accessible and include recruitment timelines.

Employers may need to create clear mechanisms for Black, Asian and Mixed Heritage employees to raise concerns about equality, pay and progression, with line managers equipped to either facilitate discussion or escalate where necessary to senior leaders.

The government also advises employers to review current policies, state whether pay or development is negotiable, make internal promotion and transfer opportunities visible to all employees, and list criteria used to make decisions for promotions and salary reviews. Together, these proposals are likely to encourage employers to become more transparent, adopt proactive recruitment and equal pay standards.

Question 14: If the proposals set out in this chapter were implemented, what costs do you think employers would face, if any? For example, wages, administrative or legal costs.

The proposals are likely to create administrative, operational and compliance costs for employers, although the extent of these costs will depend on the size of the organisation and its current level of transparency.

For instance, employers would need to prepare pay information for job adverts, complete equal pay audits, job evaluation schemes and process enquiries from both staff and prospective candidates. CIPD note that more employees are advocating for transparency: "*Employee requests for information on pay have risen in frequency, perhaps due to the cost-of-living crisis or a greater awareness of pay inequalities."* Therefore, employers may need to invest in addressing pay-related knowledge gaps to remain competitive in the labour market.

Employers may need to develop action plans and produce progress reports for stakeholders. Additional costs may arise due to expanded Employment Tribunal powers and the associated requirements. The government must ensure the proposals are proportionate and do not undermine the wider objective.

Institutional home of the Unit

Question 20: Where do you think the Equal Pay Regulatory and Enforcement Unit should be based?

The Unit should be based in the Equality and Human Rights Commission (EHRC). The government's research indicates that the EHRC's legal powers could support enforcement of equal pay protections. This is echoed by Dr Mary-Ann Stephenson, Chair of the Equality and Human Rights Commission: *"The EHRC has the expertise and capability to undertake enforcement activity. But any new unit – set up to lead on regulation and enforcement of equal pay – will require additional funding and resource to be effective."*

Therefore, locating the Unit within the EHRC maximises existing knowledge and maintains the continuity of their role in promoting equality. We reiterate that the EHRC must be properly resourced; ring-fenced funding should be available to support the Unit and ensure its capacity to monitor and enforce equal pay obligations in relation to ethnicity and disability.

Question 22: Do you agree or disagree that the Unit should have the ability to require the disclosure of evidence before triggering a formal investigation process? For example, verbal evidence, pay data, and information. Strongly agree

Evidence acquired before an investigation will enable the Unit to use its time efficiently and avoid unnecessary or time-consuming investigations. Disclosure may help the Unit determine whether discrimination claims warrant further investigation. It would also allow the Unit to take a proactive approach to enforcement.

However, the type of evidence the Unit may require must be clear. An evidence framework should include pay data, personnel records, and the employer's pay policies. This approach supports focused investigations and prevents information overload.

New Unit powers to support enforcement activities

Question 26: Do you agree or disagree that the Unit should have the ability to require those subject to inquiry recommendations to respond to them and provide updates on implementation? Somewhat agree

The ability to enforce inquiry recommendations against employers would enable the Unit to assess the extent of compliance and hold employers accountable. However, we note this requirement could create high administrative and time costs for employers and the Unit.

In practice, it remains unclear what process the Unit would follow in seeking responses. Further clarification is needed on the consequences for employers who fail to provide updates. It is also unclear whether this power would apply retrospectively, and if so, within what time limit.

We also seek clarity on whether there will be a dedicated team within the Unit that is responsible for tracking employer responses and updates.

Question 28: Do you think the Unit should have additional new powers or capabilities to help secure remedies for workers beyond our proposal? Yes

The Unit should have the flexibility to secure remedies for people who have experienced pay discrimination. This is a vital part of enforcing equal pay rights against employers and enhancing trust and confidence in the system. However, further clarity is needed on the type of remedies that could be available and what circumstances would prompt the Unit's intervention.

The Unit could assist employees in securing back-dated pay after an identified pay breach, require employers to produce records of pay scales over a period, and compel employers to develop robust action plans, including the individuals responsible for implementation.

