



Response to the UK Government consultation on equal pay and pay discrimination

October 2026

1. Introduction

Close the Gap is Scotland's policy advocacy organisations working on women's labour market participation. For 25 years, we have been working with policymaking, employers, and unions to influence and enable action that addresses the causes the inequalities women face in the labour market. Our vision is for a Scotland where all women have a good working life.

Despite equal pay law being in place for more than five decades, pay discrimination remains a structural feature the UK labour market, and women continue to face significant barriers to accessing justice. Gender pay gap reporting is a requirement for many employers in Scotland and the UK, and yet this has had the perverse effect of making pay discrimination more invisible and less acknowledged as a key cause of the gender pay gap.

The evidence is clear that the current equal pay framework is not working for women. Women's work continues to be undervalued on a sector-wide basis, and individual women are still routinely paid less than male comparators for doing like work. Those seeking to challenge pay discrimination must navigate an acute lack of pay transparency, severe procedural barriers, high legal costs, and protracted delays within an overburdened tribunal system. Close the Gap therefore strongly welcomes the UK Government's commitment to comprehensively reform the equal pay framework so that it works effectively for workers, employers, and the justice system, and welcomes the opportunity to respond to this consultation.

2. Answers to consultation questions

Pay transparency in recruitment

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)?

Agree.

Question 2: Please explain your answer

Close the Gap strongly supports the proposal to require employers to publish pay information in job advertisements, or provide this information in writing before interview where there is no advertisement. This is an important preventative measure that has the potential to reduce pay discrimination and improve fairness and transparency in recruitment.

Opaque pay-setting practices create opportunities for discrimination and bias, particularly where starting salaries are determined through individual negotiation, previous salary history or managerial discretion. These practices can disadvantage women, particularly women who are most marginalised such as racially minoritised women and disabled women, and perpetuate existing inequalities in pay. Requiring employers to disclose salary information will help to improve pay transparency, and enable potential applicants to make more informed decisions. The lack of awareness on pay-setting practices among individuals is a systemic problem which enables pay discrimination to persist.

Crucially, the requirement should also encourage employers to assess the value of roles and establish clear, objective criteria for determining salaries before commencing recruitment. This can help reduce reliance on informal or discretionary pay-setting practices and create greater consistency in how employees are remunerated.

Close the Gap considers that the requirement should apply to employers of all sizes, and wherever jobs are advertised. The medium through which a vacancy is advertised should not affect the obligation to provide pay information. All employers already make decisions about the roles they need to fill, the skills and experience required, and the salaries they are prepared to pay. Any concerns about the capacity of small employers to disclose salary information are therefore unconvincing. The requirement does not prevent employers from offering different salaries based on objectively justified differences in

qualifications, experience or responsibilities; rather, it requires greater consistency and transparency about how those decisions are made.

Furthermore, this requirement aligns the UK with international best practice, most notably the EU Pay Transparency Directive, which establishes clear obligations on employers to disclose initial pay levels or salary ranges prior to interview and prohibits inquiring about a candidate's pay history.¹ Adopting comparable measures in the UK is vital to prevent domestic practice from falling behind international standards on recruitment fairness and pay equity

Employers should be provided with clear guidance and practical tools to support implementation, particularly smaller organisations with limited HR expertise. The requirement must also be supported by effective monitoring and enforcement to ensure meaningful compliance.

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 be required to disclose sufficient information to provide prospective employees with a meaningful understanding of the remuneration associated with a role. This should extend beyond basic salary to include the principal components of the reward package and linked organisational policy.

As a minimum, mandatory information should include basic pay for the role. This should comprise salary or hourly rate, specifying whether this is a fixed amount or a range, and whether an annual salary is quoted on a full-time or pro-rata basis. However, Close the Gap believes that mandatory requirements should go further than this. Where pay arrangements exist and apply to the advertised role, employers should be required to disclose them. This should include:

- *Bonuses and performance-related pay:* Where such arrangements apply, employers should provide a brief description of the scheme, including eligibility and the criteria used to determine payments. This would not require employers to guarantee a bonus or specify an amount that depends on future individual or organisational performance.

¹ European Commission (2026) [New EU rules on pay transparency explained](#), 5 June 2026

- *Pension arrangements*: Information about the employer's pension provision, including employer contribution arrangements and any enhanced provision beyond statutory requirements.
- *Pay progression and review arrangements*: Where applicable, employers should explain whether salaries are subject to annual review, whether incremental progression arrangements exist, and the criteria used to determine increases or progression.
- *Pay supplements and allowances*: Where regular supplements or allowances form a substantive part of the remuneration package, these should be disclosed, together with the circumstances in which they apply.
- *Collective bargaining arrangements*: Where collective bargaining arrangements determine pay rates or other contractual terms, employers should be required to disclose this information.

Close the Gap believes that these requirements would be proportionate. We are proposing mandatory disclosure of arrangements that exist and apply to the advertised role, rather than requiring employers to introduce additional arrangements or provide information that is not relevant. Employers already hold this information and use it to determine remuneration, so there is little justification for excluding it from recruitment information. A standardised approach supported by clear guidance and templates would help employers provide information consistently.

Question 4: What level of pay information should employers be required to publish in job adverts or disclose before an interview? For example, should a pay range, specific salary or benchmark rate be required?

