



DEBATE PACK

Number CDP-2021-136, 17 September 2021

Introduce Mandatory Ethnicity Pay Gap Reporting: E-petition

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Summary

A [Westminster Hall debate](#) on a petition relating to ethnicity pay gap reporting is scheduled for Monday 20 September 2021, from 4:30-7:30pm. The motion for debate is: "That this House has considered [e-petition 300105](#) relating to ethnicity pay gap reporting". The subject for this debate was determined by the [Petitions Committee](#) and [Elliot Colburn MP](#) will open the debate.

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

1. Background

Unlike gender pay gap reporting, which has been mandatory for all businesses with more than 250 employees since 2017, there is currently no legal requirement for businesses to publish ethnicity pay gap data, although some choose to do so voluntarily.

McGregor-Smith Review

On 5 February 2016, the then Business Secretary Sajid Javid launched a review into the progression of Black and minority ethnic (BME) workers in the labour market.¹ The review was led by Baroness McGregor-Smith, a Conservative peer and then CEO of FTSE 250 company, Mitie.

The final report, [Race in the Workplace: The McGregor-Smith Review](#), was published in February 2017.

The report found that while BME people made up 14% of the UK working-age population they made up only 10% of the workforce. A greater portion of BME workers reported having been overlooked for promotion compared to White workers. The proportions also varied among different ethnicities. Lack of connections, unconscious bias and discrimination were all identified as factors contributing to this.² The report also highlighted that there was a significant lack of data on rates of employment and pay for BME workers among large employers.³

One of the key recommendations of the McGregor-Smith Review was that the Government should legislate to require all businesses with more than 50 employees to publish ethnicity pay gap data. The report explained:

No employer can honestly say they are improving the ethnic diversity of their workforce unless they know their starting point and can monitor their success over time. Simply stating a commitment to diversity or establishing a race network is not sufficient to drive lasting change. We have seen with the gender pay reporting requirements that where employers are required to collect and publish key data, they will take action. For that reason, I believe it is essential that as well as collecting this data, all large employers must publish their workforce ethnicity data annually.⁴

Government Response

The Government published a short response to the McGregor-Smith Review alongside the final report. In the response, the Government committed to address the recommendations in its capacity as an employer.

On the issue of mandatory ethnicity pay gap reporting, the response said that voluntary, non-legislative interventions should first be tried:

The Government's preferred approach here is to set out to all companies, and institutional investors, the value of employing a diverse workforce at all levels rather than moving now to legislate. This is the approach that we have taken in increasing the number of women on boards, where the Davies Review, and subsequently the work of Sir Philip Hampton and Dame Helen Alexander, has highlighted the benefits and driven change from within the business community.⁵

In 2018, the Government published a [scorecard report](#) on the implementation of the McGregor-Smith Review. The report noted that only 11% of employers had voluntarily collected data on pay and ethnicity.⁶

Following the scorecard report, the Government launched a [consultation on ethnicity pay gap reporting](#). The consultation said that given the small number of employers publishing ethnicity pay gap data, the Government had concluded that legislation was necessary:

A year later, we know that a small number of employers have chosen to publish ethnicity pay data voluntarily. We have heard reports from business and public sector representatives of a lack of clarity around what information should be reported, as well as concerns about the use of classifications and levels of data collection and self-reporting rates within organisations. [...]

The government believes it is time to move to mandatory ethnicity pay reporting.⁷

The consultation noted that there were multiple options for how mandatory ethnicity pay gap reporting could work. These included:

- One pay gap figure comparing average hourly earnings for White and BME employees;
- Multiple pay gap figures comparing average hourly earnings for employees in different ethnic groups;
- Information on the proportion of employees by ethnic group in each £20,000 pay band (the model proposed in McGregor-Smith).

The consultation listed some barriers to a reporting duty, such as the difficulty of classifying employees by ethnic group and the fact that many employers do not currently collect data on employee ethnicity.

⁵ BEIS, [Government response to Baroness McGregor-Smith](#), 28 February 2017, p2

⁶ BEIS, [Race at Work 2018: The McGregor-Smith Review one year on](#), 11 October 2018, p7

⁷ BEIS, [Ethnicity Pay Reporting: Government Consultation](#), 11 October 2018

The consultation also sought views on the size of company that should be required to report ethnicity pay gap data (the gender pay gap reporting duty applies to businesses with more than 250 employees).

