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EQUAL PAY FOR ALL? GOVERNMENT PROPOSES THE BIGGEST SHAKE-UP OF EQUAL PAY LAWS IN OVER 55 YEARS

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Summary

On 14 July 2026, the Office for Equality and Opportunity launched a 15-week consultation proposing the most significant overhaul of UK equal pay law since the Equal Pay Act 1970. The consultation period closes on 27 October 2026 and, while nothing is yet law, assuming the proposals are adopted, primary legislation will follow, with a two-stage implementation strategy. The strategy is clear - fix the current system, then extend it further.

Equalities Minister Seema Malhotra said the current framework "is too slow, too expensive, and puts too much pressure on workers, businesses, and the justice system." Minister for Social Security and Disability, Sir Stephen Timms said "equal work should mean equal pay, regardless of your background."

Phase 1: fixing a system that isn't working

The government's own research paints a bleak picture: equal pay claims are complex, costly and slow. Phase 1 targets three pressure points in the existing regime:

1. Pay transparency up front – Employers would be required to publish pay and conditions in job adverts, or in writing before interview where there's no advert, largely echoing the EU Gender Pay Transparency Directive.

2. Wider powers for tribunals – Tribunals would gain wider powers to order job evaluation schemes ("**JES**") and equal pay audits (currently subject to restrictions), avoidable only with a valid audit in the last three years.

3. Better tools for claimants – The statutory equal pay questionnaire, repealed in 2013, would return in simplified form, letting workers request pay and comparator data before litigating. Much

like the old system, employers may choose whether or not to respond to questionnaires, but Tribunals could draw adverse inferences where no or evasive answers are given; and

4. A new enforcement body – A new Equal Pay Regulatory and Enforcement Unit would be created with powers to demand pay data, order audits and JES', and check compliance.

After a period of review of the above reforms, assuming they are chalked down as a success, phase 2 would commence.

Phase 2: widening the scope of who the law protects

Only once Phase 1 beds in would the government pursue its more radical proposal: extending the current sex-only regime to include race and disability, and separately, outsourced labour. The nature of these reforms in broad terms are:

1. Wider powers for tribunals – the new ET powers would largely replicate the combined current & enhanced powers (as described above) for sex cases e.g. power to modify discriminatory contract terms directly (current regime), power to order equal pay audits and JES (enhanced regime). Additionally, tribunals would be given a brand new power, currently unavailable in any equal pay claims, which is the discretion to allow claims to be presented outside of the current 6-month limitation period;

2. Enhanced rights for disability/race claimants – Allowing equal pay claims to be presented on a "work of equal value" or "work rated as equivalent" basis (as is the current right in sex cases);

3. New rights for outsourced workers - For outsourced workers, unable to compare themselves to in-house staff, the government proposes a duty on contracting parties to take "all reasonable steps" to uphold pay equality across supply chains, enforced by the new Regulatory and Enforcement Unit, rather than individual claims. This would potentially extend beyond the existing pay parity rights contained in the Agency Workers Regulations 2010.

What the evidence shows

In November 2023 (arguably still the best available data) the ONS published its detailed analysis of earnings by ethnicity between 2012 and 2022. That analysis found that headline ethnicity pay gaps (which at first glance may appear to favour certain ethnic minorities) are often reversed once pay-determining characteristics are factored in. For example UK-born Black, African, Caribbean or Black British employees move from earning 6.5% more than their white counterparts, to 5.6% less when we factor in things like occupation, qualifications, geography, age and sex. Separately, a 2020 Bank of England Staff Working Paper found that ethnicity pay gaps appear largest in professional and finance occupations, the opposite of the gender pay gap which is widest among the lowest-paid roles. Together, these point to structural disparities at the senior end of the labour market, exactly what a "work of equal value" claim is designed to capture.

Why it matters now

Even at consultation stage, this signals where employers need to focus their attention - Recruitment pay disclosure, audit-readiness and job evaluation are likely to become expected practice well before any legislation is enacted. Outsourcing arrangements especially should treat the window as advance notice to start reviewing pay structures.

If you would like contribute to the government consultation you can find the questions via the government link here.

Related Capabilities

- Employment & Labor

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