Employers should be required to publish a specific salary or hourly rate where this is fixed, or a clearly defined and meaningful salary range where there is flexibility in the remuneration offered. Salary ranges should reflect what an employer is genuinely prepared to pay for the advertised role. Excessively broad ranges risk undermining the purpose of the requirement by providing little meaningful information to applicants, while allowing employers to maintain significant discretion over starting salaries. This leaves room for bias and discrimination to affect decision making.

The regulations should therefore establish clear expectations about the use of salary ranges, including a requirement that employers can objectively justify the range advertised. Employers should also be expected to specify the criteria

used to determine an individual's starting salary within that range, such as relevant qualifications, experience, skills or responsibilities. This is a common feature of many job adverts at present and not onerous.

There should be sufficient flexibility to accommodate legitimate differences between candidates, but this must not create opportunities for discriminatory salary-setting or negotiation practices. Transparency should help ensure that candidates are assessed against consistent and objective criteria rather than subjective judgements about their worth or negotiating position.

Clear guidance and appropriate enforcement will be necessary to ensure that salary ranges provide meaningful transparency and are not used as a means of nominal compliance with the requirement.

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?

Agree.

Question 6: Please explain your answer

Close the Gap strongly supports the proposal to remove the three exceptions to the requirement for an Employment Tribunal to order an equal pay audit following a finding of unlawful pay discrimination. These exceptions undermine the effectiveness of the existing requirement and create opportunities for employers to avoid examining the wider causes and extent of discriminatory pay practices.

Where it is clear without an audit that action is required to address pay discrimination, this should strengthen the case for undertaking an audit rather than provide grounds for an exemption. It is not possible to establish reliably whether a breach is isolated without examining the employer's wider pay arrangements. Addressing the circumstances of an individual claim does not necessarily identify or remedy other instances of discrimination.

Close the Gap particularly welcomes the removal of the exception where the disadvantages of an audit are considered to outweigh its benefits. Where this exception has been used to date, there should have been an exceptionally high

threshold for allowing employers to avoid reviewing their pay practices following an established breach of equal pay law. Any assessment of the disadvantages of an audit would need to consider not only the administrative and financial costs to an employer, but also the ongoing harm to employees experiencing discrimination, the risks of further breaches, and the costs of future litigation.

Fundamentally, employers should not be permitted to avoid their legal responsibilities because compliance is considered too costly. Businesses are expected to comply with a wide range of regulatory requirements, including those relating to health and safety and consumer protection, regardless of the financial implications. Equal pay should not be treated as a lesser obligation. An employer's financial viability cannot be dependent on maintaining discriminatory pay practices, and the costs of addressing discrimination should not provide grounds for avoiding the scrutiny necessary to identify and prevent it.

Close the Gap is clear that the remaining exception, where an equal pay audit has been completed within the previous three years, must be subject to robust scrutiny. The existence of a previous audit should not in itself be sufficient to establish that the employer has adequately assessed its pay arrangements. There must be clear standards for determining whether the audit was sufficiently comprehensive, based on a valid, analytical and non-discriminatory job evaluation scheme, and whether identified pay gaps and inequalities were investigated and addressed. Scrutiny is particularly required where a subsequent finding of pay inequality suggests that the previous audit failed to identify discriminatory practices, or where significant changes to jobs or pay arrangements have occurred since it was undertaken.

There must therefore be a requirement that Employment Tribunals assess whether the circumstances of the successful equal pay claim call into question the validity or effectiveness of a previous audit, particularly where it failed to identify the discriminatory practices that gave rise to the claim. Where this is the case, the previous audit should not provide grounds for exemption from the requirement to undertake a new audit.

Equal pay audits should serve both remedial and preventative purposes. Their value extends beyond addressing an individual instance of discrimination to identifying systemic problems and ensuring that an employer's pay arrangements do not enable further breaches. Removing these exceptions is

therefore an important step towards shifting responsibility for equal pay compliance to employers, rather than relying on individual employees to identify and challenge discrimination after it has happened. The current individualised model of enforcement is significantly limited. It assumes a level of awareness and knowledge which most employees lack, relies on individuals to enforce their rights against better-resourced and more powerful employers, and results in remedies which are individualised and retrospective, with limited sanction.²

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?

Agree.

Question 8: Please explain your answer

Close the Gap strongly supports the proposal to require employers found to have breached equal pay law to implement a non-discriminatory job evaluation scheme alongside an equal pay audit, where an appropriate scheme is not already in place.

An equal pay audit cannot effectively identify all forms of pay discrimination if the underlying job evaluation and grading arrangements are themselves discriminatory or inadequate. An analytical job evaluation scheme provides an objective basis for assessing the relative value of different jobs and identifying such inequalities.

However, simply having a formal job evaluation scheme does not guarantee that it is non-discriminatory. The selection, definition and weighting of evaluation factors can reproduce gendered assumptions about the skills, responsibilities and demands of different types of work. Schemes may, for example, inadequately recognise emotional demands, interpersonal skills, caring responsibilities, or responsibility for others' wellbeing, while placing greater value on factors more commonly associated with male-dominated occupations.

