



Close the Gap submission to the UK Government consultation on the Equality (Race and Disability) Bill: mandatory ethnicity and disability pay gap reporting

June 2025

1. Introduction

Close the Gap is Scotland's policy advocacy organisation working on women's labour market participation. We have been working with policymakers, employers and trade unions for more than 20 years to influence and enable action that will address the causes of women's labour market inequality.

Close the Gap welcomes the opportunity to respond to this consultation on extending mandatory pay gap reporting. Our research highlights the profound and compounding barriers faced by racially minoritised women and disabled women in the labour market. These groups experience multiple inequalities that intersect to produce distinct patterns of disadvantage, yet their experiences are often rendered invisible by policy approaches that fail to consider how gender intersects with other characteristics.

Evidence shows that racially minoritised women and disabled women face higher levels of occupational segregation, low pay, underemployment, and exclusion from progression opportunities. These outcomes are shaped by structural discrimination and are further exacerbated by the lack of employer action on intersecting inequalities.

Mandatory ethnicity and disability pay gap reporting, if designed well, could be a vital step in addressing the workplace inequalities faced by these groups. However, it is essential that reporting frameworks are underpinned by a robust intersectional analysis, to ensure they drive meaningful change for all those who face discrimination at work.

2. Answers to questions

Question 1. Do you agree or disagree that large employers should have to report their ethnicity pay gaps?

Strongly agree.

Question 2. Do you agree or disagree that large employers should have to report their disability pay gaps?

Strongly agree.

General comment on proposal to extend pay gap reporting:

Close the Gap supports the principle that employers should be required to publish data on ethnicity and disability pay and employment inequality. However, we are clear that the binary approach, if adopted, must be a first step towards improved data gathering, analysis and reporting.

We have some concerns about the ability of the current proposals as laid out to drive action on the inequalities faced by racially minoritised women and disabled women in employment.

Racially minoritised women's labour market inequality

It is 45 years since race equality legislation was first introduced in the UK and yet racially minoritised women continue to face high levels of racism discrimination and bias in the labour market. The ethnicity pay gap is a longstanding issue with women from ethnic minorities earning less, on average, than both white women and men. Employment rates and pay gaps vary between ethnic groups, and by gender¹, and racially minoritised women face a dual labour market disadvantage on account of their gender and their race.

Close the Gap research² identified that racially minoritised women face complex intersecting inequalities in the Scottish labour market experiencing multiple and compounding discriminations simultaneously. The research found that almost three-quarters of racially minoritised women in Scotland (72%) had experienced racism, discrimination and bias at work. Evidence shows they face discrimination throughout the recruitment process, disproportionately not progressing beyond interview and/or, once in the workplace, not progressing within roles. Racially minoritised

¹ Equality and Human Rights Commission (2017) *Research report 108: The ethnicity pay gap*. Available at: <https://www.equalityhumanrights.com/sites/default/files/research-report-108-the-ethnicity-pay-gap.pdf>

² Close the Gap (2019) *Still Not Visible: Research on Black and minority ethnic women's experiences of the labour market in Scotland*. Available at: https://www.closesthegap.org.uk/content/resources/1557499847_Still-Not-Visible.pdf

women are also affected by occupational segregation and are predominantly found in low-paid stereotypically female sectors and jobs such as administration, customer service, and healthcare. These jobs are also more likely to be insecure, driving the higher levels of poverty among racially minoritised women and their children.

Research by the Runnymede Trust and the Fawcett Society found that 75% of women of colour reported having experienced one or more forms of racism at work.³ These included micro-aggressions such as repeated mispronunciation of their name and “banter about their ethnicity or culture, and outright racial slurs. Further, 61% of women of colour (compared to 44% of white women) described having performed the ‘mental gymnastics’ of changing something about themselves to ‘fit in’ at work, including changing their language, topics of conversation, hairstyle, their name or what they eat at work. Women of colour were also significantly more likely than white women to report being passed over for promotion, despite frequent good feedback (42% versus 27%).

Disabled women’s labour market inequality

Disabled people are not a homogenous group, by virtue of their differing conditions and impairments, but also of their other characteristics, including gender. This is clearly evidenced in disability pay gap statistics. Disabled employees earn, on average, 17.2% less than non-disabled employees, however there is also a pay gap between disabled women and disabled men, with disabled women earning 10.8% less than disabled men. Comparing disabled women with non-disabled men reveals a pay gap of 23.5%, providing clear evidence of the intersecting inequalities faced by this group of employees.⁴

Close the Gap is currently undertaking research on disabled women’s labour market experiences in Scotland. The emerging findings have highlighted that disabled women in Scotland are more likely to be underemployed or economically inactive compared to non-disabled women. When they are employed, they often work in low-paid, insecure jobs, which contributes to higher rates of poverty among disabled women. The research identifies several barriers to employment, including inflexible working arrangements, discriminatory recruitment practices, and a general lack of employer understanding around disability and the need for reasonable adjustments.

Disabled women who participated in our research reported that they frequently face unfair questioning of their skills and capabilities, which can lead to unjust formal and

³ Begum, S., Kapoor, A., Gyimah, M., Azad, Z., Ville, L., Henderson, A., and Dey, M. (2022) *Broken Ladders: The myth of meritocracy for women of colour in the workplace*. Runnymede Trust and Fawcett Society. Available at: <https://www.runnymedetrust.org/publications/broken-ladders>

⁴ Trades Union Congress (2024) *Disability pay and employment gaps*. Available at: <https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps-2020> (Accessed: 5 June 2025)

informal performance management. This is sometimes because reasonable adjustments have not been put in place, only partially implemented, or there has been a delay in meeting access needs. Where disabled women's access needs are not met in the workplace, it makes it more difficult for them to do their job well or at all. This is often incorrectly interpreted as a performance issue which in turn creates increased stress for disabled women, and contributes to sickness absence and attrition rates.

Disabled women also experience barriers in accessing training and development opportunities, which hinders their career progression. Many disabled women reported suffering mental and physical harm in the workplace, including discrimination and harassment. The research also highlights the compounded challenges faced by disabled women from racially minoritised backgrounds, who encounter intersecting forms of discrimination related to race, gender, and disability.