Pay discrimination enforcement: impacts

Question 34: Are there other changes to improve the enforcement of pay discrimination that the government should consider?

The government should develop a public campaign outlining its vision for addressing pay discrimination and achieving equal pay. This would increase employers' awareness and encourage them to prepare for incoming changes. It would also enable organisations like Law centres or Citizen Advice Bureaus to guide potential claimants. Additionally, collaborating with trade unions and ethnic minority staff networks can help raise internal awareness of the government's commitment to end pay discrimination.

The government could produce an enforcement framework in collaboration with stakeholders across academia, trade unions, civil society, and employers. The framework should include the Unit's remit and timescales for investigations.

The Unit should act as an authoritative source by publishing annual and thematic reports. This would help employers, claimants and civil society organisations better understand enforcement activity and patterns, including racial pay disparities, and make recommendations to government to improve employer policy and practice.

Making the right to equal pay effective for ethnic minority and disabled people

Question 35: Do you agree or disagree that the Equality Act 2010's protections against pay discrimination on the basis of race and disability, and those it provides under the equal pay scheme against pay discrimination on the basis of sex, should be broadly levelled up to provide equal protection as far as possible? Somewhat agree

The Equality Act is intended to protect people from discrimination based on protected characteristics, including race and disability. However, its language and enforcement remain weak. We have called for the Act to be strengthened to recognise the multidimensional nature of racial inequality experienced by Black, Asian and Mixed Heritage people. Strengthening the Act will enable it to keep pace with complex and intersecting forms of discrimination.

However, the word ‘broadly’ raises concerns about the extent of application. It is unclear what 'broadly levelled up' would mean in practice and whether it could result in uneven protections for people, especially those with intersecting protected characteristics.

Further clarification is also needed on how the legislation will be strengthened. It is unclear whether existing measures will be reconceptualised or new amendments will be introduced. Any ambiguity may lessen the Equality Act's enforcement power and undermine the protections people rely on.

Question 37: Do you agree or disagree that Employment Tribunals should be able to require the modification of the terms of a claimant’s contract in successful discrimination claims relating to pay on the grounds of race or disability? Strongly agree

Employment Tribunals should be able to influence individual cases and create systemic changes in employer behaviour. Modifying a claimant's contract is a powerful remedy and can help address racial disparities in pay. This is particularly important for Black, Asian and Mixed Heritage people, disabled people, and those at the intersection of both, who face additional barriers to long term and sustainable work.

Granting Employment Tribunals this power can set a precedent for employers. It also signals the strength of the Tribunal's powers, and that pay discrimination will not be tolerated under any circumstances.

Question 39: What limitations or safeguards should be considered for this power, if any?

Expanding the power of Employment Tribunals must be anchored by consistency, transparency, and proportionality. Contract modification may create time and legal costs for employers; while larger employers may be able to absorb this, smaller organisations may be disproportionately affected. This raises concerns about whether Black, Asian and Mixed Heritage people, who are more likely to work in smaller organisations, can benefit from this remedy. Therefore, the Tribunal should have due regard for the practical implications of contract modification.

It also remains unclear what consequences employers may face if they fail to modify contracts. Further clarification is needed on whether the Employment Tribunal would initiate a follow-up protocol to ensure compliance. Employers should be given reasonable timeframes to enact changes and be required to report what was modified, who was consulted and how they plan to monitor progress.

Question 42: To support employers with pay audits covering sex, race, and/or disability, what main areas should the guidance cover?

As Britain's independent equality and human rights regulator, the EHRC has developed a pay audit guide. Employer guidance should outline the purpose and rationale of a pay audit, including the circumstances in which an audit must be completed. It should also explain the legal areas governing equal pay and how the audit complies with the obligations.

Employers may find it useful to compare their pay scales with similar organisations, accessing available best practice on the audit process. Clear guidance should also state how to collect data, how it should be stored, and the frequency of pay audits, with communication at reasonable intervals.

