



CLOSE THE GAP BRIEFING

From Data to Action: The need for mandatory gender pay gap action plans in Scotland's public sector

Introduction

This briefing sets out the urgent need to strengthen the Scottish-specific duties of the public sector equality duty by introducing a requirement for listed public bodies to publish mandatory gender pay gap action plans. Without this reform, public sector employers will continue to report pay gaps without accountability, undermining Scotland's commitments to fair work, economic transformation, and tackling child poverty.

The gender pay gap: a persistent problem

The gender pay gap is the headline indicator of women's labour market inequality. While it is a useful statistic, this single figure cannot capture the complexity of the causes of the pay gap, and obscures the deep and persistent inequalities experienced by women both in the labour market and beyond.

In the workplace, women are still concentrated in lower grades and face barriers to development and progression. Women are the majority of low-paid workers, and are more likely to be underemployed and in insecure work.

Work that is seen as "women's work", including occupations such as social care workers, teaching assistants, childcare workers, and cleaners, is economically undervalued despite its essential nature.¹ Recent equal pay issues in local government and beyond are clear evidence of this, and highlight the impact of public sector pay policies on the valuation of women's work, and on gender inequality more broadly.

Women's economic inequality means they are more likely to live in poverty than men, more likely to experience in-work poverty, and more likely to experience persistent poverty than men. Women's poverty is also inextricably linked to child poverty.

¹ Grimshaw, D & Rubery, J 2007, *Undervaluing women's work*. Equal Opportunities Commission. Available at: <https://research.manchester.ac.uk/en/publications/undervaluing-womens-work>. (Accessed 11 June 2025)

The gender pay gap is a key driver of women's poverty and economic inequality. This pre-existing inequality meant that the impact of the Covid-19 pandemic and cost-of-living crisis has pushed more women and their families into poverty, and into more intense poverty.

Addressing the causes of the gender pay gap is vital for tackling these and wider gendered inequalities, and for realising Scottish Government's ambitions on fair work and economic transformation, and its core priority of eradicating child poverty. The current pace of change is too slow to achieve meaningful progress toward closing the pay gap.

To accelerate gender equality we need comprehensive reform to the gender pay gap reporting elements of the Scottish-specific duties of the public sector equality duty. Central to this must be the introduction of mandatory gender pay gap action plans for public bodies.

The public sector equality duty: the context

The Scottish-specific duties of the public sector equality duty were introduced in 2012, with the first public bodies reporting on the duties in 2013. In 2018, Scottish Government committed to a review of the duties with a view to reforming them. This work was paused during the pandemic, before moving forward with a report on the effectiveness of the duties in early 2021, followed by a public consultation in 2022. The proposals set out in the consultation were collectively criticised by 26 equalities organisations for their lack of ambition.²

In October 2023, the then Minister for Equalities, Migration and Refugees announced that those proposals would be significantly scaled back, with only limited reforms taking place as part of a phased approach. These reforms comprised revising the pay gap reporting duty to include reporting on ethnicity and disability pay gaps, which was based on an SNP 2021 manifesto commitment, and introducing a new duty on inclusive communication. The Minister also committed to non-regulatory changes, the most substantive of which was to explore how the Scottish Government may use regulation 11, which allows Scottish Government to direct public bodies to "consider such matters as may be specified from time to time".

Since then, the priorities of Scottish Government have shifted even further away from these minor regulatory changes to focus on the potential for use of regulation 11 and consideration of a 'support and guidance' approach to public bodies. For example, the commitment to introduce a duty on inclusive communication has been withdrawn, with the intention to use regulation 11 to encourage action on this matter.³ In addition, the recently

² <https://www.closesthegap.org.uk/content/resources/PSED-review-equality-stakeholders-common-concerns-April-2022.pdf>

³ Letter from Minister for Equalities to equality advocacy organisations (August 2024)

published consultation on the new draft Equality and Human Rights Mainstreaming Strategy proposes that the Strategy will support public bodies to develop their mainstreaming plans and improve their work on equality more generally.⁴

Organisations working on equality and human rights have been critical of this draft Strategy.⁵ A central concern is that it takes a homogenised approach to equality and human rights that does not reflect the specific inequalities faced by different groups protected by the Equality Act 2010. This approach is not supported by evidence and, based on the experience of generic equality approaches over the last decade, is highly likely to further diminish focus on women's inequality specifically.

