

THE IMPLICATIONS FOR RELIGION OR BELIEF GROUPS OF PROPOSED REFORMS TO STRENGTHEN PROTECTION AGAINST PAY DISCRIMINATION

Introduction

In July 2024, the [King's Speech](#) included the government's commitment that "*Legislation on race equality will be published in draft to enshrine the full right to equal pay in law [Draft Equality (Race and Disability) Bill]*". This followed the 2024 [Labour Manifesto](#) commitment to "*introduce a landmark Race Equality Act, to enshrine in law the full right to equal pay for Black, Asian, and other ethnic minority people...*".

From April to June 2025, the government ran an [Equality law call for evidence](#) seeking evidence and views on, among other matters:

- the prevalence of pay discrimination on the basis of race and disability
- making the right to equal pay effective for ethnic minority and disabled people
- measures to ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay
- improving the enforcement of equal pay rights by establishing an Equal Pay Regulatory and Enforcement Unit, with the involvement of trade unions
- improving pay transparency.

The government's proposals appear to focus only on the protected characteristics of sex, race and disability. While being Jewish or Sikh is treated as being part of a racial group under the Equality Act 2010 (EA2010), being Muslim is not. In addition, the Government Statistical Service (GSS) harmonised standard for ethnicity does not currently include Jewish or Sikh as ethnic groups.

The government has not yet set out its response to the consultation and, while the commitment in the King's Speech was to publish a Draft Equality (Race and Disability) Bill in the first session of the current Parliament, no such Draft Bill had been published when the session ended on 29 April 2026.

This paper considers the implications for religion or belief groups of the proposed reforms to strengthen protection against pay discrimination, analysing the benefits and risks of different possible approaches and providing recommendations. While it focusses in particular on the implications for Muslims, some of these also apply to other religion or belief and racialised religious groups.

Pay gap reporting

Separately, between March and June 2025, the government also [consulted](#) on proposals to extend mandatory pay gap reporting by employers to ethnicity and disability, in addition to the existing gender pay gap reporting requirements under the EA2010. The government [published](#) its response to the pay gap reporting consultation on 25 March 2026, alongside draft clauses to amend the EA2010 to implement its proposed approach. While we generally support the Government's plans in this area, it is important to note that, like the proposals on pay discrimination, extending the pay gap reporting requirements to the protected characteristic of race but not religion or belief raises particular issues for some racialised religious groups. While the proposed approach could (subject to the ethnicity data standard used) improve transparency about, and employer action to address, pay disparities experienced by Jewish and Sikh employees, it will not have the same benefits for Muslim workers. This is particularly problematic given the evidence that Muslim workers in Britain have lower median hourly earnings than any other religion or belief group.¹ However, it should also be noted that, since the GSS harmonised standard for ethnicity does not currently include Jewish or Sikh as ethnic groups, it is not clear that it would even improve pay transparency for those religious groups already treated as racial groups. These anomalies need to be addressed.

Workplace inequalities experienced by Muslims

The Equality and Human Rights Commission's [Equality and Human Rights Monitor](#), published in November 2023, highlighted a range of labour market inequalities experienced by Muslims in Britain, along with high rates of poverty and deprivation. Despite some improvements over recent years, their outcomes across a range of indicators were poorer than for most other religious groups:

- While the employment rate among Muslims had grown, it remained lower than for all other religious groups except Christians, for whom employment had declined significantly.
- Pakistani and Bangladeshi people who are not Muslim were more likely to be employed than those who are Muslim. Muslim women who are Pakistani or Bangladeshi had particularly low employment rates.
- Among people under 65, Muslims were significantly more likely to be economically inactive than Christians and other groups. Muslim women had

¹ [Equality and Human Rights Monitor](#), Equality and Human Rights Commission, November 2023

significantly higher rates of economic inactivity than men and women in all other religious or no religion groups.