The consultation closed in January 2019 and a response has yet to be published. In February 2020, the Confederation of British Industry (CBI) called on companies with more than 250 employees to start voluntarily publishing ethnicity pay data.⁸

Following the Black Lives Matter protests in June 2020, a [petition calling for legislation on ethnicity pay gap reporting](#) received over 130,000 signatures.

Commission on Race and Ethnic Disparities

In July 2020, the Prime Minister established the Commission on Race and Ethnic Disparities. Among other issues, the Commission was tasked with looking at disparities in the workplace. It published its [report](#) in March 2021.

The Commission noted that ethnicity pay gap reporting was a “potentially useful tool” for addressing pay disparity. It also said that data should be disaggregated by different ethnicities and accompanied by an assessment of why any disparities exist.

The Commission said ethnicity pay gap reporting is different from gender pay gap reporting. It noted that an average employer will have roughly equal numbers of male and female staff whereas it will have a much smaller percentage of workers from minority ethnic groups. As a result, it said that ethnicity pay gap data could be significantly affected by changes in pay for a small number of staff.

There are multiple ways in which pay gap figures can be reported. The Government consultation on mandatory ethnicity pay gap reporting sought views on reporting one pay gap figure, multiple pay gap figures comparing different ethnicities or ethnicity information by different pay bands.⁹ For gender pay gap reporting, employers are required to publish mean and median pay gaps as well as the proportion of male and female employees in each pay quartile.¹⁰

The Commission recommended that employers should be able to choose whether to report ethnicity pay information but those who do should accompany it with an action plan and strategy to improve pay disparities. It recommended that data should be disaggregated by ethnicity and account should be taken of sample size.¹¹

The recommendation was criticised by a number of business organisations.¹² Groups like the Confederation of British Industry (CBI) and the Chartered Institute for Personnel and Development (CIPD) have

⁸ CBI, [CBI urges firms to reveal ethnicity pay gap](#), 28 February 2020

⁹ BEIS, [Ethnicity pay reporting: Government Consultation](#), October 2018, pp16-17

¹⁰ Reg. 2, [Equality Act 2010 \(Gender Pay Gap Information\) Regulations 2017](#)

¹¹ The Commission on Race and Ethnic Disparities, [The Report](#), March 2021, p117

¹² [“UK business groups call for mandatory reporting of ethnicity pay gap”](#), Financial Times [online], 18 April 2021 (accessed 17 September 2021)

supported ethnicity pay gap reporting.¹³ Business in the Community which, along with law firm Hogan Lovells published a [guide on ethnicity pay gap reporting](#), said the report was a “missed opportunity” and called for mandatory pay gap reporting.¹⁴

Trade unions were similarly critical of the report. Thirty-six unions co-signed a letter expressing their “disappointment” and called on the Government to fully implement the recommendations made in previous reviews, including the McGregor-Smith Review.¹⁵

During a debate on the report in the House of Commons in April 2021, the Minister for Equalities, Kemi Badenoch, was asked whether the Government would commit to introducing mandatory ethnicity pay gap reporting. The Minister said the Government would consider the report and assess the implications for future policy.¹⁶ In response to a Parliamentary Question in June 2021, the Minister for Equalities said the Government was still considering the recommendations of the Commission.¹⁷

Further information on this issue can be found in the Library Briefing, [Race and ethnic disparities \(CBP-8960\)](#).

¹³ CBI, [CBI responds to Commission on Race and Ethnic Disparities report](#), 31 March 2021; CIPD, [CIPD responds to Commission on Race and Ethnic Disparities report](#), 31 March 2021

¹⁴ Business in the Community, [Government report on race is a missed opportunity](#), 31 March 2021

¹⁵ TUC, [Open letter to the Prime Minister to reject ‘insulting’ report and act on race equality at work](#), 18 April 2021

¹⁶ [HC Deb 20 April 2021 c874](#)

¹⁷ [PQ21983 \[on Equal Pay\]](#), 29 June 2021

2. Press Articles/Blogs

[FCA diversity targets 'meaningless' without proper data capture, law firm warns](#)

FT Adviser

16 September 2021

[Just 13 out of FTSE 100 employers reveal ethnicity pay gaps](#)

The Guardian

15 September 2021

[Ethnicity pay gap reporting and incomplete data: a view from the UK](#)

Lewis Silkin

25 August 2021

[Mayor of West Yorkshire announces ethnicity pay gap reporting in bid to tackle race inequalities](#)

Independent

13 August 2021

[To fight discrimination, first you must understand how to measure it](#)

LSE Business Review

25 July 2021

[UK ethnic pay gap needs mandatory reporting, say business and unions](#)