The guidance should outline how employers can analyse individual and combined protected characteristics, and how to adapt audits for distinct roles. Employers will also require support in identifying the root causes of pay disparities and how these should be addressed.

Guidance should specify which stakeholders will oversee the audit and their responsibilities, as well as time scales for implementing an action plan based on the results. Employers would benefit from advice on empowering staff to safely disclose sex, race, and disability.

Equivalence of work

Question 43: Do you agree or disagree with the proposal to allow claims for race and disability pay discrimination where the work is not materially similar but is of equal value? Strongly agree

Pay discrimination claims based on race or disability should be permitted regardless of whether the work is materially similar. A narrow focus on similarity risks creating structural barriers that could disproportionately affect Black, Asian and Mixed Heritage people and disabled people.

Due to racial disparities and discrimination in labour market outcomes, Black, Asian and Mixed Heritage people and disabled people are less likely to be employed, despite high qualifications. Black and Mixed Heritage people have a 69% employment rate, while Pakistani and Bangladeshi groups have the lowest employment rate at 61%. In contrast, the White Other group has the highest rate at 82%. As a result, ethnic minority people are more likely to be in work that is materially dissimilar to their White counterparts.

However, the term 'equal value' appears subjective, difficult to measure and open to different interpretations. This ambiguity may prevent employees from realising they have a claim and may create confusion for employers in understanding their responsibilities. Clearer guidance is needed to ensure employers, employees and Tribunals understand claims based on equal value.

Time limits

Question 57: Do you agree or disagree with providing discretion to the judiciary to extend time limits for bringing equal pay claims 'on a just and equitable basis'? Somewhat agree

Given the complexity of the current system and the undue burden on individuals, providing judges with discretion to extend time limits is beneficial to claimants. This could enable more robust

claims to be brought forward and show flexibility in the decision-making process. It also shows consideration for the stress involved in making a claim. However, concerns remain about the practical applications of this discretion.

The parameters of a 'just and equitable basis' are abstract, and it is unclear what information the judiciary will rely on when deciding whether to extend time limits. This risks creating inconsistency, where some claims are given more time while others are not.

It also raises procedural questions: if a judge uses their discretion to deny an extension, would the claimant have a right to appeal, or would they need to work within the standard timeframe? Conversely, if a judge grants more time, how do they decide what length of time to award? How does a 'just and equitable basis' translate into a quantifiable period? More consideration and clearer guidance must be available before providing judges with this discretion.

Promoting pay equality in contractual arrangements

Question 64: Do you agree or disagree with the proposal to introduce a new duty on contracting parties to take all reasonable steps to uphold pay equality in contractual arrangements? Somewahat agree

If the government is committed to ensuring equal pay in all types of work, then a new duty on contracting parties is appropriate. This is significant as Black, Asian and Mixed Heritage people are more likely to work on a contractual basis. Research shows that Black men and women are more likely to be engaged in precarious work arrangements, including agency or casual and seasonal positions. The Equality Law Call for Evidence also found that disabled and ethnic employees faced barriers to redress for pay inequality, especially those in insecure work. This reinforces the need to strengthen weak protections in contractual agreements.

We disagree, however, with the proposal that employers who breach pay equality are exempt from compensating affected employees. While embedding pay equality in contractual arrangements will benefit future employees, compensation is the immediate and direct solution to pay breaches. The Employment Tribunal should enforce this alongside requiring employers to implement changes in their contractual arrangements. This two-pronged approach strengthens remedies for claimants and encourages employer accountability.

Geographical scope

Question 82: Do you agree or disagree that the proposed measures should retain the same geographical scope as the discrimination and equal pay provisions of the Equality Act 2010 (applying to England, Wales, and Scotland)? Strongly agree

The measures should retain the same geographical scope as existing discrimination and equal pay provisions under the Equality Act. Altering the scope could disturb enforcement and increase the administrative burden of implementation.

Equality and discrimination law is a devolved matter in Northern Ireland, and stakeholders reserve the right to shape delivery. Maintaining the scope also respects devolution.