- Although Muslim unemployment rates had decreased, Muslims were significantly more likely to be unemployed than all other religious groups.
- Muslim workers in Britain had lower median hourly earnings than those of other religions or no religion.
- Muslim workers in Britain were among those most likely to be in low-paid occupations, least likely to be in high-paid occupations and most likely to be in insecure employment.
- Muslims experienced the highest rates of adult and child poverty and severe material deprivation of any religious group, with no improvement over the previous 10 years.

These findings point to a pressing need to ensure that Muslims benefit from measures to strengthen both the right to equal pay and other workplace anti-discrimination protections.

Pay discrimination and pay inequalities

Pay discrimination is less favourable pay for equal work because of a protected characteristic, but pay inequalities can arise from a number of complex and interrelated factors in addition to pay discrimination. These include other forms of workplace discrimination – in recruitment and promotion, access to training and prejudiced assumptions about suitability and skill for certain tasks, often rooted in societal norms and attitudes relating to gender, the impact of caring responsibilities, age and disability, and related issues such as migration status and language skills. These factors can intersect, creating specific forms of disadvantage for people with certain combinations of protected characteristics.

Pay inequalities are also affected by wider labour force trends such as geographical variations in jobs and pay, occupational segregation, the value placed on certain types of work, the availability of quality part-time work, the growth of insecure employment such as temporary and zero-hours contracts, and increased outsourcing. Racialised groups and women are overrepresented in sectors commonly outsourced, such as cleaning and catering. Pay inequalities are also related to broader structural social inequalities, for example, in education, health,

housing and access to transport.

Prevalence of pay discrimination

Other than for equal pay (relating to sex), employment tribunal data does not identify whether discrimination cases relate to pay discrimination, but it is believed that very few such cases are brought. While over half of employment tribunal discrimination complaints in 2019/20 related to equal pay, they made up only 21% of disposals and of those fewer than 1% ended in a hearing,² indicating a very high proportion of cases withdrawn or settled, perhaps due to the time, cost, complexity and stress of bringing such claims.

At national level, we know that Muslims have lower median hourly earnings than all other religious groups, but it is not possible to say how much of this pay inequality is the result of pay discrimination, other forms of workplace discrimination or broader societal factors.

It is also not currently possible to see the pattern of pay gaps experienced by Muslim workers within individual workforces; this situation will continue unless the government extends the current gender pay gap reporting requirements to religion or belief as well as (as currently proposed) to race and disability. In addition, because the GSS harmonised ethnicity standard does not include being Jewish or Sikh as ethnic categories, pay gaps experienced by these groups (already recognised as racial groups under the EA2010) will also remain obscured.

Current legal approaches to addressing pay discrimination

For historical reasons, the EA2010 takes different legal approaches to addressing pay discrimination because of sex and pay discrimination because of other protected characteristics.

Pay discrimination because of sex (“the equal pay approach”)

Men and women can bring **equal pay**³ claims for failures to pay equally with a comparator of the opposite sex for “equal work”. The relevant provisions effectively create a “sex equality clause” in terms of employment, creating a contractual right to equality in pay and other contractual terms between women and men performing equal work. (Sex discrimination claims which do not relate to contractual terms of

² Equality and Human Rights Monitor, November 2023

³ Equality Act 2010, Part 5, Chapter 3

employment cannot be brought under this mechanism and must instead be brought under the direct or indirect discrimination provisions – see below.)

Equal work is:

- Like work – where the work done by two people of the opposite sex is essentially the same or broadly similar.
- Worked rated as equivalent – where a job evaluation study gives an equal value to jobs done by two people of the opposite sex.
- Work of equal value – where the demands of the work done by two people of the opposite sex are equal in terms of effort, skill and decision-making.

The opposite-sex comparator must be real, not hypothetical, and must be in the “same employment” as the claimant – working for the same or an associated employer or where a single entity is responsible for setting the terms of employment. The claim must be brought against the employer, not an individual.

