Government calls for evidence on a raft of new equality law reforms

In April 2025, the Government published a Call for Evidence seeking views on a number of proposed equality law reforms. In this briefing, we consider the key areas of interest for private sector employers.

Background

The Government's flagship workplace law, the Employment Rights Bill, will take forward a number of the Labour Party's Election Manifesto commitments in the sphere of equality law, for example requiring large employers to publish equality action plans and strengthening the duty to prevent sexual harassment at work. You can read our detailed briefing on the Employment Rights Bill here.

However, the Labour Party's Election Manifesto and the subsequent Next Steps to Make Work Pay outlined plans for further workplace reforms – including more equality law reforms – to be taken forward separately from the Bill. Last month, the Government started the ball rolling on many of these further equality law reforms, when it issued a "Call for Evidence" seeking views and evidence on the proposals from various stakeholders, including employers. It also raises, for the first time, the prospect of new pay transparency laws.

This briefing considers the key areas of interest for private sector employers – but it is worth noting that the Call for Evidence also seeks views on compliance with the public sector equality duty and the implementation of the socio-economic duty by public authorities in England.

Expanding equal pay law

The Government states that it is committed to end pay discrimination at work and that it intends to take forward its previous commitments in this area. The Call for Evidence seeks evidence and views to help shape policy development in four areas.

Understanding the prevalence and patterns of pay discrimination

It is acknowledged that pay inequality persists for disabled and ethnic minority workers but that different groups may experience different types of pay discrimination. The example is given of disabled workers tending to face discrimination in respect of the criteria applied in performance-related pay or bonus schemes, whereas this is less common for ethnic minority workers. In order for its next steps to be effective, the Government says it wishes to fully account for the particular contexts and patterns of pay discrimination on the basis of race, disability and sex and seeks evidence on these issues.

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

Currently, sex discrimination in relation to contractual pay must be brought as an equal pay claim. However, someone who has experienced race or disability discrimination in relation to contractual pay is not able to bring an equal pay claim but must bring a discrimination claim – usually direct or indirect discrimination. However, the Government says it is only aware of a limited number of such cases being brought in comparison to *"thousands of equal pay claims brought each year"*, which could suggest that the equal pay regime offers a stronger form of redress.

The Government intends to give disabled and ethnic minority workers the right to bring equal pay claims in relation to contractual pay discrimination. However, it first wishes to understand the reasons why claims of pay discrimination on the basis of disability and race are so rare and so it is seeking views and evidence on this.

Commentators have been sceptical of this proposal due to the fact that equal pay claims are notoriously complex, and it is easy to see how claimants will get bogged down in questions of who the correct comparator is and whether work is of equal value. In a nod to this concern, the Government also seeks views on whether the procedural rules and use of job evaluation schemes could be simplified.

Including outsourced workers within the scope of equal pay comparisons

Currently, a worker wishing to bring an equal pay claim must be able to compare themselves to someone employed by the same or an "associated" employer. This permits a worker to compare their terms to someone employed by a company which is a

subsidiary of their own employer, or where both workers are employed by companies which are subsidiaries of a third company. However, outsourced workers who are employed by independent companies would not be able to compare their terms to “in-house” workers.

In response to evidence that outsourced staff are underpaid, the Government is considering allowing comparisons to be made between outsourced workers and in house workers in equal pay claims. The Government believes this will raise standards, stop undercutting and allow businesses to compete in a race to the top.

The Call for Evidence seeks views on the prevalence of pay discrimination suffered by outsourced workers, which practices should fall within the scope of the new law and where liability for such claims should lie – the direct employer, the end user or both?

Improving enforcement, including through the implementation of the Equal Pay Regulatory and Enforcement Unit

Under the current equal pay regime, workers must enforce their rights through the Employment Tribunal system. However, the complexity of such claims means achieving a resolution takes time. The Call for Evidence states that in the 10 years to March 2021 over 200,000 equal pay claims were made brought, but less than 1% were resolved by way of a full hearing. Of those that did, under one third were successful.

The Equality and Human Rights Commission (the **EHRC**) is already able to take action to enforce equal pay law, however, the

Government wishes to go further. It is considering improving the enforcement regime by establishing am Equal Pay Regulatory and Enforcement Unit, which could build on the EHRC's existing role or have new functions such as undertaking litigation, facilitating dispute resolution and providing training to employers. The Call for Evidence seeks views on the effectiveness of the existing framework and what more can be done.

Improving pay transparency

The Government is considering introducing new pay transparency measures to help end pay discrimination and tackle the gender pay gap. The Call for Evidence says that possible measures include requiring employers to:

- provide the specific salary or salary range on a job advert or prior to interview;
- not ask candidates their salary history;
- publish or provide employees with information on pay, pay structures and criteria for progression;
- provide employees with information on their pay level and how their pay compares to those doing the same role or work of equal value; and
- identify actions that they need to take to avoid equal pay breaches occurring or continuing.

The Government seeks views and evidence on the impact of increased pay transparency to help it decide whether additional pay transparency measures would be proportionate and effective.

Views are also sought on the effectiveness of separate regulations which allow Tribunals to order employers who lose equal pay claims to conduct equal pay audits and whether they should be expanded to cover race and disability in due course.

Introducing combined discrimination protection

The Government has committed toenact the combined discrimination protections which already exist under section 14 of the Equality Act 2010, but which have not yet been brought into force. Enacting the dual discrimination provisions would mean that workers may complain about discrimination arising out of the combination of two protected characteristics, rather than one as is presently the case. The Government considers this will help ensure that the "full reality of claimants' experience is recognised" and that discrimination law can better address disadvantage.

The Call for Evidence seeks views and evidence on the prevalence of combined discrimination including across different sectors and region and also whether section 14 is fit for purpose.

Clarity on sexual harassment at work

Effective steps to prevent workplace sexual harassment

Last year, the mandatory duty on employers to take reasonable steps to prevent sexual harassment at work was introduced. Under the Employment Rights Bill (currently on its passage through Parliament), this duty will be extended to require *all* reasonable steps to be taken. Added to which, employers will become liable for all forms of discriminatory harassment of their workers committed by third parties.

The Government says it plans to publish regulations which will specify the steps that employers must take to prevent sexual harassment, however, it will only do this if there is a clear evidence basis supporting the use of particular steps (in light of the fact that a Government report from 2021 had concluded that evidence does not support a clear understanding of "what works" to reduce and prevent sexual harassment at work). Therefore, the Call for Evidence seeks input on what steps are effective and how best practice may differ according to employer size, sector or other factors.

Scope of protections against sexual harassment

Workplace protection from sexual harassment extends to employees, workers, apprentices and others, however, it does not cover volunteers. The Government believes that volunteers should be protected while recognising that the wide range of volunteering activity may pose difficulties in implementing a blanket arrangement. The Call for Evidence seeks input on the question of expanding protection to volunteers, in particular, whether it should be extended to all or just certain types of volunteer and whether some types of organisation would be more likely to be adversely affected by the change than others.

Next steps?

The Call for Evidence closes on 30 June 2025 and so interested employers should submit responses on areas of interest before then (it is not necessary to respond to every question). Separately, the Government has issued a Consultation paper on the introduction of mandatory ethnicity and disability pay gap reporting. You can read our briefing about that Consultation here.

The responses to the Call for Evidence and Consultation will shape the forthcoming Equality (Race and Disability) Bill. However, it seems unlikely that these reforms would come into force before late 2026 or early 2027 at the earliest, given that employers have the immediate (and significant) challenge of complying with the Employment Rights Bill and given that the new Bill will need to complete its passage through Parliament.

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) or your usual BDBF contact.