

Employment Rights Act 2025: equality action plan guidance published together with a menu of 18 actions for employers to consider

What is an “equality action plan”?

The Employment Rights Act 2025 provides that private sector employers with 250 or more employees must develop and publish “equality action plans” on an annual basis. The plans must set out the steps the employer is taking to address its gender pay gap and to support employees going through the menopause.

The first action plans must be published on the Government’s [gender pay gap service](#) from Spring 2027 (and employers may wish to publish them on their own website as well). However, the Government is encouraging employers to publish action plans on voluntary basis for the 2026-27 reporting year by 4 April 2027. Employers who are not in scope to publish a plan are also encouraged to consider producing and publishing one.

What does the guidance say?

To help employers prepare for voluntary publication of an action plan, the Government has published [initial guidance](#) for employers. Alongside that guidance, the Government has also published a list of 18 recommended actions for employers to

consider.

The key points to note from the guidance are as follows:

- As part of developing an action plan, employers must select at least one action to address their gender pay gap and at least one action that supports employees experiencing the menopause. However, the guidance urges organisations to be ambitious and take more steps where possible.
- As far menopause actions are concerned, the Government says it supports steps that employers may choose to take which also benefit employees experiencing other health conditions related to menstrual health (e.g. endometriosis or fibroids).
- Employers are asked to consider how employees may be disadvantaged in the workplace due to the overlapping impact of their sex with other characteristics, such as ethnicity, disability status and socioeconomic background.

- The importance of securing senior leadership buy-in is underlined and it is recommended that training is given to all senior leaders and managers on workplace gender equality and the chosen actions.
- Emphasis is also placed on the need to seek input from a range of employees when developing an action plan. It is said that gathering feedback on their experiences within an organisation can help employers better understand which actions could have the greatest impact. It is suggested that actions are discussed with unions, relevant employee networks and HR and people teams.
- Further guidance on the reporting process will follow in April 2026 which will cover the steps that employers should take when developing their action plans. This guidance will cover: understanding the issues within the employer's organisation, selecting actions, submitting the action plan, tracking the outcomes of the chosen actions and reviewing the plan.

Which actions are recommended?

A total of 18 actions are recommended – from which employers

must choose at least two (one targeting the gender pay gap and one to support employees through the menopause). The actions are summarised in the table below, which includes hyperlinks to further details about each action (in each case providing more information about the purpose of the action, its benefits, how to implement it and how to track its progress).

Area	Action
Recruiting staff	• Make job descriptions inclusive. • Encourage applications from a range of candidates. • Reduce unconscious bias in CV screening. • Use fair and structured interview techniques. • Advertise leave policies in job adverts. • Advertise flexible working arrangements in job adverts.
Developing and promoting staff	• Automatically consider eligible employees for promotion • Encourage employee development through actionable steps • Offer mentoring, sponsorship and other development programmes
Building diversity into your organisation	• Set targets to improve gender representation
Increasing transparency	• Increase transparency for pay, promotion and rewards • Enhance and promote flexible working and leave policies

Supporting employees experiencing the menopause	• <u>Train managers to support employees experiencing menopause</u> • <u>Offer occupational health advice for employees experiencing menopause</u> • <u>Set up menopause support groups and networks</u> • <u>Offer workplace adjustments for employees experiencing menopause</u> • <u>Conduct a menopause risk assessment for your workplace</u> • <u>Review policies and procedures to meet the needs of employees experiencing menopause</u>
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What does this mean for employers?

While there is no obligation for employers to produce and publish an action plan at this point, those employers who will be in scope to do so from 2027 may wish to have a “dry run” at producing a report this year.

When choosing which actions to pursue, employers should be aware that some of the Government’s suggested actions may amount to “positive action” measures, which are measures aimed at overcoming disadvantage, meeting needs or correcting the underrepresentation of a group with a particular protected characteristic – in this case women. Encouraging applications from women, offering mentorship, sponsorship or other development opportunities to women and setting targets to improve gender representation would all likely be considered positive action measures.

Positive action is only lawful where an employer “reasonably

thinks” that such action is needed. In other words, evidence showing the disadvantage, different need or underrepresentation will be needed – a poor gender pay gap figure may be sufficient evidence but, in some cases, more may be needed. Further, an employer must show that the proposed action is a “proportionate means of achieving a legitimate aim.” This involves balancing competing relevant factors, including how serious the disadvantage, aim or underrepresentation is, whether the action is appropriate to achieve the stated aim and whether it would be possible to achieve the aim by other means less likely to adversely affect others (in this case, men). If an employer fails to have the required evidence, or to act proportionately in pursuit of a legitimate aim, then there is a risk that the measure will stray into unlawful positive discrimination. This could give rise to sex discrimination claims from men.

Therefore, it is important that employers do not assume that just because an action is listed in the Government’s guidance, it could not be challenged in any such claim (although the fact that it is listed in the guidance could be cited in aid of any subsequent challenge). In some cases, additional groundwork must be undertaken before implementing the action. Employers would be wise to seek legal advice before implementing an equality action plan.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Amanda Steadman (AmandaSteadman@bdbf.co.uk), Rose Lim (RoseLim@bdbf.co.uk) or your usual BDBF contact.