² Cambell, Megan and Jim Fitzgerald (2026) [*Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination*](#)

This is particularly important given the longstanding economy-wide undervaluation of women's work. The market is not a neutral arbiter of job value. Prevailing market rates reflect occupational segregation, gender stereotypes and the historical undervaluation of female-dominated roles. Research has consistently demonstrated the systemic undervaluation of female-dominated work, with skills and responsibilities associated with women's traditional roles afforded less economic value.³ Social care provides a clear illustration: the largely female-dominated workforce undertake increasingly skilled and responsible work, often involving significant physical and emotional demands, yet the sector is characterised by low pay. The prevailing market rate for such work cannot be assumed to represent its objective or economic value.⁴

Job evaluation must therefore assess the actual demands and responsibilities of work rather than simply reproduce existing market pay differentials. The Government's reforms and accompanying guidance should explicitly recognise the risks of market-based approaches perpetuating structural discrimination.

There must be clear standards and appropriate scrutiny to ensure that job evaluation schemes are genuinely analytical, non-discriminatory and consistently applied. This should include assessment of the factors and weightings used, the methodology for evaluating jobs, and whether the scheme has been applied consistently across the organisation.

The Government should establish how this scrutiny will operate in practice, including where employers seek to demonstrate that an existing scheme meets the required standards. The proposed Equal Pay Regulatory and Enforcement Unit would be ideally placed to have a role in assessing or overseeing the validity of schemes. Any such function would need to be supported by appropriate powers, sufficient resource, and the required expertise. Trade unions and employee representatives should also be involved in the development, implementation and review of job evaluation schemes.

It is also important to recognise that a non-discriminatory job evaluation scheme does not, in itself, guarantee equal pay. Employers must examine whether their actual pay arrangements, including supplements, allowances,

³ Close the Gap (2016) [Gender Equality Pays](#); and Scottish Government (2021) [International Mechanisms to Revalue Women's Work: Research](#)

⁴ Close the Gap (2021) [Close the Gap submission to the Consultation on a National Care Service for Scotland](#)

bonuses and other discretionary payments, reflect the evaluated value of jobs and comply with equal pay law.

These requirements should support the Government's wider objective of preventing pay discrimination. Job evaluation should not simply be a response to an individual finding of discrimination, but an ongoing part of maintaining fair and consistent pay structures. It is also relevant to understanding the causes of the gender pay gap, particularly where the undervaluation of predominantly female jobs contributes to women's concentration in lower-paid roles. Findings from job evaluation and equal pay audits should therefore inform employer gender pay gap analysis and equality action planning.

Standard questionnaire in pay discrimination disputes

Question 9: Do you agree or disagree with introducing a new statutory questionnaire for pay discrimination claims only?

Agree.

Question 10: Please explain your answer

Close the Gap supports the introduction of a statutory questionnaire for pay discrimination claims. The repeal of the questionnaire in 2013 contributed to the significant 'awareness gap' highlighted by Cambell and Fitzgerald in the Government-commissioned report on pay discrimination.⁵ A new statutory questionnaire would be a valuable mechanism for improving pay transparency, and supporting the early identification and resolution of potential pay discrimination. There is currently no legal right to pay transparency, and the onus to gather information sits almost entirely with the individual. Employees often lack access to the information necessary to establish whether they have experienced discrimination, including information about comparator roles, pay and grading structures, allowances and the reasons for differences in remuneration. This places a substantial burden on individuals seeking to understand their legal rights and access justice. A statutory questionnaire would provide an accessible and consistent means of obtaining relevant

⁵ Cambell, Megan and Jim Fitzgerald (2026) [*Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination*](#)

information and potentially resolving concerns without the need to progress with a Tribunal claim.

The questionnaire should be optional for employees. Making it a mandatory step before bringing a claim could create additional procedural barriers and delays, particularly where employees may have already obtained sufficient information through other means. The questionnaire should facilitate pay transparency and access to justice, rather than become an additional hurdle that employees must navigate. However, where an employee chooses to use the statutory questionnaire, employers should be legally mandated to provide full, accurate, and candid responses within a specified timeframe.

While introducing a new questionnaire would be welcomed, it must be accompanied by proactive regulatory oversight measures so that the burden of investigative information gathering does not exclusively fall on individual employees.

Question 11: What questions do you think should be included in a statutory questionnaire to facilitate the early resolution of cases?

To ensure a reinstated questionnaire procedure provides effective pre-claim diligence, it must not be restricted to simple binary pay questions. It must compel employers to disclose structural job evaluation scoring, comprehensive remuneration breakdowns (including bonuses and benefits), and the contemporaneous documentary evidence supporting any claimed material factor defence. Compelling the early disclosure of this evidence would prevent unnecessary litigation and levels the information gap between worker and employer. Specifically, the questionnaire should include questions which elicit the following information:

- The employer's pay and grading structures, including the grade assigned to the employee's role and identified and unidentified comparators.
- The criteria used to determine salaries, including starting salaries, pay progression and discretionary pay decisions.
- All relevant components of remuneration, including basic salary, bonuses, supplements, allowances and other contractual benefits.
- The employer's job evaluation arrangements, including whether an analytical, non-discriminatory scheme is in place and the criteria used to assess the relative value of jobs

- Information about relevant comparators, including the basis on which their roles are considered equivalent or of equal value.
- Whether the employer has undertaken an equal pay audit, its relevant findings and any action taken to address identified inequalities.
- Relevant pay policies and collective bargaining arrangements.
- The employer's rationale for any pay disparity including material factor evidence, and decision-making records.