The remedy in a successful equal pay claim is arrears of pay for a period of up to five (in Scotland) or six (in England and Wales) years. In addition, an employment tribunal finding an employer to have breached the equal pay provisions must order the employer to conduct an equal pay audit,⁴ unless a specific exception applies, and to develop an action plan to avoid future breaches.⁵

Pay discrimination because of other protected characteristics (“the discrimination approach”)

People experiencing pay discrimination because of a protected characteristic other than sex can bring **direct⁶ or indirect⁷ discrimination claims.**⁸ Direct pay discrimination is less favourable pay because of a protected characteristic. Indirect pay discrimination is the application of a provision, criterion or practice which puts people sharing a particular protected characteristic at a particular disadvantage compared to others and which cannot be objectively justified. In both types of discrimination, the comparator may be real or hypothetical but must be in materially the same circumstances as the claimant.

The main remedy in successful direct and indirect discrimination cases is compensation, which can include compensation for injury to feelings. However,

⁴ Equality Act 2010, s139A

⁵ The Equality Act (Equal Pay Audits) Regulations 2014

⁶ Equality Act 2010, s13

⁷ Equality Act 2010, s19

⁸ Disabled people can also bring claims of discrimination arising from disability

compensation is not automatically awarded in indirect discrimination cases where there was no intention to discriminate. In addition, the tribunal may make a binding recommendation that the employer takes specified action to avoid further disadvantage to the claimant (but not to other employees).

Difficulties arising from two separate legal approaches to pay discrimination

The equal pay and discrimination approaches each have particular drawbacks from the point of view of an individual seeking to assert their right to equal pay. These are examined below.

However, the very existence of different legal approaches for pay discrimination because of different protected characteristics itself creates difficulties:

- It makes it difficult for individuals to understand their right to equal pay and what they need to do to assert it.
- It creates disparities between the substantive rights of different protected characteristic groups – what amounts to unlawful pay discrimination for women is not exactly the same as what amounts to unlawful pay discrimination for, say, disabled people or Muslims.
- The remedies for pay discrimination are different for different protected characteristic groups.
- The protection against combined discrimination,⁹ when implemented, does not apply to the equal pay approach. Therefore it is not possible to bring a combined discrimination claim for pay discrimination where different legal approaches to pay discrimination apply to the relevant protected characteristics. This is the case where there is an opposite sex comparator doing equal work.

For religion or belief groups, these difficulties are compounded by existing differences in the way some religious groups are treated as racial groups under the EA2010 and some are not, by the absence of the Jewish and Sikh groups from the GSS harmonised standard for ethnicity data collection, and by current government proposals to strengthen protections from pay discrimination and extend mandatory pay gap reporting for the protected characteristics of race and disability but not for religion or belief. While mandatory pay gap reporting is not directly related to pay discrimination, it provides employees with information which may indicate and

⁹ Equality Act 2010, s14

evidence the existence of unlawful pay discrimination – under current plans this will not be available on an equal basis for all protected characteristic groups.

Key drawbacks of each of the two legal approaches

This section examines the specific features of each of the two current legal approaches to pay discrimination, and how current drawbacks might be addressed to provide more comprehensive and consistent protection across all protected characteristics, regardless of whether each approach is extended to different protected characteristics.

The equal pay approach

- An equal pay claim cannot be brought where there is no real opposite-sex comparator doing equal work (although a comparator can be someone who does or did equal work at a different time from the claimant, such as a predecessor in the same role). This could be addressed by amending the EA2010 to allow the use of hypothetical comparators in equal pay claims.
- An equal pay claim cannot be included in a combined discrimination claim. This could be addressed by amending the EA2010 to provide that the circumstances in which a sex equality clause has no effect include where the pay discrimination is because of two or more protected characteristics.
- The reliance of the equal pay approach on the concept of “equal work” means that it is not possible to bring a claim in circumstances where someone is performing work which is not of equal value but is paid disproportionately less than work performed by their opposite-sex colleagues. This could be addressed by amending the EA2010 to provide that such claims may be brought under the general indirect sex discrimination provisions.
- Compensation for injury to feelings is not available in successful equal pay claims. This could be addressed by amending the EA2010 to permit employment tribunals to make such awards.
- The requirement for the comparator to be in the “same employment” is a barrier to outsourced workers bringing equal pay claims using directly-employed comparators doing equal work. This could be addressed by amending the EA2010 to permit the use of comparators in the contracting organisation.
- Only the employer can be named as the respondent in equal pay claims, meaning that a claimant cannot recover compensation awarded if the employer becomes insolvent. This could be addressed by amending the EA2010 to provide that responsible individuals can be held liable for equal pay breaches by the employer in these circumstances.