What we know about the effectiveness of the duties

The Scottish Government review was precipitated by long-standing and widely held concerns regarding the effectiveness of the duties. Close the Gap has undertaken a series of assessment exercises looking at public bodies' performance of the duties, which have found that:

- There has been a steady and marked decline in public bodies' performance since first reports in 2013.
- Persistent shortcomings include an absence of gender mainstreaming, failure to use relevant evidence such as gender pay gap and occupational segregation information to develop action, and a lack of specificity and measurability in outcomes and actions.
- Many public bodies are also failing to meet the most basic of duties, e.g. publishing their gender pay gap and occupational segregation data.
- In 2023, only 87% of public bodies had published their gender pay gap as required. Public bodies that had not done so had either published no figure at all, or published a figure that was non-compliant, e.g. excluding certain groups of staff.
- In 2023, only 38% of public bodies had published their occupational segregation information as required by the duties. While a further 29% of public bodies had published this data in part, one third of public bodies failed to publish any data at all.
- In 2023, 82% of 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.

⁴ <https://www.gov.scot/binaries/content/documents/govscot/publications/consultation-paper/2024/10/equality-human-rights-mainstreaming-strategy-consultation/documents/equality-human-rights-mainstreaming-strategy-consultation-paper/equality-human-rights-mainstreaming-strategy-consultation-paper/govscot%3Adocument/equality-human-rights-mainstreaming-strategy-consultation-paper.pdf>

⁵ <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-mainstreaming-strategy-consultation-response-Feb-25.pdf>, and <https://www.engender.org.uk/content/publications/Engender-response-on-the-EHR-Mainstreaming-Strategy—Final.pdf>, and <https://youngwomenscot.org/policy-consultations/equality-and-human-rights-mainstreaming-strategy-consultation-response/>, and <https://www.crer.org.uk/s/Mainstreaming-Consultation-CRER.docx>

- Equal pay statements are frequently short and generic, and contain limited or no actions to address unequal pay. For those that do contain actions, these actions are routinely vague and of poor quality.

It is clear that these widespread compliance issues are driven by four key factors:

- A lack of leadership,
- Significant under-resourcing,
- A lack of gender competence and institutional memory within public bodies, and
- An absence of accountability at the executive and board level.⁶

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 have largely published datasets that sit unutilised.

In addition, regulation six is insufficiently clear on what data falls under the definition of “recruitment, development, and retention”, which creates inconsistencies in data collection, and means public bodies may not be gathering the specific data they need to identify and address inequalities in their workforces.

It is therefore clear that we need a strengthened gender pay gap reporting duty that is action focused, as part of wider improvements to the Scottish-specific duties including on employee data and equal pay.

Wider evidence on gender pay gap reporting

The findings of Close the Gap’s assessment of Scottish gender pay gap reporting under the 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 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 2023.⁷

⁶ Close the Gap (2022) *Submission to the Scottish Government Consultation on the Review of the operation of the Public Sector Equality Duty in Scotland*. Available at <https://www.closesthegap.org.uk/content/resources/Close-the-Gap-submission-to-the-SG-consultation-on-the-review-of-the-operation-of-the-PSSED-in-Scotland.pdf> (Accessed: 11 June 2025)

⁷ 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> (Accessed: 11 June 2025)

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.⁸ 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 introduced, 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.⁹ 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.¹⁰ 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.¹¹

The UK Employment Rights Bill

The UK Government has committed to strengthening the UK gender pay gap reporting regulations by introducing mandatory action plans, which employers will have to publish alongside their pay gap data. Provisions in the Employment Rights Bill will amend the regulations to require employers to develop and publish an "equality action plan" that sets out the steps they are taking to tackle gender inequality in their organisations, including addressing the gender pay gap, and supporting employees going through the menopause.¹² In addition, the UK Government is consulting on its proposed Equality (Race and Disability) Bill which will introduce mandatory ethnicity and disability pay gap reporting.

These provisions are intended for employers that are covered by the current UK gender pay gap reporting regulations, which apply to private and voluntary sector employers in Great Britain with 250+ employees. However, they do not cover public bodies in Scotland as they

⁸ Ibid.