The questionnaire should also enable employees to request explanations of how relevant pay policies and procedures have been applied in their particular circumstances. Information should be sufficiently detailed to allow employees to assess whether pay differences are objectively justified, while ensuring appropriate safeguards for personal information.

The questionnaire should be supported by clear guidance and standardised questions, with scope for additional questions where these are necessary to understand the specific circumstances of a potential claim.

Question 12: What steps would you recommend taking to ensure the questionnaire procedure is as efficient as possible?

A clear, standardised questionnaire, supported by comprehensive guidance and a statutory response timeframe, would provide an efficient and accessible mechanism for establishing the facts of potential pay discrimination.

In Close the Gap's experience of working with employers, a recurring request is for greater specificity about what is expected of them, including clear requirements, practical templates and examples. A statutory questionnaire would respond directly to this need by setting out the information employers are expected to provide and establishing a consistent process for disclosure. This would be particularly beneficial for smaller employers with limited specialist HR or legal expertise.

The questionnaire should contain a standard set of core questions, with scope for additional questions relevant to the circumstances of the case. Clear guidance should explain the purpose of the questionnaire, the information employers are required to disclose, and how to provide complete and meaningful responses.

Close the Gap recommends that employers should be legally required to respond fully, accurately and candidly within a statutory timeframe. The

Government should determine a reasonable and proportionate deadline, with extensions permitted only in exceptional circumstances and subject to clear criteria. The size and capacity of an employer may be relevant when considering an exceptional extension, but should not provide a general exemption from the requirement to respond.

Employment Tribunals should be able to draw adverse inferences where an employer fails to respond within the required timeframe or provides evasive or inadequate answers. This would provide an important incentive for employers to engage meaningfully with the process.

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

Close the Gap believes that the proposals have the potential to encourage significant improvements in employer practice, particularly by increasing transparency, consistency and objectivity in how pay is determined.

Requiring employers to publish pay information may encourage more systematic assessment of roles and clearer criteria for determining starting salaries, reducing reliance on informal or discretionary pay-setting practices. It should also promote greater transparency around pay, bonuses and other elements of remuneration. Employers may need to review their recruitment policies, pay-setting processes, and record keeping to ensure that decisions can be objectively justified.

The proposals on equal pay audits and non-discriminatory job evaluation should encourage employers to scrutinise their wider pay structures and practices, rather than simply responding to individual instances of discrimination. This has the potential to identify systemic inequalities and support preventative action to address them.

Importantly, these changes can contribute to wider improvements in workplace gender equality. The practices that create pay discrimination can also contribute to occupational segregation and the gender pay gap. Addressing this may therefore help employers tackle other gendered inequalities within their organisations.

This highlights the importance employers implementing a coherent approach. They should be encouraged to integrate equal pay audits, job evaluation and

gender pay gap analysis, and use the findings to inform their equality action plan. This would enable employers to take a more strategic approach to addressing gender inequality, rather than treating different regulatory requirements as separate compliance exercises.

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

The proposals may result in some additional administrative and financial costs for employers, including reviewing recruitment and pay-setting practices, updating recruitment materials, improving record-keeping, and providing relevant training and guidance to staff. Employers required to undertake equal pay audits or implement non-discriminatory job evaluation schemes are likely to face higher costs, particularly where existing pay systems are inadequate.

However, these are not necessarily new costs created by regulation. In many cases, they are the costs of addressing deficiencies in existing systems that should already be operating lawfully. Employers already have legal obligations to ensure equal pay and prevent pay discrimination, irrespective of whether an individual brings a claim. The reforms should encourage employers to identify and address discriminatory practices proactively, rather than waiting for legal action. Employers should not be permitted to avoid these responsibilities on the grounds of cost. The experience of equal pay in local government shows that delaying pay justice actually increases the costs to the employer.⁶ As with other areas of business regulation, compliance is a fundamental requirement of operating a business. A model that depends on maintaining discriminatory pay practices to remain financially viable is not sustainable or acceptable.

Expenditure on effective equal pay practice should be understood as an investment in fairer and more effective employment practice. There is evidence of wider business benefits associated with gender equality and inclusive workplaces, including improved employee engagement, wellbeing, productivity, innovation and retention.⁷ Reducing staff turnover can also generate savings through lower recruitment and training costs.

⁶ Glasgow Times (2022) [Glasgow City Council workers protest over equal pay settlement in long-running equal pay row](#), 27 January 2022

⁷ Close the Gap (2016) [Gender Equality Pays](#), available at:

A preventative approach to equal pay can contribute to these benefits by addressing the organisational practices and structures that perpetuate wider gender inequality. Greater policy coherence between equal pay requirements, gender pay gap reporting and equality action plans would also enable employers to use their data, analysis and resources more efficiently to address interconnected inequalities.

These costs must also be considered against the potentially substantial financial and reputational consequences of failing to address pay discrimination. Equal pay litigation can involve significant legal costs, management time, compensation liabilities and reputational damage. The scale and duration of equal pay disputes involving major retailers and local authorities demonstrate the risks associated with failing to identify and remedy discriminatory pay practices.⁸

Question 15: Are there any proposals set out in this chapter that may take employers more than a year to implement?