A significant issue identified is the lack of detailed, Scotland-specific and UK intersectional data on disabled women's employment experiences, which makes it difficult to develop effective action to address the specific barriers faced by disabled women. **It is therefore crucial that ethnicity and disability pay gap reporting includes disaggregated and intersectional data, to ensure that the experiences of disabled women are fully understood and addressed in workplace equality efforts.**

Concerns regarding ethnicity and disability pay gap calculation

Proposals to extend pay gap reporting to ethnicity and disability are positive, however there is a need for these to be designed to secure meaningful and useful data. The gender pay gap as a calculation and measure is not comparable to pay gaps arising from ethnicity or disability, given the complexities of dividing each of these protected characteristics into comparator groups.

This presents the greatest challenge where employers are using the 'binary approach' as proposed in this consultation. For example, where there is a low proportion of racially minoritised workers in an organisation, they are likely to be concentrated in fewer grades than white workers. Where the small number of racially minoritised workers are concentrated in one or two mid-to-higher level grades, this could result in the ethnicity pay gap calculation generating a negative value, which could be interpreted as indicating bias in favour of racially minoritised workers. This could potentially lead organisations to take no action to address inequalities, or to develop action plans to tackle perceived inequalities affecting white employees. We know that disclosure rates on disability are often lower than for ethnicity, therefore these issues are likely to be more acute in relation to the disability pay gap.

Evidence on employer gender pay gap reporting shows that the majority of data analysis is of poor quality, therefore it is likely that analysis of ethnicity and disability

pay gap data will be at least as poor, if not poorer given the greater complexity of the data. This makes it all the more important for employers to be required to gather data on occupational segregation by ethnicity and disability, to enable a more nuanced analysis and a deeper understanding of the inequalities experienced by these groups in the workplace. **Close the Gap therefore calls on the UK Government to work with organisations with expertise on anti-racism and disabled people’s organisations to develop a robust and effective approach to data gathering and analysis on ethnicity and disability pay gaps.**

Whichever approach is taken, employers should also be required to identify intersecting inequalities in their pay and grading systems, the distribution of staff across the organisation, and wider employment practice. This is essential in order that they can develop action to address the inequalities experienced by those women who are most marginalised in the workforce. To do this, employers will need capacity building along with support to tackle the significant data gaps that exist. However, this should not preclude a requirement that employers take an intersectional approach.

Learning from the gender pay gap reporting regulations

There is significant learning from the design and implementation from gender pay gap reporting regimes in Scotland, the UK and internationally, and this should inform the development of ethnicity and disability pay gap reporting. Evidence on gender pay gap reporting in the UK indicates that current regulations are not driving public bodies to take action on their gender pay gaps. Since 2013, Scottish public bodies have been required to publish their gender pay gaps under the Scottish-specific duties of the public sector equality. The duties are intended to work as a set, for example, public bodies should use employee data gathered under regulation six, alongside gender pay gap information reported under regulation seven, and occupational segregation information published under regulation eight, to identify key gendered inequalities in their organisation, and develop action to address these. Despite this, public bodies in Scotland have largely published datasets that sit unutilised, and the majority are not using the data they publish to develop action. In 2023, 82%) public bodies published a pay gap of over 5%, and only 9% of these had published an equality outcome or action that addressed its causes.⁵

The findings of Close the Gap’s assessment of Scottish gender pay gap reporting under the Scottish-specific duties align with UK and international evidence on the necessary regulation to secure employer action on the gender pay gap. The UK gender pay gap reporting regulations were introduced in 2017 and require employers with 250 or more employees to publish their gender pay gap, gender bonus gap, and

⁵ Close the Gap (2025, forthcoming) *Briefing on the public sector equality duty gender pay gap duty*

occupational segregation information. Since employers first reported their data in 2018, there has been no change in the gender pay gap among employers covered by the regulations: at a Scotland level, this gender pay gap was 12% in 2018, and 12% in 2023.

Close the Gap's five-year assessment of reporting by large Scottish employers, carried out in 2023, found that the vast majority are not using their data to develop substantive action to tackle the gender pay gap.⁶ In 2022, 75% of employers had published a notable gender pay gap (over 5%) but had failed to publish actions to address it. Only one in ten employers provided any evidence of action in the previous years. This indicates a worrying level of complacency and an absence of accountability.

When the gender pay gap reporting regulations were first proposed, Close the Gap highlighted a fundamental weakness: they do not mandate employers to take action, nor do they contain any mechanism to hold employers to account on action. The UK Government's approach was premised on the assumption that organisations would be motivated to act by their pay gap data, however it is clear that this theory of change is flawed.

Wider UK and international evidence also shows that employers are unlikely to take action on gender equality unless they are compelled to do so by law.⁷ A 2020 analysis of international gender pay gap reporting regimes found that, in order to be effective, reporting requirements must include mandatory, measurable action plans and clear mechanisms for accountability and transparency.⁸ The Global Institute for Women's Leadership at King's College London recommended that employers should be required to create time-bound targets to redress pay gaps, setting out clear and measurable goals.⁹

The evidence shows that pay gap reporting alone is not enough to compel employers to take action to tackle workplace inequalities. There is an urgent need for more effective regulations to tackle the employment inequalities affecting racially minoritised and disabled women. Such regulations must be action-focussed, and not just a requirement to publish pay and workforce data. Pay transparency measures are

⁶ Close the Gap (2023) *Positive shifts, persistent problems: A five year analysis of Scottish employer gender pay gap reporting*. Available at: https://www.closesthegap.org.uk/content/resources/1557499847_Still-Not-Visible.pdf

⁷ Global Institute for Women's Leadership (2020) *Gender pay gap reporting: A comparative analysis*; IFF Research (2015) *Company Reporting: Gender pay data*, Government Equalities Office; Winterbotham et al (2014) *Company Reporting: gender pay gap data*, Government Equalities Office: London; and Close the Gap (2013) *Missing out on the benefits: Summary of research on the reporting of the gender pay gap in Scotland*

⁸ The Global Institute for Women's Leadership et al (2021) *Bridging the gap? An analysis of gender pay gap reporting in six countries*. Available at: <https://www.kcl.ac.uk/giwl/assets/bridging-the-gap-full-report.pdf>

⁹ Ibid

welcome, but without mandated action, do not create the necessary change. It is critical that the data that employers are asked to gather is robust and meaningful. Crucially, the regulations must specify that employers must use their data to develop and publish a targeted action plan to tackle the inequalities they identify, and report progress on this at regular intervals. The regulations must also be accompanied by detailed guidance and capacity building to ensure employers are able to undertake an informed analysis of their data. This must be supported by an effective enforcement strategy to ensure employers comply fully with their regulatory requirements.