FT.com

25 June 2021

[Ethnicity pay gap: Why the UK needs mandatory reporting](#)

The Conversation

24 May 2021

[We need compulsory ethnicity pay gap reporting to end inequality](#)

Association of Accounting Technicians Comment

13 November 2020

[So the ethnicity pay gap is over? If only things were that simple](#)

The Guardian

15 October 2020

3. Press notices

[Make ethnicity pay reporting mandatory from 2023 to boost workplace equality, says CIPD](#)

Chartered Institute of Personnel and Development
15 September 2021

CIPD launches [new guide](#) to help companies report their ethnicity pay gap as new research finds just 13 FTSE 100 companies currently report their ethnicity pay data

While the Black Lives Matter protests of 2020 prompted more organisations to speak up on the importance of equality and inclusion, just 13 FTSE 100 companies currently report their ethnicity pay gap.

Ahead of next week's parliamentary debate on the need to introduce Mandatory Ethnicity Pay Reporting the CIPD is calling for mandatory reporting to apply to all large employers from April 2023, in a bid to accelerate equality and create consistency of disclosures amongst organisations.

To support this, the CIPD, the professional body for HR and people development, is today launching a guide to help employers and HR professionals navigate ethnicity pay reporting, from data collection through to analysis and reporting the results.

Last year's Black Lives Matter protests led many organisations to publicly condemn racism and discrimination in our societies and workplaces, but few have voluntarily reported their ethnicity pay gaps, despite the increasing expectation from the public, investors and other stakeholders. Just 13 FTSE 100 companies did so in their most recent annual report, according to new CIPD research. However, of those, ten organisations published for the first time, suggesting that greater public scrutiny of race inequalities prompted these employers to act.

With so few voluntary disclosures to date, and slow legislative progress since the Government launched its first consultation three years ago, the CIPD is calling for ethnicity pay reporting, including the requirement to publish a clear narrative and action plan, to become mandatory for all large employers from April 2023.

The professional body suggests that organisations use the same snapshot dates that are currently in place for gender pay gap reporting, so data would be collected in March/April 2023 and would need to be reported within one year.

In order to bring greater insight and consistency to people reporting, the CIPD is also calling on the Government to require organisations to provide a narrative, including action plans, alongside the data for gender pay gap reporting. It notes that numbers without a narrative are less likely to drive real change, and too many organisations are not providing this important additional commentary.

To support employers on their ethnicity pay reporting journey, recognising it is more complex than gender pay gap reporting, the CIPD has today launched guidance to help organisations start collecting and reporting their ethnicity pay data and importantly, create action plans to drive change.

Peter Cheese, chief executive of the CIPD, said:

“Ethnicity pay reporting is an important lever for businesses and their stakeholders to assess if and where inequality based on ethnicity exists in their workforce. That’s why we believe it is so important that businesses both capture and learn from this data. While it’s positive to see some organisations voluntarily report their ethnicity pay, it’s clear that progress is slow and reporting is very inconsistent. Some companies just report their data while others report a commitment without sharing the data behind it.

“We know that gender pay gap reporting has driven greater transparency and accelerated progress, and we believe the same is needed for ethnicity pay reporting. Mandatory reporting of data, and the associated narrative that shows understanding of the data and the actions being taken to improve, for both ethnicity and gender pay, will help create fairer workplaces and societies and kickstart real change.”

Baroness Ruby McGregor-Smith, author of the 2017 McGregor-Smith review on race in the workplace said:

“A strong commitment to inclusion and fairness at work is not only good for business and their ability to attract and retain the diversity of talent, experience, and skills they need to thrive, but also for our economies and societies. Every person, regardless of their ethnicity or background should be able to fulfill their potential at work. It must be a collective goal that our organisations reflect the communities we live in and mandatory ethnicity pay data gives businesses, investors, and regulators the tools they need to see the current reality and where changes need to happen. It’s only once we see organisations publicly start to report the diversity of their workforce that we will see real change start to happen.”

Previous CIPD research has found that while most employers (77%) believe that ensuring workforce diversity is a priority, only 36% collect and analyse data to identify differences in pay and progression for employees from different ethnic groups, highlighting the need for mandatory reporting and clear guidance.

The CIPD’s new ethnicity pay reporting guide will support employers on their ethnicity pay reporting journey from data collection to publishing a narrative and creating an action plan.