Yes.

Question 16: Please explain your answer, including how long you think any proposal may take to implement?

Close the Gap considers that most of the proposed requirements should be capable of being implemented within a year. Measures such as publishing pay information in job advertisements, improving recruitment documentation, and introducing procedures for responding to statutory questionnaires should not require lengthy transition periods, particularly where clear guidance and practical tools are available.

Introducing a comprehensive job evaluation scheme may require more substantial work in some large or complex organisations. In some circumstances this may take more than a year to complete. However, the time required will depend on the employer's existing arrangements and the nature and extent of the work necessary. Close the Gap does not consider that this supports a standard extended implementation period. Employers should not be permitted to delay remedying identified discrimination while developing or implementing a new scheme. Where a longer implementation period is

⁸ Close the Gap (2021) [Response to the Scottish Government Consultation on Becoming a Fair Work Nation](#)

genuinely necessary, this should be supported by clear milestones, evidence of progress and interim measures to prevent continuing discrimination.

In many cases, employers can implement significant changes to workplace policies and systems when these are treated as organisational priorities. Equal pay compliance should be afforded comparable importance. The costs and resources associated with implementation should be recognised as necessary investment in lawful and effective pay arrangements, rather than grounds for unnecessary delay.

The Government should provide clear expectations and proportionate implementation requirements, supported by guidance and practical tools, to ensure employers are able to comply without weakening the effectiveness of the reforms.

Question 17: Are there other changes to pay transparency that you would recommend the government considers?

Close the Gap welcomes the proposals to strengthen pay transparency and enforcement, but believes that further measures are needed to deliver a genuinely preventative approach to pay discrimination.

In their recent Government-commissioned research report⁹ on pay discrimination, Campbell and Fitzgerald highlight the lack of awareness that pay discrimination has occurred as the greatest barrier to redress. The vast majority of those experiencing pay discrimination do not know it. They have no knowledge of their colleagues' pay and so lack the information they need to identify whether pay discrimination has occurred. Pay transparency measures are necessary to address the awareness gap and realise pay justice for women.

In particular, the Government should introduce mandatory equal pay reviews; ensure greater coherence between equal pay requirements, gender pay gap reporting, and equality action plans; invest in knowledge building and awareness raising around equal pay, pay discrimination and the gender pay gap; align with international standards; and improve guidance and accountability.

⁹ Cambell, Megan and Jim Fitzgerald (2026) [*Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination*](#)

Mandatory preventative equal pay reviews

Close the Gap recommends that the Government introduces a requirement for large employers (with 250+ employees), to undertake regular equal pay audits and report to the Equal Pay Regulatory and Enforcement Unit their findings and the action taken to address identified inequalities. We welcome the proposals to reduce the exceptions to the requirement for Employment Tribunals to order equal pay audits, to require non-discriminatory job evaluation schemes alongside them, and to extend the investigative powers of the new Equal Pay Regulatory and Enforcement Unit. However, these measures remain largely dependent on discrimination being established or suspected before action is required. Routine equal pay audits would shift greater responsibility onto employers to identify and address discriminatory pay practices proactively, rather than relying on employees to challenge discrimination after it has occurred. These requirements must be supported by meaningful accountability mechanisms.

As we set out in our response to the UK Government's June 2025 call for evidence on equality law, experience of the Scottish-specific duties demonstrates the limitations of requiring employers to publish statements of commitment without ensuring that meaningful action follows.¹⁰ Our 2017 assessment found that 86% of public bodies' equal pay statements were of poor quality, with most comprising statements of principle rather than concrete action to identify or address pay discrimination. This underlines the importance of requiring employers to undertake substantive reviews, report their findings and take action in response, rather than relying on policy commitments alone.

There is already a legislative precedent for this approach. Section 22 of the Scottish National Investment Bank Act 2020 requires the Bank to undertake equal pay reviews and report to Scottish Ministers on their scope, findings, reasons for any pay differences and proposed action.¹¹ However, as highlighted in our previous evidence, there has been insufficient publicly available information to establish how this requirement has been implemented. This reinforces the need for effective enforcement and accountability to ensure that statutory obligations deliver meaningful action.

¹⁰ Close the Gap (2025) [Response to the UK Office for Equality and Opportunity call for evidence on equality law](#)

¹¹ See [Scottish National Investment Bank Act 2020](#)

Greater coherence between equal pay requirements and gender pay gap reporting

The Government must also ensure that the reforms are coherent with existing gender pay gap reporting requirements and forthcoming equality action plans, as well as other key employment law reforms such as those on ethnicity and disability pay gap reporting and sexual harassment prevention. Equal pay and the gender pay gap are legally distinct but interconnected, and discriminatory pay practices are a key driver of the gender pay gap alongside other forms of structural inequality.

Close the Gap's research demonstrates the consequences of treating these issues as separate. Our 2023 report, *Positive Shifts, Persistent Problems*, assessed five years of Scottish employer gender pay gap reporting.¹² A recurring finding was that employers overstated the distinction between the gender pay gap and unequal pay, frequently asserting that they had no equal pay issues without providing evidence of the steps taken to establish this. Across the 250 employers assessed, only one mentioned plans to undertake an equal pay review.