Question 3. Do you agree or disagree that ethnicity pay gap reporting should have the same geographical scope as gender pay gap reporting?

Strongly agree.

Question 4. Do you agree or disagree that disability pay gap reporting should have the same geographical scope as gender pay gap reporting?

Strongly agree.

Question 5. Do you agree or disagree that employers should report the same 6 measures for ethnicity pay gap reporting as for gender pay gap reporting?

Strongly agree.

Question 6. Do you agree or disagree that employers should report the same 6 measures for disability pay gap reporting as for gender pay gap reporting?

Strongly agree.

Question 7. Do you agree or disagree that large employers should have to report on the ethnic breakdown of their workforce?

Strongly agree.

Question 8. Do you agree or disagree that large employers should have to report on the breakdown of their workforce by disability status?

Strongly agree.

Question 9. Do you agree or disagree that large employers should have to submit data on the percentage of employees who did not state their ethnicity.

Strongly agree.

Question 10. Do you agree or disagree that large employers should have to submit data on the percentage of employees who did not state their disability status?

Strongly agree.

Comment on proposals for calculating pay gaps (Q5-10):

Close the Gap agrees that employers should be required to publish the same six measures for ethnicity and disability pay gap reporting as for gender pay gap reporting. However, as with gender pay gap data, this data is not sufficient to generate the detail necessary to understand the inequalities present in an organisation, and therefore to lead to effective action.

Close the Gap also calls on the UK Government to require employers to publish workforce representation data at an organisational level, and at grade level, in order to enable them to clearly identify the most pressing inequalities in their organisation. This is especially important given the questions around usefulness of the pay gap figure for ethnicity and disability.

A headline figure showing representation at a workforce level is useful to different degrees for employers of different sizes. For a smaller employer, and/or employers with very low numbers of racially minoritised and/or disabled women, the headline figure may be the only data point that is suitable to be published due to low numbers. Grade-level data may not provide sufficiently clear information to identify what specific issues an employer has, again due to low numbers. For larger employers, the headline figure will be most useful as a comparator for grade-level occupational segregation data, as they will be able to compare the representation of racially minoritised and disabled women in different grades with their overall representation in the organisation, enabling issues like concentration in low-paid roles to be identified.

Occupational segregation data is an essential part of the picture that employers need to understand their organisation. Underrepresentation is an issue for these protected groups; therefore this data is likely to be more useful than a headline pay gap figure in aiding employers' understanding of inequalities in their organisation for these

groups. In order to more accurately represent this data it is necessary for employers to publish disclosure rates. Without this they will not have a clear picture of how reliable their workforce breakdown data is.

Even in the case of low disclosure rates, the data will provide an initial picture that employers can begin from. If non-disclosure rates are significant, then it should be a priority for employers to understand why employees are not disclosing and take action to increase disclosure and improve their data. If the data they do have indicates that they have low representation of particular groups, employers should be tackling barriers to recruitment as a priority.

Employers will need guidance on how to publish this data, particularly in the case of low numbers. This is necessary not just to ensure data protection, but also to ensure data is disaggregated so that it is useful to the employer in aiding their understanding of the issues facing racially minoritised and disabled employees. An employer with 10,000+ employees will likely have a more accurate picture of occupational segregation in their organisation as higher employee numbers make it more likely that the data will present a distributional pattern. An employer with 250 employees may have more difficulty reporting by grade, especially if racially minoritised and/or disabled employees number in the single digits, or even zero, in particular grades. This data is less likely to produce a pattern that will tell employers if e.g. they have an issue with racially minoritised women facing barriers to progression, or with disabled women being concentrated in low-paid roles.

Close the Gap is concerned to see the consultation document framing pay gap reporting, and therefore action to tackle workplace inequality, as a “burden” on businesses. This sends a strong message to businesses, and to disabled women, racially minoritised women, and all women that equality is not a priority for this government. It gives tacit approval to businesses to treat work on equality as a secondary concern rather than core to their role as a good employer, and their important role in society. It allows employers to view pay gap reporting as a hurdle to be overcome, rather than a tool to create change. Close the Gap urges the UK Government to consider carefully the impact of how it sets out the next steps of this work, and to ensure its approach sends a clear message that tackling inequality is integral to doing business well, as the evidence overwhelmingly shows.

Question 11. Do you agree or disagree that employers should have to produce an action plan about what they are doing to improve workplace equality for ethnic minority employees?

Strongly agree.

Close the Gap is clear: employers must be required to publish, and report progress on, an action plan that sets out what they are doing to improve workplace equality for racially minoritised and disabled employees.

As set out in our response to question 2, development of the ethnicity and disability pay gap regulations must learn from the ineffectiveness of the current gender pay gap reporting regulations. Since large employers first reported their data in 2018, there has been no change in the gender pay gap among employers covered by the regulations: at a Scotland level, this gender pay gap was 12% in 2018, and 12% in 2023.¹⁰

Close the Gap's five-year assessment of reporting by Scottish employers found that the vast majority of employers are not using their data to develop substantive action to tackle the gender pay gap.¹¹ In 2022, 75% of employers had published a notable gender pay gap (over 5%) but had failed to publish actions to address it. Only one in ten employers provided any evidence of action in the previous years. This indicates a worrying level of complacency and an absence of accountability.