In the absence of legislation, the CIPD recommends that employers should publish annual ethnicity reports based on three key components:

1. A uniform set of eight commonly defined statistics to profile pay by ethnicity. The first six are in line with six data points organisations already collect for gender pay gap reporting: median ethnicity pay gap;

mean ethnicity pay gap; median bonus gap; mean bonus gap; bonus proportions and quartile pay bands.

The CIPD is then recommending two additional data points focused on encouraging the full representation of ethnic minority staff in the workforce:

The proportion of their total UK workforce from ethnic minorities, ideally presenting this in the context of external demographic data. For example, national statistics if they are a nationwide employer or if they only operate out of one location, they should apply local statistics to show to the extent to which their workforce mirrors the ethnic diversity of their local community

The proportion of employees who have disclosed their ethnicity, as low ethnicity disclosure rates have been a challenge for many employers but can also indicate concern amongst a workforce of disclosing information and how that will be used. Good data is vital to profile the organisation and create meaningful action plans

2. A supporting narrative to explain the nature and causation of any pay differentials and gaps by ethnic group evident in their stats
3. An action plan of initiatives defined to reduce and remove any such gaps over time.

[The TUC, CBI and EHRC issue joint call for mandatory ethnicity pay gap reporting](#)

25 Jun 2021

The TUC, CBI and Equality and Human Rights Commission (

In a joint letter to the Chancellor of the Duchy of Lancaster, Michael Gove, the heads of the three organisations say:

“Introducing mandatory pay reporting on ethnicity would transform our understanding of race inequality at work and most importantly, drive action to tackle it where we find it.”

The letter – signed by TUC General Secretary Frances O’Grady, CBI Director General Tony Danker and EHRC chairwoman Baroness Kishwer Falkner – urges ministers to set out a clear timeframe for introducing ethnicity pay gap reporting to help “ethnic minorities reach their full potential in the workplace.”

TUC General Secretary Frances O’Grady said:

“Everyone deserves the chance to thrive at work, and to have a decent, secure job they can build a life on.

“But the sad reality is that even today race still plays a significant role in determining people’s pay and career progression.

“This problem isn’t going to magic itself away. Without robust and urgent action many BME workers will continue to be held back.

“Unions stand ready to work with employers, regulators and government on practical steps to tackle inequality and discrimination in the workplace.

“Mandatory ethnicity pay gap reporting is an obvious first step in helping to improve transparency and bring about change.

“We need ministers to commit to introducing ethnicity pay reporting now and to bring forward a clear timetable for getting it into law.”

Editors note

The full letter reads:

Dear Chancellor of the Duchy of Lancaster

The case for mandatory ethnicity pay reporting

We are writing to set out our shared priorities to the inter-ministerial group established to consider the recommendations of the Commission on Race and Ethnic Disparities. Respectively, we represent millions of workers, thousands of businesses, and enforce the Equality Act 2010 in Britain to ensure that people have equal access to and are treated fairly at work.

We agree with the Commission’s statement that the report comes at a pivotal moment for the country, at a time when the inequalities facing ethnic minority people are under scrutiny. Outcomes at work are no exception. However we believe the report’s recommendations, in particular those related to pay disparities, could go further in order to effectively increase the participation and progression of ethnic minorities in the workplace and create a fairer Britain.

Introducing mandatory pay reporting on ethnicity would transform our understanding of race inequality at work and most importantly, drive action to tackle it where we find it. This has been a longstanding goal for all of us. It will enable employers to identify, consider and address the particular barriers facing ethnic minorities in their workplace, and will complement and enhance the work many already do to address gender pay gaps under existing regulations.

Together we’re asking the Government to make it mandatory for employers to report on their ethnicity pay gaps, building on the successful framework already in place for gender. Reporting, done well, can provide a real foundation to better understand and address the factors contributing to pay disparities. To further enable this, we also support the Commission’s recommendation that pay gap data should be supported by a narrative – comprised of key data, relevant findings and actions plans to address race inequalities.

Some employers are already voluntarily reporting on their ethnicity data and taking action to address race inequality in their workplaces. While this is welcome and should continue to be supported in the interim, introducing mandatory ethnicity pay reporting will put greater focus on race at work, contribute to a greater number of employers reporting their ethnicity pay gap figures, and achieve the change across the labour market that is required.

We urge Government to set out a clear timeframe to implement this and encourage you to work with us to develop the tools and resources required to

ensure that employers are supported, and that workers are confident in disclosing data in advance of making reporting mandatory.

In so doing, we firmly believe that this will help ethnic minorities reach their full potential in the workplace, make business more inclusive, and ensure Government has a rich source of robust evidence to inform future labour market and industrial strategies.