As we highlighted in our June 2025 response, this reflects, in part, the approach taken to communicating the introduction of gender pay gap reporting.¹³ Government and regulatory guidance emphasised the distinction between the gender pay gap and unequal pay without adequately explaining their relationship. This has contributed to employers overlooking the potential role of discriminatory pay practices in creating or sustaining their gender pay gap.

The Government should address this through a more coherent regulatory framework and clear guidance that explicitly recognises the relationship between these issues. Findings from equal pay audits and job evaluation should inform employer gender pay gap analysis and the development of targeted equality action plans. This would encourage employers to examine the underlying causes of inequality and use their evidence and resources more effectively, rather than treating different regulatory obligations as disconnected compliance exercises.

¹² Close the Gap (2023) [Positive Shifts, Persistent Problems: A five-year analysis of Scottish employer gender pay gap reporting](#)

¹³ Close the Gap (2025) [Response to the UK Office for Equality and Opportunity call for evidence on equality law](#)

Knowledge building and awareness raising around equal pay, pay discrimination and the gender pay gap

A central action to effective pay transparency must be addressing awareness gap which is evident not only workers as potential claimants but to wider key stakeholders. There is a lack of equal pay expertise among legal practitioners, employers, unions, and advice organisations. Some trade unions, such as GMB, have invested in building this expertise internally, and union members more widely have greater access to specialist legal advice. The union approach also tends to focus on group-based claims. Individuals who are not in a union often seek initial information and support from advice agencies. However, there is a lack of specialist knowledge on equal pay law in such organisations, which are often working under severe resourcing pressures, and this therefore especially disadvantages individuals who then cannot access the information and support they need on equal pay and pay discrimination. This creates a clear barrier to justice.

Close the Gap has extensive experience of working with employers to address gender pay gaps, and take action such as doing an equal pay review and job evaluation. It is clear that there are substantial knowledge gaps among employers on equal pay, pay discrimination and the gender pay gap. As set out above, there is routine misunderstanding of how equal pay and the gender pay gap are related, and this is used as a justification for inaction on pay discrimination. Indeed, gender pay gap reporting has had a perverse effect of making pay discrimination more invisible.

Equal pay is a technical area of law, and claims are often settled before they reach Tribunal. As set out in our answer to question 35 on levelling up, we believe that a fundamental reform of the equal pay scheme would create an opportunity to address the current lack of expertise. Introducing a simplified scheme would be more accessible, and it would make accessing justice easier for workers. It would also alleviate the current situation in which the system is characterised by prolonged litigation.

Alignment with international standards (EU Pay Transparency Directive)

The UK Government should draw on the benchmark set by the EU Pay Transparency Directive (Directive (EU) 2023/970).¹⁴ In addition to pre-employment pay disclosure, the Directive introduces crucial provisions

¹⁴ European Commission (2026) [New EU rules on pay transparency explained](#), 5 June 2026

including a statutory ban on asking candidates about their salary history (which perpetuates historical undervaluation), an explicit right for workers to request broken-down pay level data for categories of work of equal value, and mandatory joint pay assessments where an unjustified pay gap of 5% or more exists. Incorporating these provisions into UK law would ensure the UK maintains parity with leading international frameworks and delivers systemic transparency.

Guidance and accountability

These measures should be supported by clear statutory guidance, practical tools and effective enforcement. Guidance should address the relationship between pay discrimination and the gender pay gap, the standards required for effective equal pay audits and non-discriminatory job evaluation, and the importance of taking action on identified inequalities. The Government should also ensure that the new Equal Pay Regulatory and Enforcement Unit and Equality and Human Rights Commission have the powers, expertise and resources necessary to support implementation and hold employers accountable.

Institutional home of the Equal Pay Regulatory and Enforcement Unit

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

Other, please specify

Q21: Please explain your answer.

Close the Gap does not have a clear view on where the Equal Pay Regulatory and Enforcement Unit should be based. There would be benefits to the Unit being based within the EHRC, however, we would also raise concerns about this based on the weak enforcement approach taken by the EHRC, and its lack of expertise on equal pay.

As part of its inquiry into enforcement of the Equality Act, the Women and Equalities Committee examined the effectiveness of the EHRC.¹⁵ A key

¹⁵ House of Commons Women and Equalities Committee (2019) [Enforcing the Equality Act: The law and role of the Equality and Human Rights Commission](#)

conclusion was that it must overcome its timidity and be bolder in using the existing powers that only it has by increasing its own enforcement activity, and doing so in a strategic way that acts as a multiplier across entire sectors in the longer term.

We note that the EHRC has been subject to a period of significant budget cuts and other political factors. TUC sets out¹⁶ that in 2007 when the EHRC was established it had budget of £70 million and a staff contingent of 525, which was based on its expanded remit with new policy areas including human rights, age, LGBT+ and religion or belief. Its budget is now around £17.5 million and around 200 staff which is roughly equivalent to the staff and budget of one of its legacy commissions. Its current staff and funding basis will not allow it to fulfil its full potential nor to deliver new responsibilities. Reverting to 2007 funding levels in real terms would require the EHRC's budget to be increased to £115 million.