When the gender pay gap reporting regulations were first proposed, Close the Gap highlighted a fundamental weakness: they do not mandate employers to take action, nor do they contain any mechanism to hold employers to account on action. The UK Government's approach was premised on the assumption that organisations would be motivated to act by their pay gap data, however it is clear that this theory of change is flawed.

Wider UK and international evidence, including research published by the UK Government, also shows that employers are unlikely to take action on gender equality unless they are compelled to do so by law.¹² A 2020 analysis of international gender pay gap reporting regimes found that, in order to be effective, reporting requirements must include mandatory, measurable action plans and clear mechanisms for accountability and transparency.¹³ The Global Institute for Women's Leadership at King's College London recommended that employers should be

¹⁰ Close the Gap (2025, forthcoming) *Briefing on the PSED gender pay gap duty*

¹¹ Close the Gap (2023) *Positive shifts, persistent problems: A five-year analysis of Scottish employer gender pay gap reporting*. Available at: <https://www.closesthegap.org.uk/content/resources/Positive-shifts-persistent-problems-A-five-year-assessment-of-Scottish-employer-gender-pay-gap-reporting.pdf>

¹² Global Institute for Women's Leadership (2020) *Gender pay gap reporting: A comparative analysis*; IFF Research (2015) *Company Reporting: Gender pay data*, Government Equalities Office; Winterbotham et al (2014) *Company Reporting: gender pay gap data*, Government Equalities Office: London; and Close the Gap (2013) *Missing out on the benefits: Summary of research on the reporting of the gender pay gap in Scotland*

¹³ The Global Institute for Women's Leadership et al (2021) *Bridging the gap? An analysis of gender pay gap reporting in six countries*. Available at: <https://www.kcl.ac.uk/giwl/assets/bridging-the-gap-full-report.pdf>

¹³ Ibid

required to create time-bound targets to redress pay gaps, setting out clear and measurable goals.¹⁴

Close the Gap is also unconvinced by the consultation's suggestion that action plans can be used by employees to hold their employers to account. This ignores the significant power imbalance between employer and employee, especially those who are marginalised in the workplace because of disability and racism, and proposes an individualised response to structural inequalities, which will not work.

The evidence is clear: publishing data alone does not tackle inequality. Without a statutory requirement to publish and report progress on pay gap action plans, supported by effective monitoring and enforcement, these new pay gap regulations will be another data publishing exercise and will not create change for racially minoritised women, or disabled women.

Question 12. Do you agree or disagree that employers should have to produce an action plan about what they are doing to improve workplace equality for disabled employees?

Strongly agree.

We refer to our response to question 11.

Question 13. Do you agree or disagree that public bodies should also have to report on pay differences between ethnic groups by grade and/or salary bands?

Strongly agree.

Question 14. Do you agree or disagree that public bodies should also have to report on recruitment, retention and progression by ethnicity?

Strongly agree.

Question 15. If public bodies have to report on recruitment, retention and progression by ethnicity, what data do you think they should have to report?

Scottish public bodies are already required to gather, analyse and use data on employee recruitment, development and retention under the Scottish-specific duties of the public sector equality duty. This is similar to the data that the UK Government

¹⁴ Ibid

is proposing to require public bodies to publish under the new ethnicity and disability pay gap reporting regulations. In Scotland, reporting of this data under the Scottish-specific duties has been inconsistent, with public bodies having different interpretations of the terms “recruitment”, “development” and “retention”. For example, some public bodies publish only data on appointments, whereas other will report data on applications, interviews, and appointments in order to identify barriers at different stages of the recruitment process. Additionally, the evidence shows that employers have insufficient gender competence to be able to identify which data they need to gather to better understand the causes of their gender pay gap.¹⁵ It is highly likely that they will lack this same competence on ethnicity and disability.

Close the Gap recommends that the regulations on ethnicity and disability pay gap reporting specify what employee data employers should gather. The following data would represent best practice, but this list is not exhaustive, and improved competence on gender, ethnicity, disability, and other protected characteristics would enable employers to identify other useful data they could gather.

Recruitment

The regulations should specify that data gathered on recruitment should include the following, disaggregated by ethnicity, to enable employers to identify how barriers may present at each point of the recruitment process:

- Applications,
- Shortlisted applicants, and
- Appointments.

Retention

Retention covers employees who return to work following a period of absence, and the different reasons for termination of employment. The regulations should specify that data gathered on retention should include the following:

- Voluntary redundancies,

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Close the Gap (2021) *Response to the Scottish Government’s call for views on the review into the effectiveness of the Public Sector Equality Duty in Scotland (Stage 2)*; Close the Gap (2017) *Internal PSED assessment*. Unpublished internal document; Close the Gap (2015) *Making progress? An assessment of public sector employer performance of the public sector equality duty*; and Close the Gap (2014) *Monitoring Scottish public bodies’ compliance with the public sector equality duty*.

- Compulsory redundancies,
- Dismissals,
- Retirement grounds,
- Sick leave,
- Resignations,
- Performance management results,
- Uptake of shared parental leave, and
- Proportion and destination of women returning to work after maternity leave.

Redundancy data will enable employers to identify if racially minoritised people are more likely to be made redundant than their comparators. Data on resignations should include an analysis of exit interviews to identify reasons for the staff member leaving, which could highlight factors that may relate to discrimination or inequality.

Data on performance management is relevant to employee retention as it can highlight issues around manager-employee relations, and poorer scores can affect employee attrition. Gathering data on performance management, disaggregated by ethnicity, will enable employers to examine any patterns in performance management ratings that show that racially minoritised employees are less likely to receive a positive outcome than white employees, potentially indicating bias in the rating process.

With regard to data on maternity leave, this intersectional data should be gathered to enable employers to identify if ethnic minority women face specific and/or more acute barriers to returning to work, and maintaining a positive career path, when compared to ethnic majority women.