⁹ 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*

¹⁰ 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> (Accessed: 11 June 2025)

¹¹ Ibid

¹² UK Parliament (2024) *Employment Rights Bill, Bill 5 of 2024-25*. London: House of Commons. Available at: <https://bills.parliament.uk/bills/3737> (Accessed: 11 June 2025)

follow PSED reporting requirements, with the exception of a small number of public bodies to which PSED does not apply.

Scottish public bodies will not be automatically subject to the equality action plan requirements of the Employment Rights Bill unless the Bill explicitly extends to devolved public authorities (which would require a Legislative Consent Motion). Alternatively, Scottish Government would have to adopt similar legislation separately, for example by amending the gender pay gap reporting duty within the Scottish-specific duties to require listed public authorities to develop and publish a gender pay gap action plan. A number of motions on legislative consent related to the Employment Rights Bill have been discussed and proposed by the Economy and Fair Work Committee, however none of these relate to the provision for gender pay gap action plans.¹³

The Minister for Equalities has written to UK Ministers requesting that Scottish Ministers be granted equivalent powers under the Employment Rights Bill to those being taken by UK Ministers.¹⁴ This would allow the Scottish Government to secure gender pay gap action plans from public bodies without reforming the Scottish-specific duties, ensuring consistency in pay gap reporting practices across devolved nations. However, it is noted that the UK Government position is that this can already be achieved through reform of the Scottish-specific duties.¹⁵

The consultation on mandatory ethnicity and disability pay gap reporting notes that, for public bodies, this obligation will be “potentially England only”.¹⁶ Further, the recently published roadmap for the implementation of the Employment Rights Bill states that gender pay gap action plans will not take effect until 2027. It is therefore clear that Scottish Government cannot rely on UK equalities legislation to secure extended pay gap reporting requirements on Scottish public bodies.

If the Scottish-specific duties retain their reporting-only pay gap duty, and public bodies are not required to publish an action plan, this will create a significant gap in practice between Scottish public bodies and those in England and Wales. This will leave women working in Scotland’s public sector in a weakened position, as there will continue to be a lack of action on the pay gap by their employers. There is also a clear reputational risk for Scottish Government, which was once regarded as a UK leader on pay equality, but will be left behind as the UK Government delivers more progressive policy on tackling the gender pay gap.

¹³ <https://www.parliament.scot/bills-and-laws/legislative-consent-memorandums/employment-rights-bill>. (Accessed 11 June 2025)

¹⁴ Harvie-Clark, S. and Georgiou, N. (2025) *The UK Employment Rights Bill*, Scottish Parliament Information Centre. Available at: <https://bprcdn.parliament.scot/published/2025/4/29/723e2a1e-02c9-4aff-a5c5-7f4cd98b6304/SB%2025-17.pdf> (Accessed: 11 June 2025)

¹⁵ Ibid

¹⁶ HM Government (2025) Equality Bill Consultation. Available at: https://assets.publishing.service.gov.uk/media/67d2cd61886e7770c211e077/CCS0824179494-003_PN9367947_Equality_Bill_Consultation_Web-Accessible_updated.pdf (Accessed: 11 June 2025)

Our calls

Close the Gap is clear that the Scottish Government proposals on changes to the Scottish-specific duties fall far short of what is required to secure meaningful change for women in Scotland.

The findings of Close the Gap's assessments of employer pay gap reporting in the public, private and third sectors¹⁷, along with international evidence on pay gap reporting regimes¹⁸, show that reporting alone does not create change. Scotland needs a strengthened pay gap reporting duty that mandates listed public bodies to use their data to develop and publish an action plan, and to report on progress against it. We therefore make the following calls:

1. Scottish Government must bring forward a reformed pay gap reporting duty that includes a requirement on listed public bodies to use their gender pay gap information to develop an action plan, and to report on progress to deliver on that plan.

Close the Gap welcomes the Scottish Government's commitment to revise the pay gap reporting duty to include reporting on ethnicity and disability pay gaps. However, we are clear that this proposed revision does not go far enough.

There is overwhelming evidence from Scotland, the UK, and internationally that employers are significantly unlikely to take action to close their pay gap unless required to in law. The argument for mandatory action plans is particularly important in the current challenging financial context. When there is a pressure on public sector budgets, history has shown us that gender equality quickly becomes sidelined. Scottish Government must also recognise that the recent global backlash against diversity, equality and inclusion initiatives has seen many employers roll back initiatives and commitments on tackling gender inequality. This underscores the need to use the available regulatory levers to ensure that tackling the causes of the pay gap is prioritised by public sector employers.