There are also benefits to there being a new independent organisation established. It would give prominence to its mission without having to navigate the complexities of being integrated into another organisation and its workplace culture. It would establish the Unit as a national priority which would signal to stakeholders the importance of its work. However, establishing the Unit outside the EHRC could potentially cause confusion for complainants if there are two bodies with regulatory and enforcement powers in the often-overlapping areas of equal pay and sex discrimination. If the Unit is established outside the EHRC there must be clarity on how it will interact with the EHRC, and care must be taken to avoid duplication in roles, responsibilities and powers.

Irrespective of where the Unit is located, its funding must be ringfenced, and it must have sufficient resource to enable it to carry out its function. Equally important is that it is adequately resourced to have the required expertise on equal pay and pay discrimination. Given the dearth of equal pay expertise, this would most likely require expertise to be brought in, and in parallel a programme of investment to develop the necessary knowledge and skills within the Unit. Ensuring the Unit has the specialist expertise is essential if it is to be effective.

¹⁶ Trades Union Congress (2025) [Response to the Equality Law Call for Evidence](#)

New Unit powers to support enforcement activities

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.

Agree

Question 23: Please explain your answer

A key challenge in addressing pay discrimination is the acute lack of access to pay data, and a lack of pay transparency more widely.¹⁷ Women workers are often unable to see pay structures or verbal and/or written justifications until they are deep into costly, adversarial litigation. Establishing a power to require evidence (such as pay data, policies, and verbal evidence) before launching a full-scale formal investigation would serve as a vital filtering mechanism. It would allow the Unit to verify if there is a legitimate issue to pursue, saving time and public resources for both employers and the Unit.

Pre-investigation information-gathering powers would allow the Unit to act preventatively and proactively. It would give the Unit the ability to spot warning signs, query pay inequalities early, and resolve discriminatory practices before they escalate into formal, protracted legal disputes.

Q24: Do you agree or disagree that the existing investigation powers should be strengthened to enable the Unit to require that a job evaluation scheme and/or equal pay audit be undertaken as part of the investigation process, where this would help to establish whether pay discrimination has occurred?

Agree

Q25: Please explain your answer

We strongly agree that the Unit should be empowered to mandate job evaluation schemes and equal pay audits during investigations. Relying on voluntary employer action or the Tribunals, which have ordered an equal pay audit only once, has failed to tackle systemic pay inequality. Proving whether roles are of equal value requires objective diagnostic tools rather than subjective pay practices or protracted legal disputes.

¹⁷ Cambell, Megan and Jim Fitzgerald (2026) [*Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination*](#)

Research commissioned by UNISON¹⁸, by academics at University of Cambridge, sets out that pay discrimination is rarely explicit; it is routinely embedded in historic job classifications, subjective pay progression, and opaque grading systems. A non-discriminatory job evaluation scheme provides an objective baseline to compare work of equal value across roles, while a comprehensive equal pay audit systematically uncovers structural gaps across protected characteristics. Without the ability to enforce these tools during an inquiry, a regulatory unit would remain severely constrained in its capacity to verify whether pay discrimination has occurred.

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?

Agree.

Q27: Please explain your answer

Statutory enforcement mechanisms frequently break down at the compliance phase due to a lack of active monitoring and ongoing accountability.¹⁹ Without a mandatory duty to respond and report on implementation, inquiry recommendations risk remaining non-binding guidance that employers can simply ignore, undermining the efficacy of the regulatory Unit and allowing pay discrimination to persist unchecked.

Realising pay justice for women workers requires binding, proactive oversight. Mandatory implementation updates would create a clear mechanism for continuous accountability, ensuring that identified pay discrimination leads to actual structural remedies within organisations rather than symbolic acknowledgments. Granting the Unit powers to enforce and track compliance ensures that inquiry outcomes deliver meaningful outcomes, resulting in improved access to justice.

Q28: Do you think the Unit should have additional new powers or capabilities to help secure remedies for workers beyond our proposal? [Yes/No/Don't know]

¹⁸ Armstrong, Harry, Catherine Bernard and Oliver Friend Smith (2026) [Fixing Equal Pay law: From endless litigation to fair pay by design](#), UNISON

¹⁹ Cambell, Megan and Jim Fitzgerald (2026) [Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination](#)

Yes

Question 29: Please explain your answer

While Close the Gap supports the proposals on new Unit powers for enforcement activities, we do not believe they go far enough. Although there is an overarching aim to move to a more preventative approach, the proposed powers remain heavily reactive, and would take effect after pay discrimination is suspected or has already occurred. The reliance on post-breach enforcement places an unsustainable emotional, financial and procedural burden on individual workers.²⁰

To effectively eliminate pay discrimination, the Unit's remit must expand far beyond reactive remedies and be given comprehensive proactive, supervisory, and monetary enforcement powers. As demonstrated in the Government-commissioned report on pay discrimination by Campbell and Fitzgerald, reliance on individual, post-breach litigation leaves systemic pay opacity and the structural 'awareness gap' unchallenged. To bridge this gap, the Unit must be granted broad pre-claim powers, as advocated by GMB Union²¹, including the explicit authority to order the disclosure of pay information, run quasi-judicial pre-claim diligence processes, and receive complaints directly from trade unions, individual workers, and legal representatives. Empowering the Unit to conduct authoritative fact-finding early will triage disputes, remove the burden of gathering pay data from individual workers, and prevent weak or opaque employer practices from resulting in protracted litigation.