Progression

In the workplace, progression can have multiple meanings depending on the context. It often refers to career progression, where an employee advances through promotions, increased responsibilities, or skill development. Progression can also relate to pay progression, where employees receive salary increases based on tenure, performance, or qualifications. It is important that the regulations are clear on the definition of progression. We have assumed that the proposals relate to career progression in the workplace.

Importantly, career progression does not always involve a vertical move. Lateral or sideways moves, such as applying for or being appointed to a different role at the same level, can be critical for skill-building, visibility, and ultimately, future promotion. These moves may offer broader experience, exposure to different parts of the organisation, and access to more influential networks, all of which contribute to long-term career development. For racially minoritised and disabled women, who may already face barriers to upward progression, lateral moves can play a key role in enabling progression and retaining talent.

Information gathered on progression should include the following, disaggregated by ethnicity:

- Employees who apply for internal roles, including both promoted posts and lateral moves;
- Employees who are shortlisted for interview for these roles;
- Employees who are successful in securing promoted posts or lateral moves, and whether this followed a formal application or informal selection;
- Employees who are selected to lead high-profile projects; and
- Performance management results.

This information will enable employers to identify whether racially minoritised employees are able to access progression and promotion opportunities to the same degree as their comparators, and also provides an evidence base for action to address any inequalities.

Data on performance management is relevant to progression in addition to retention, as performance reviews are often taken as indicators of an employee's suitability for promotion, and ratings may influence decisions on progression.

Question 16. Do you agree or disagree that public bodies should have to report on pay differences between disabled and non disabled employees, by grade and/or salary bands?

Strongly agree.

Question 17. Do you agree or disagree that public bodies should have to report on recruitment, retention and progression by disability?

Strongly agree.

Question 18. If public bodies have to report on recruitment, retention and progression by disability, what data do you think they should have to report?

We refer to our response to question 15, and call for the same data to be gathered, disaggregated by disability.

Recruitment

The regulations should specify that data gathered on recruitment should include the following, disaggregated by disability, to enable employers to identify how barriers may present at each point of the recruitment process:

- Applications,
- Shortlisted applicants, and
- Appointments.

Retention

Retention covers employees who return to work following a period of absence, and the different reasons for termination of employment. The regulations should specify that data gathered on retention should include the following, disaggregated by disability:

- Voluntary redundancies,
- Compulsory redundancies,
- Dismissals,
- Retirement grounds,
- Sick leave,
- Resignations,
- Performance management results,
- Uptake of shared parental leave, and
- Proportion and destination of women returning to work after maternity leave.

This will enable employers to identify if disabled women are more likely to be made redundant than their comparators. Data on resignations should include an analysis of exit interviews to identify reasons for the staff member leaving, which could highlight factors that may relate to discrimination or inequality. Data on sick leave will be

important for analysing inequalities faced by disabled women in an organisation, particularly in combination with data on resignations. Where employers are unsupportive of disabled women when they have to take sick leave, this can result in them feeling that they have no other option than to resign.

Data on performance management is relevant to employee retention as it can highlight issues around manager-employee relations, and poorer scores can affect employee attrition. Close the Gap's research on disabled women's experience of employment found that many participants had negative experiences of performance management.¹⁶ Gathering data on this, disaggregated by disability, will enable employers to examine any patterns in performance management ratings that show that disabled employees are less likely to receive a positive outcome than non-disabled employees, potentially indicating bias in the rating process, affecting employee retention. Disabled women's disproportionate experiences of being performance managed underscores the need for employers to do an intersectional analysis of their data.

With regard to data on maternity leave, this intersectional data should be gathered to enable employers to identify if disabled women face specific and/or more acute barriers to returning to work, and maintaining a positive career path, when compared to non-disabled women.

Progression

Information gathered on progression should include the following, disaggregated by disability:

- Employees who apply for internal roles, including both promoted posts and lateral moves;
- Employees who are shortlisted for interview for these roles;
- Employees who are successful in securing promoted posts or lateral moves, and whether this followed a formal application or informal selection;
- Employees who are selected to lead high-profile projects; and
- Performance management results.

¹⁶ Close the Gap (Forthcoming) *Research on disabled women's experiences of employment in Scotland*

This information will enable employers to identify whether disabled employees are able to access progression and promotion opportunities to the same degree as their comparators, allowing them to identify inequalities in promotion practice and outcomes. Data on performance management is relevant to progression in addition to retention, as performance reviews are often taken as indicators of an employee's suitability for promotion, and ratings may influence decisions on progression.

General comment on additional requirements for public bodies (Q13-18):

Close the Gap is clear that employers should be required to gather a broad range of data to enable them to accurately identify inequalities in their workforce, and design effective actions to target these. This data should include ethnicity and disability pay gaps by grade level, and data on recruitment, retention and progression that is disaggregated by ethnicity and gender. This would provide important granular information that would help employers better understand the particular issues affecting each group in their workplaces in a way that a simple headline figure would not. This data should be required of all employers that have to publish their ethnicity and disability pay gaps, not just public bodies. Private and third sector employers are generally less advanced in their equality data gathering practice and introducing a legal requirement to improve on this would provide the necessary lever to take action.

Close the Gap notes that the gender pay gap regulations do not require public bodies to gather and report grade-level gender pay gap data, or gender-disaggregated data on recruitment, retention and progress. We call on the UK Government to bring in these requirements for gender pay gap reporting, alongside ethnicity and disability pay gap reporting, in order to ensure that a two-tier reporting system is not created. There are also wider benefits this. Employers are likely to find it easier to gather and analyse this data by gender. Requiring them to do so will enable them to build capacity in the process of gathering and analysis, thus improving their ability to do the same for more complex data on ethnicity and disability.

If Government intends to require employers to publish this additional data on ethnicity and disability, there is no reason that it should not for gender. Indeed, to fail to do so would be a missed opportunity. Close the Gap's assessments of employer gender pay gap reporting show that employers are still not using their data effectively to create change. This is likely to be in large part due to the absence of a regulatory requirement to use their data to take action. However, we also know that the data published under the gender pay gap reporting regulations does not provide a comprehensive picture of the inequalities present in a workforce, particularly for

medium-sized employers (e.g. 250-500 employees). Without robust and meaningful data, even those employers that are motivated to take action will be unlikely to be able to develop good quality actions that effectively target the issues most relevant to their own organisation.