- While an employer found to have breached the equal pay requirements must usually be required to conduct an equal pay audit and develop an action plan to avoid future breaches, in practice there appear to be no recorded cases of this happening since the provision was brought into force in October 2014. This is because very few equal pay cases reach final determination; the overwhelming majority are settled. A more effective approach to preventing pay discrimination would be to make alternative provision requiring all employers in a defined class to conduct equal pay audits and publish action plans at prescribed intervals.

The discrimination approach

- It is not clear that a claim for discrimination in pay for work of equal value can be brought successfully as a direct or indirect discrimination claim. There is no specific right under the general anti-discrimination at work provisions of the EA2010 to equal pay for work of equal value, and the requirement for the comparator in direct and indirect discrimination claims to be in materially the same circumstances as the claimant means that a comparator performing a different type of role could not be used. This raises particular difficulties in segregated workplaces where employees with particular protected characteristics tend to be employed in particular parts of the organisation or particular roles. The over-representation of Muslim workers in low-paid occupations, such as cleaning, may mean that the absence of this route to redress is particularly problematic for them. While extending the equal pay approach to race pay discrimination would enable Pakistani and Bangladeshi workers to bring such claims, this would likely not address the known stark employment disparities between Muslim and non-Muslim workers. This difficulty could be addressed by amending the EA2010 to provide that, where the claimant and the comparator are doing work of equal value, this is not a material difference between their circumstances.
- The requirement for the comparator to be in materially the same circumstances as the claimant is also a barrier to redress for outsourced workers bringing direct and indirect pay discrimination claims in much the same way as it is under the equal pay approach, as a directly-employed comparator doing equal work is unlikely to meet this requirement. This could be addressed by amending the EA2010 to permit the use of such comparators.
- The remedy of requiring an employer to conduct a pay audit is not available to claimants in direct and indirect pay discrimination cases, as it would go beyond reducing adverse effects on the claimant. Restoring the power of employment tribunals to make “wider” recommendations to reduce adverse

effects on other employees would go some way to addressing this but, as above, more effective approach to preventing pay discrimination for all protected characteristics would be to make alternative provision requiring all employers in a defined class to conduct pay audits and publish action plans at prescribed intervals.

Conclusion

It is not yet clear exactly what legislative changes the government intends to bring forward to deliver on its commitment to “*enshrine in law the full right to equal pay for Black, Asian, and other ethnic minority people*”. However, what is clear is that the two existing approaches for addressing pay discrimination in the EA2010 both contain a number of drawbacks and deficiencies in the extent to which they provide a meaningful right to equal pay. In addition, any changes which apply differently to the protected characteristics of race and religion or belief will create new disparities between the treatment of Muslims and other religion or belief groups, those religious groups treated as racial groups under the EA2010, and other groups defined by race, including colour, nationality or ethnic or national origins, without any clear public policy rationale for doing so.

It is therefore recommended that legislative reform to strengthen the right to equal pay should be taken forward only after full and detailed consideration of the potential impacts on all protected characteristic groups, and with the aim of providing equal protection and equal routes to effective redress for all.

The high number of equal pay claims brought but failing to reach a final hearing, together with the absence of data on pay discrimination claims brought on the basis of protected characteristics other than sex, indicate that there is a more general problem in the way the legislation seeks to make the right to equal pay effective in practice, regardless of the strengths and weaknesses of the two current legal approaches. This may point to the need for an approach to tackling pay discrimination which is more proactively preventative – for example through requirements for regular pay audits, job evaluations and pay transparency which are suitable for external regulation and enforcement.

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