2. Scottish Government must create an updated duty that draws together reporting of pay gap information and occupational segregation information.

This would involve relocating the requirement to publish occupational segregation from regulation eight on publishing equal pay statements. The duty should specify that public bodies must analyse and use this information, together with their employee information published under regulation six, to develop a gender pay gap action plan, with progress updates published every two years.

In addition, regulation six should specify which data public bodies should gather under

¹⁷ Close the Gap (2023) *Positive shifts, persistent problems: A five year analysis of Scottish employer gender pay gap reporting*, and Close the Gap (Unpublished) *2020 Internal assessment of public bodies' compliance with the public sector equality duty*

¹⁸ Global Institute for Women's Leadership (2020) *Gender pay gap reporting: A comparative analysis*. Available at: <https://www.kcl.ac.uk/giwl/research/gender-pay-gap-reporting-comparative-analysis> (Accessed: 11 June 2025)

recruitment, development and retention. This should include data on women's return to work following maternity or shared parental leave, as recommended in research published by Scottish Government on addressing the undervaluation of women's work.¹⁹

3. A reformed gender pay gap duty must include a standardised method for calculating public bodies' gender pay gaps.

This should set out standardised formulae allowing public bodies to calculate and publish their whole-organisation, full-time, and part-time gender pay gaps. This would give public bodies clear guidance on how to calculate their gender pay gaps and generate more fulsome data, enabling public bodies to better understand the cause of their gender pay gap. Standardised calculation methods would also enable both inter- and intra-sectoral comparison over time.

In addition, Scottish Government should specify in the reformed duty that contracted-out workforces must be included in gender pay gap data, as recommended in the research on tackling undervaluation published by Scottish Government.²⁰

4. Scottish Government must bring forward a reformed equal pay statement duty, that requires public bodies to evidence what steps they are taking to ensure equal pay for equal work.

The evidence is clear: public sector pay practices have significantly contributed to women's labour market inequality through their historic and persistent undervaluation of "women's work". More recently, privatisation and outsourcing of public services have disproportionately harmed women - who make up the majority of the public sector workforce - by reducing access to collective bargaining and limiting opportunities to use equal pay legislation to tackle pay inequality.

A reformed equal pay statement duty should require public bodies to include evidence of job evaluation, based on equal value principles, and pay and grading reviews, alongside details of any steps taken as a result of these.

5. Scottish Government must consult with experts on ethnicity- and disability-related employment inequalities to develop a duty that can deliver change.

There is a need to consider how the new pay gap duty can be designed to secure meaningful and useful data for the purposes of tackling ethnicity- and disability-related employment inequalities. The gender pay gap as a calculation and measure is not comparable to pay

¹⁹ Scottish Government (2021) *International mechanisms to revalue women's work: Research exploring and evaluating international mechanisms that aim to revalue or result in the revaluation of women's work*. Available at: <https://www.gov.scot/publications/international-mechanisms-revalue-womens-work-research-exploring-evaluating-international-mechanisms-aim-revalue-result-revaluation-womens-work/> (Accessed: 11 June 2025)

²⁰ Ibid.

gaps arising from ethnicity or disability, given the complexities of dividing each of these protected characteristics into groups which could be compared against a control group.

Occupational segregation data for ethnicity and disability is likely to be more useful than a pay gap figure in identifying key inequalities in public bodies' workforces. It is also more likely to enable public bodies to examine intersecting inequalities within their workforces. This reinforces the need to merge the duty to publish occupational segregation information with the gender pay gap reporting duty, in order that public bodies are required to publish this information by gender, ethnicity, and disability.

It is critical too that the new pay gap duty requires public bodies to apply an intersectional lens to its analysis and use of its gender pay gap and occupational segregation information. Disabled women and some groups of racially-minoritised women face higher pay gaps due to the intersecting inequalities they experience. This requires specific action to address, which cannot be achieved through a homogenous approach to pay gap reporting.



Close the Gap works in Scotland on women's labour market participation. We work with policymakers, employers and unions to influence and enable action that will address the causes of women's inequality at work.

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