If the intention of the pay gap reporting regulations is to tackle workplace inequality for women, racially minoritised people, and disabled people, Government must ensure that both sets of new regulations require employers to gather a sufficiently broad range of data to develop good-quality actions. Government must also introduce a regulatory requirement on employers to use their data to develop action plans, and to report on progress, alongside a robust programme of monitoring and enforcement. If they do not, this is likely to become another data publishing exercise which will not deliver improved outcomes for any staff.

Grade-level pay gap data

We have noted our caution regarding calculation of ethnicity and disability pay gaps in question 2, in relation to difficulties dividing these groups into suitable comparator groups. The same would apply at grade level. However, in the case where an organisation had few racially minoritised employees, clustered in one or two grades, resulting in a positive pay gap when compared to white employees, grade-level pay gap data would add important context to avoid employers misunderstanding what their headline pay gap data is telling them. For example, an organisation has ten grades (one being lowest paid and ten highest paid), and 5% of its workforce are racially minoritised employees, who are concentrated in grades five and six, whereas white employees are represented in each grade. This may produce a positive pay gap, potentially indicating bias in favour of racially minoritised employees, and inequality faced by white employees. Grade-level pay gap data could however identify that racially minoritised employees in this organisation face a pay gap with white employees at grade level, therefore indicating that racially minoritised employees do face inequality in their workforce.

Gender-disaggregated data on recruitment, retention and progression

Close the Gap notes that the gender pay gap regulations do not require public bodies to gather and report grade-level gender pay gap data, or gender-disaggregated data on recruitment, retention and progress. We call on the UK Government to bring in these requirements for gender pay gap reporting, alongside ethnicity and disability pay gap reporting, in order to ensure that a two-tier reporting system is not created. **We refer to our response to questions 15 and 18, and call for the same data to be gathered for women and men.**

Recruitment

The regulations should specify that data gathered on recruitment should include the following, disaggregated by gender, to enable employers to identify how barriers may present at each point of the recruitment process:

- Applications,
- Shortlisted applicants, and
- Appointments.

The regulations should specify that data on recruitment should cover both internal and external recruitment processes.

Retention

Retention covers employees who return to work following a period of absence, and the different reasons for termination of employment. The regulations should specify that data gathered on retention should include the following, disaggregated by gender:

- Voluntary redundancies,
- Compulsory redundancies,
- Dismissals,
- Retirement grounds,
- Sick leave,
- Resignations,
- Performance management ratings,
- Uptake of shared parental leave, and
- Proportion and destination of women returning to work after maternity leave.

Redundancy data will enable employers to identify if women are more likely to be made redundant than men. Data on resignations should include an analysis of exit interviews to identify reasons for the staff member leaving, which could highlight factors that may relate to discrimination or inequality.

Data on performance management is relevant to employee retention as it can highlight issues around manager-employee relations, and poorer scores can affect employee attrition. Gathering data on performance management, disaggregated by gender, will enable employers to examine any patterns in performance management ratings that show that women are less likely to receive a positive outcome than men, potentially indicating bias in the rating process.

With regard to data on maternity leave, this data should be gathered to enable employers to identify if women face specific and/or more acute barriers to returning to work, and maintaining a positive career path, when compared to men, and provides a basis for widening uptake of shared parental leave.

Progression

Information gathered on progression should include the following, disaggregated by gender:

- Employees who apply for internal roles, including both promoted posts and lateral moves;
- Employees who are shortlisted for interview for these roles;
- Employees who are successful in securing promoted posts or lateral moves, and whether this followed a formal application or informal selection;
- Employees who are selected to lead high-profile projects, and
- Performance management results.

This information will enable employers to identify whether women are able to access progression and promotion opportunities to the same degree as men, allowing them to identify inequalities in promotion practice and outcomes. Data on performance management is relevant to progression in addition to retention, as performance reviews are often taken as indicators of an employee's suitability for promotion, and ratings may influence decisions on progression.

Close the Gap also calls for employers to be required to gather intersectional pay gap data, so that they may identify the specific inequalities affecting racially minoritised women and disabled women in their workforces, and develop targeted action to address these. The data is clear: women are not a homogenous group, and neither are racially minoritised people, or disabled people. While publishing pay gaps for these groups is positive, we know that action on the gender pay gap often fails to address the specific experiences of racially minoritised women, or disabled women. Similarly, action focussed solely on the characteristics of ethnicity or disability are likely to benefit racially minoritised and disabled men more than their female counterparts.

Question 19. Do you agree or disagree that ethnicity pay gap reporting should have the same reporting dates as gender pay gap reporting?

Strongly agree.

Question 20. Do you agree or disagree that disability pay gap reporting should have the same reporting dates as gender pay gap reporting?

Strongly agree.

Question 21. Do you agree or disagree that ethnicity pay gap data should be reported online in a similar way to the gender pay gap service?

Strongly agree.

Question 22. Do you agree or disagree that disability pay gap data should be reported online in a similar way to the gender pay gap service?

Strongly agree.

Comment on proposals for dates and deadlines and online reporting:

Close the Gap agrees that ethnicity and disability pay gap reporting should have the same reporting dates as gender pay gap reporting. This will encourage employers to take a joined-up approach to data gathering and analysis, and facilitate an intersectional analysis of pay gaps and actions to tackle these.

In principle, Close the Gap agrees that ethnicity and disability pay gap data should be reported online in a similar way to the gender pay gap service, with the service updated to effectively present the additional data gathering requirements being introduced as part of the ethnicity and disability pay gap reporting regulations. **Close the Gap calls on the UK Government to extend these additional data gathering requirements to the gender pay gap reporting regulations**, as set out in our response to questions 15 and 18, and our comment thereon.