Frances O'Grady, General Secretary, TUC

Tony Danker, Director General, CBI

Baroness Kishwer Falkner, Chairwoman, EHRC

4. Parliamentary material

[Equal Pay and Recruitment: Ethnic Groups](#)

16 Jul 2021 | Written questions | Answered | House of Lords | HL1739

Asked by: Lord Taylor of Warwick | Party: Non-affiliated

To ask Her Majesty's Government what assessment they have made of the survey research by the Trade Unions Congress, published on 19 March, which found that one in three black and minority ethnic workers say they have been unfairly turned down for a job; and what plans they have to introduce mandatory ethnicity pay gap reporting.

Answering member: Lord Callanan | Department: Department for Business, Energy and Industrial Strategy

The Government is aware of the TUC research which found that a third (33%) of ethnic minority workers say they have been unfairly turned down for a job compared to one in 5 (19%) of white workers. The Government is clear that no one should be discriminated against because of their ethnicity and the Equality Act 2010 makes such discrimination unlawful.

The Government is committed to building a fairer Britain and ensuring that equality and opportunity is available for all. That is why my Rt. Hon. Friend the Prime Minister established the independent Commission on Race and Ethnic Disparities which published its independent report on March 31st.

The report includes a specific recommendation in relation to ethnicity pay reporting. We welcome the opportunity to consider the Commission's findings in relation to this issue, and are looking at them in light of the work that has already taken place within government, including the consultation on ethnicity pay reporting. We will be publishing our response to the Commission's report later this summer.

[Equal Pay](#)

29 Jun 2021 | Written questions | Answered | House of Commons | 21983

Asked by: Huq, Dr Rupa | Party: Labour Party

To ask the Minister for Women and Equalities, if she will take steps to (a) reinstate gender pay gap reporting, (b) introduce ethnicity pay gap reporting and (c) modernise equal pay laws to give women the right to know what their male counterparts earn.

Answering member: Kemi Badenoch | Department: Women and Equalities

The legal requirement for relevant organisations to publish gender pay gap data each year, set out in the Equality Act 2010, has not changed. The Equality and Human Rights Commission (EHRC) has, due to the

continued effects of the COVID-19 pandemic, allowed employers until 5 October 2021 to report their gender pay gap information for 2020/21. Extending the deadline by six months was the correct decision.

The Commission on Race and Ethnic Disparities published its independent report in March this year, which included a recommendation on ethnicity pay gap reporting. We welcome the opportunity to consider the Commission's findings on this matter, and to consider them in light of the work that has already taken place within government. As well as consulting on ethnicity pay gap reporting, we have met with businesses and representative organisations to understand the barriers towards reporting and what information should be published. We have also run a methodology testing exercise with a broad range of businesses to better understand the complexities outlined in the consultation.

We recognise the importance of transparency and awareness when it comes to ensuring equal pay. Under the Equality Act 2010 it is unlawful for an employer to stop employees from sharing information about what they earn, therefore protecting people who wish to discuss pay with their colleagues.

5. Further reading

Library Briefings

[Race and Ethnic Disparities](#)

24 May 2021

Government/Parliament reports

[Letter from the Minister for Small Business, Consumers and Labour Markets relating to ethnicity pay gap reporting, 17 August 2021](#), House of Commons Petitions Committee, 14 September 2021

[One off oral evidence session: The report of the Commission on Race and Ethnic Disparities](#), Women and Equalities Select Committee, 27 May 2021. See, in particular, Questions 42-52

[Commission on Race and Ethnic Disparities Final report](#), April 2021. See, in particular, chapter on [Employment, fairness at work, and enterprise](#)

[Ethnicity pay gaps: 2019](#), ONS, October 2020

[Understanding pay gaps](#), Bank of England Working Paper, July 2020

[Investing in ethnicity: ethnicity pay gap reporting](#), APPG on Governance and Inclusive Leadership, November 2018

[Ethnicity pay reporting: consultation](#), DBEIS/Race Disparity Unit, October 2018

[The time for talking is over: now is the time to act](#), McGregor Smith Review, DBEIS, 2017

[The ethnicity pay gap](#), EHRC, 2017

Other

[Ethnicity pay reporting: a guide for UK employers](#), CIPD, 15 September 2021

[The Pay and Progression of Women of Colour literature review](#), Fawcett Society, 30 August 2021

[The Colour of Money](#), Runnymede Trust, 2020

[How does your race affect your pay cheque?](#), Runnymede Trust, August 2017

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