The Unit requires robust supervisory powers to proactively inspect workplace pay structures before discrimination occurs, rather than acting solely when a dispute arises. As recommended in UNISON's report, the Unit must be equipped with independent supervisory capabilities, including the authority to conduct random compliance spot-checks on large employers, order sector-wide reviews, and issue binding compliance notices without waiting for a formal complaint. Transitioning from reactive policing to proactive oversight ensures employers establish equitable pay structures from the outset.

To provide a genuine and credible deterrent, the regulator must also possess statutory powers to impose financial penalties on non-compliant employers, as

²⁰ Armstrong, Harry, Catherine Bernard and Oliver Friend Smith (2026) [*Fixing Equal Pay law: From endless litigation to fair pay by design*](#), UNISON

²¹ TUC (2025) [*Response to the Equality Law Call for Evidence*](#)

well as award legal and administrative costs as advocated by GMB Union.²² Currently, the financial and procedural risks of challenging pay inequality fall disproportionately on individual workers and trade unions, while employers face minimal immediate consequences for stalling proceedings or withholding data. Giving the Unit financial sanctioning powers, including notices of underpayment and scalable civil fines for deliberate non-disclosure or persistent non-compliance, alongside the authority to invalidate discriminatory contractual terms and order sector-wide pay grading reviews, shifts legal and financial accountability directly onto non-compliant employers and would compel proactive employer action.

Finally, the Unit's capabilities must be structured to address collective and multi-occupational inequality across protected characteristics, including sex, race, and disability. Pay discrimination is rarely isolated to individual roles; it is routinely embedded in broader occupational segregation and historic job grading frameworks. In line with recommendations from UNISON and GMB for systemic redress, the Unit should possess the authority to order organisation-wide job evaluations across equivalent job families and enforce binding remedies developed in direct consultation with recognised trade unions. Without these comprehensive proactive, quasi-judicial, collective, and financial enforcement powers, the new Unit risks reproducing the structural limitations of the existing tribunal system under a new institutional title.

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

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?

Disagree.

²² TUC (2025) [Response to the Equality Law Call for Evidence](#)

Question 36: Please explain your answer

Close the Gap fully supports action to improve access to justice for disabled people and racially minoritised people as the current system is without question failing them. However, the proposals on ‘levelling up’ protections by grafting race and disability onto the existing, fragmented framework is a missed opportunity for meaningful structural reform. The current dual-track scheme, which maintains separate legal regimes for sex-based equal pay claims versus direct/indirect pay discrimination claims relating to other protected characteristics is inherently complex, opaque, and difficult to navigate. Extending this bifurcated model to race and disability will not create an accessible system; it will merely replicate existing procedural traps, subjective material factor defences, and high legal barriers across new protected characteristics.

The equal pay scheme needs to be overhauled into a modern, streamlined system that works for everyone. As already set out, the core failure of the current scheme is that it relies on complex, adversarial Tribunal litigation to resolve individual pay disputes after harm has occurred. Rather than tinkering with the current scheme, which is almost 60 years old, by harmonising provisions across two separate claims regimes, the Government should undertake fundamental reform of the equal pay scheme to unify and simplify the law. Rather than having parallel legal tests there should be a single, clear, and universally accessible equal pay framework.

Reforming the equal pay scheme would also create opportunities to address the awareness gap and lack of expertise on equal pay that is prevalent among legal practitioners, employers, unions, advice agencies, and potential claimants. Having a new simplified scheme would improve access to pay justice for all.

Piecemeal harmonisation also misses a vital opportunity to address intersectional pay discrimination. Currently, workers are forced to compartmentalise their experience into silos, bringing separate claims for sex, race, or disability. However, to address pay gaps and pay inequalities, an intersectional analysis is necessary. For example, disabled women face compounded pay penalties rooted in deep occupational segregation, barriers to progression, and discriminatory attitudes about their skills and abilities.²³ A truly reformed and simplified framework would dismantle these artificial legal

²³ Close the Gap (2025) [Excluded by Design: Research on disabled women's employment](#)

barriers, allowing for holistic claims and requiring multi-characteristic pay evaluations. Rather than forcing workers to fit complex lived experiences into a broken, outdated legal framework, a modernised system must recognise intersectionality from the outset to deliver true structural fairness.

Finally, effective protection against pay discrimination requires moving away from complex individual enforcement toward proactive, collective compliance. As argued in current research on equal pay and pay discrimination, and supported by union proposals, the priority must be establishing clear, universal standards, such as mandatory equal pay audits covering sex, race, and disability, and broad regulatory oversight, rather than multiplying the legal routes through which individuals must litigate.²⁴ The Government should reject piecemeal harmonisation and instead construct a unified, accessible framework for pay discrimination built on the principles of transparency, simplicity, and proactive enforcement for all protected groups.

Geographical scope

Question 70: 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)?

Yes.

²⁴ Armstrong, Harry, Catherine Bernard and Oliver Friend Smith (2026) [Fixing Equal Pay law: From endless litigation to fair pay by design](#), UNISON; and Cambell, Megan and Jim Fitzgerald (2026) [Understanding Pay discrimination: Research to support improving equal pay law and ending pay discrimination](#)