The gender pay gap service must also accommodate this additional data, and present it in such a way as to be easily understood by policymakers, third sector advocates, and the general public, to facilitate greater transparency and accountability. Close the Gap also calls for the gender pay gap service to be improved so that searches can be done by region, including Scotland and Wales.

Question 23. Do you agree or disagree that ethnicity pay gap reporting should have the same enforcement policy as gender pay gap reporting?

Strongly disagree.

Question 24. Do you agree or disagree that disability pay gap reporting should have the same enforcement policy as gender pay gap reporting?

Strongly disagree.

Comment on proposals for enforcement:

The enforcement policy for the gender pay gap reporting regulations has been ineffective. The Equality and Human Rights Commission has taken an increasingly light touch approach. Early enforcement work included contacting employers that had published statistically improbable or inaccurate data, for example gender pay gaps of over 100%, however the organisation's reporting on more recent enforcement has only assessed whether or not employers have published the six measures. This is concerning as Close the Gap's assessment of Scottish employer gender pay gap reporting identified persistent evidence of issues with data reliability and quality. For example:

- gender pay gap information in employer reports differing from the data they reported on the UK Government portal,
- quartile sets reporting a 75/25 split in every quartile,
- a 0% pay gap but significant reported occupational segregation.

The assessments also identified cases of flawed analysis where employers incorrectly cited particular factors as causes of their gender pay gap.

This reflects the limitations of the enforcement policy as companies are only considered for enforcement action if they have not published their gender pay gap information. This means organisations are not getting the support they need to address any issues, and has contributed to a complacency among employers due to a lack of accountability.

If the same enforcement policy is applied to ethnicity and disability pay gap reporting the same issues are highly likely to arise. Employer data will be published that is unreliable and no enforcement action will be taken to address this. This could lead to employers developing actions based on an incorrect assumption of what the issues are in their organisation, and losing impetus as these actions fail to result in progress on pay equality.

Close the Gap calls for an action-focussed set of regulations on ethnicity and disability pay gap reporting, and strengthened gender pay gap reporting regulations, that require employers to publish an analysis of their data, and action to tackle the inequalities they identify. We also call for an improved enforcement strategy, where the regulator examines the accuracy and reliability of the data published, and the quality of the analysis and actions. This will require adequate resourcing and it essential that the EHRC is funded appropriately to deliver this enforcement work. The evidence tells us that employers are largely motivated to act on pay inequality by an effective regulatory environment. An enforcement strategy that focuses only on the bare minimum of what the regulations require, and not whether the regulations are delivering on their purpose, will not help to tackle pay inequality for women, racially minoritised people, or disabled people.

Question 26. Do you agree or disagree that all large employers should report ethnicity pay gap measures using one of the binary classifications as a minimum?

Strongly agree.

Question 27. Do you agree or disagree that there should be at least 10 employees in each ethnic group being reported on? This would avoid disclosing information about individual employees.

Somewhat agree.

Question 28. Do you agree or disagree that employers should use the ONS guidance on ethnicity data to aggregate ethnic groups? This would help protect their employees' confidentiality.

Somewhat agree.

Comment on proposals for calculating and reporting ethnicity pay gaps (Q26-28):

Close the Gap notes that the consultation refers to following ONS guidance on ethnicity data. This guidance does not describe a 'White British' census category: the category is listed as 'White: English/Welsh/Scottish/Northern Irish/British'. Guidance to employers must be clear on which groups are to be included in any comparator groups, as employers may gather data on White English, Welsh, Scottish, Northern Irish and British separately. Furthermore many people in Scotland, Wales and

Northern Ireland and England will not identify as British and survey questions must capture this.

We refer to our response to question 2, and reiterate our caution regarding the robustness of a single pay gap figure on either ethnicity or disability. Different ethnic groups face different pay gaps, some of which are positive figures and some negative. White women from ethnic minority groups will have different experiences from women of colour, due to the additional impact of racism. This underscores the fact that racially minoritised people are not a homogenous group, and different ethnicities face different barriers in the workplace. A single figure is unlikely to enable employers to draw out the specific issues driving inequality for racially minoritised women in their organisation.

The Runnymede Trust and ShareAction have noted that providing a good level of granular data will not always be possible for employers, particularly when they are just beginning to gather this data, and especially for those with very small number of racially minoritised women in their organisation. They recommend that employers should start reporting their ethnicity pay gap by breaking down the data into the six broader ONS categories of White British, White Other, Mixed, Asian, Black and Other.¹⁷ If that is not possible, they recommend they begin with a single binary figure of White and ethnic minority, and develop a plan to improve the granularity of this data over time. Close the Gap would be supportive of such an approach, but notes that evidence indicates that employers are highly unlikely to take action to improve their data unless compelled. We therefore call on the UK Government to ensure the new pay gap reporting regulations specify the need for action on improving data gathering and analysis, as part of the range of requirements on employer action.

In addition to the differences in barriers arising from different ethnicities or disabilities, it is necessary to consider the intersection of these characteristics with gender. Racially minoritised women and disabled women face compounding inequalities because they are women, and these contribute to their experience in the workplace, including pay inequality. In 2024, the TUC reported that disabled workers earn, on average, 17.2% less than non-disabled workers, however disabled women face a median hourly pay gap of 36% compared to non-disabled men, highlighting compounding inequalities due to both gender and disability.¹⁸ A report by Fawcett highlighted that women of Bangladeshi, Pakistani, and Mixed White and Black Caribbean heritage see the largest ethnicity pay gaps of 14.7%, 11.8%, and 10.6%

¹⁷ Runnymede Trust and ShareAction (2023) *Parliamentary briefing: Ethnicity pay gap reporting*. Available at: <https://www.runnymedetrust.org/publications/parliamentary-briefing-ethnicity-pay-gap-reporting-shareaction> (Accessed: 5 June 2025)

¹⁸ Trades Union Congress (2024) *Disability pay and employment gaps*. Available at: <https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps-2020> (Accessed: 5 June 2025)

respectively, compared to White British women. However, when compared to White British men, these pay gaps rise even further to 28.4%, 25.9%, and 25.0%, respectively.¹⁹

Challenges with data will impact the effectiveness of the regulations in securing change. There is a need for employers to gather meaningful data, and to be able to analyse and use that data to develop targeted actions. A binary approach to either ethnicity or disability pay gap reporting must be supported by a requirement to gather additional data on occupational segregation by grade, and on recruitment, retention, and progression. These regulations must not become simply another data publishing exercise: this is a waste of resource and is likely to lead to further disengagement from employers on action to tackle inequality. **Close the Gap urges the UK Government to work closely with experts on anti-racism, and with disabled people's organisations, to understand what data is necessary to enable employers to understand their workforce. We are clear that the regulations must require employers to publish a sufficiently detailed set of data in order to generate meaningful action and progress for racially minoritised and disabled employees. Close the Gap also calls for UK Government to consider how the design of the regulations can facilitate progress towards an intersectional approach to tackling pay inequality for racially minoritised and disabled women.**

Question 30. Do you agree or disagree with using the 'binary' approach (comparing the pay of disabled and non-disabled employees) to report disability pay gap data?

Somewhat agree.

Question 31. Do you have any feedback on our proposal to use the Equality Act 2010 definition of 'disability' for pay gap reporting?

Many employers have a poor understanding of the Equality Act 2010 definition of 'disability'. For example, some women's experience of menopause can lead to them falling under the definition of 'disabled' for the purposes of the Equality Act 2010, due to the impact of their symptoms, and would necessitate the deployment of reasonable adjustments. However, we know that employers are generally poor at supporting women in their workforce that are experiencing menopause. A CIPD survey found that flexible working arrangements and the ability to control workplace temperature are among the most helpful reasonable adjustments, yet only 26% and 25% of employers offer these options, respectively. **Close the Gap calls on the UK**

¹⁹ Fawcett Society (2024) *Double Trouble: The Ethnicity Gender Pay Gap*. Available at: <https://www.fawcettsociety.org.uk/double-trouble-the-ethnicity-gender-pay-gap> (Accessed: 5 June 2025)

Government to ensure that guidance on disability pay gap reporting contains sufficient detail on the definition of ‘disability’ to ensure employers have a clear understanding.

Additionally, there are many workers who meet the Equality Act 2010 definition of ‘disability’ but do not self-identify as disabled, meaning they may not access the support or protections they are entitled to. **It is therefore essential that UK Government guidance on disability pay gap reporting includes clear and accessible information on the legal definition of disability, and raises employer awareness of the gap between self-identification and legal classification.** Creating an inclusive organisational culture where disabled women and women with long-term health conditions feel safe and supported to disclose is also vital to improving data accuracy and ensuring that action plans are informed by lived experience. Benchmarking can be a useful tool for this; for example, while around 24% of working-age people are estimated to meet the definition of disabled under the Equality Act, many employers report significantly lower levels of disability disclosure in their workforce. Including this type of national benchmarking data in official guidance would help employers assess their own data and identify whether improvements are needed in workplace culture, processes, or communications.

Question 32. Do you agree or disagree that there should be at least 10 employees in each group being compared (for example, disabled and non-disabled employees)? This would avoid disclosing information about individual employees.

Somewhat agree.

Comment on proposals for disability data collection and calculations (Q30-32):

Close the Gap welcomes proposals for employer disability pay gap reporting as a positive first step for employers. However, we are clear that the binary approach, if adopted, must be a first step only, with a clear pathway to improving data gathering and analysis in order to deliver improved outcomes for disabled women in the workplace.

We know that disabled people have lower employment rates than non-disabled people. In 2023/24, the employment rate for disabled people was 53.4%, compared to 81.8% for non-disabled people. This gives an employment gap of 28.4 percentage points.²⁰ In addition to this, non-disclosure rates for disability are high. Many disabled

²⁰ Trades Union Congress (2024) *Disability pay and employment gaps*. Available at: <https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps-2020> (Accessed: 5 June 2025)

people are fearful of disclosing their disability as they worry it could result in unfavourable treatment or discrimination. Furthermore, many people with long-term health conditions, who would meet the legal definition of disability, do not identify as disabled. This means that employee data is likely to show significantly lower numbers of disabled staff than there actually are in a workforce. This speaks to the persistent stigma around disability, and underscores the need for employers to create an inclusive workplace culture where disabled people feel valued.

Disabled people are not a homogenous group by virtue of their differing conditions and impairments, but also of their other characteristics, including gender. This is clearly evidenced in disability pay gap statistics. Disabled employees earn, on average, 17.2% less than non-disabled employees, however there is also a pay gap between disabled women and disabled men, with disabled women earning 10.8% less than disabled men. Comparing disabled women with non-disabled men reveals a pay gap of 23.5%, providing clear evidence of the intersecting inequalities faced by this group of employees.²¹

There are a wide range of impairments which means that the barriers faced by disabled women will vary widely, as will the causes of these barriers. For example, a neurodivergent person will face very different barriers from a person who uses a wheelchair, or a person with a hearing impairment. Many disabled women have more than one impairment, for example a physical health condition and a mental health condition. Gathering data on disability is therefore likely to be even more complex for employers than gathering data on ethnicity. As set out in our response to question 2, evidence indicates that employers are highly unlikely to take action to improve their data unless compelled. **We therefore call on the UK Government to ensure the new pay gap reporting regulations specify the need for action on improving data gathering and analysis, as part of the range of requirements on employer action.**

As stated in our response to question 28, **Close the Gap urges the UK Government to work closely with disabled people's organisations to understand what data is necessary to enable employers to understand their workforce. We are clear that the regulations must require employers to publish a sufficiently detailed set of data in order to generate meaningful action and progress for disabled women. Close the Gap also calls for UK Government to consider how the design of the regulations can facilitate progress towards an intersectional approach to tackling pay inequality for racially minoritised and disabled women.**

²¹ Trades Union Congress (2024) *Disability pay and employment gaps*. Available at: <https://www.tuc.org.uk/research-analysis/reports/disability-pay-and-employment-gaps-2020> (Accessed: 5 June 2025)