



House of Commons
Women and Equalities
Committee

**Ethnicity pay gap
reporting**

Fourth Report of Session 2021–22

*Report, together with formal minutes relating
to the report*

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Women and Equalities Committee

The Women and Equalities Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Government Equalities Office (GEO).

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The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No. 152. These are available on the internet via www.parliament.uk.

Publication

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Committee staff

The current staff of the Committee are Hannah Barlow (Committee Operations Manager), James Clarke (Committee Specialist), Chloë Cockett (Senior Committee Specialist), Mark Earl (Safeguarding and Witness Support Officer), Matthew Eaton (Committee Specialist), Radhika Handa (Second Clerk), Michelle Garratty (Committee Operations Officer), Mariam Keating (Committee Specialist), and Margaret McKinnon (Clerk).

Contacts

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1 Ethnicity pay gap reporting

1. Pay gaps measure the difference in average hourly pay between different groups. Unlike equal pay audits, which look at the difference in pay between people with different characteristics doing the same job, pay gap reporting looks at the wider picture across the workforce. The Equality and Human Rights Commission (EHRC) has conducted research that shows women, people from ethnic minorities, and disabled people experience pay gaps because of barriers to accessing work and career progression.¹ In 2017, the Government introduced mandatory gender pay gap reporting for all employers with 250 employees or more. Experts told us that pay gap reporting is “not a silver bullet” but a “fairly basic indicator” of inequalities in the workplace at all stages of employment, including recruitment, promotion, training and reward.² We heard that pay gap reporting has facilitated conversations at senior levels where leaders can ask tough questions about what their business is doing to address disparities.³

2. We held a one-off evidence session on Wednesday 12 January 2022 examining the case for mandatory ethnicity pay gap reporting. We spoke with expert witnesses representing business, industry, HR personnel and trade unions. We would like to thank all of our witnesses for their evidence.

Mandatory ethnicity pay gap reporting

3. Unlike gender pay gaps there is currently no legal requirement for UK businesses to disclose their ethnicity pay data. In 2017, Baroness Ruby McGregor-Smith, a Conservative Peer and former Chief Executive of Mitie Group, published a government-commissioned review into the progression of ethnic minority groups in the UK labour market. One of the key recommendations was for the Government to introduce mandatory ethnicity pay gap reporting for organisations with 50 employees or more.⁴ The Government originally rejected the recommendation stating that it preferred a voluntary, non-legislative approach.⁵

4. In 2018, the Department for Business, Energy and Industrial Strategy (BEIS) launched a consultation in which it recognised that “it is time to move to mandatory ethnicity pay reporting.”⁶ The consultation closed in January 2019 and the Government is yet to publish a response. We wrote to Paul Scully MP, Minister for Small Business, Consumers and Labour Markets on 25 November 2021 asking for an update on the Government’s proposals for ethnicity pay gap reporting.⁷ Mr Scully replied on 10 January stating that the Government is continuing to assess the next steps and will respond “in due course.”⁸

1 Equality and Human Rights Commission, [Fair opportunities for all: A strategy to reduce pay gaps in Britain](#), 15 August 2017, p4

2 Q6 [Sandra Kerr, Wilf Sullivan and Charles Cotton]

3 Q22 [Sandra Kerr]

4 BEIS, [Race in the Workplace: The McGregor-Smith Review](#), 28 February 2017, p32

5 BEIS, [Government response to Baroness McGregor-Smith](#), 28 February 2017, p3

6 BEIS, [Ethnicity Pay Reporting: Government Consultation](#), 11 October 2018, p24

7 [Letter dated 25 November 2021 from the Chair of the Committee to Paul Scully MP, Minister for Small Business, Consumers and Labour Markets](#)

8 [Letter dated 10 January 2022 from Paul Scully MP, Minister for Small Business, Consumers and Labour Markets to the Chair of the Committee](#)

When we asked Sandra Kerr, Race Director at Business in the Community (BITC), who had worked closely with the Government following the McGregor-Smith review, about the delay she informed us that she had “struggled to engage with the current BEIS Minister.”⁹

5. In the absence of legislation, some organisations have taken the lead to report their ethnicity pay data voluntarily. The number of employers publishing their ethnicity pay gaps has increased from 11% in 2018 to 19% in 2021.¹⁰ Whilst all witnesses felt this was encouraging, they also took the view that this is something businesses should be doing on a mandatory basis.¹¹ Wilf Sullivan, Race Equality Officer at Trades Union Congress (TUC) argued that not only has progress in voluntary reporting been slow, but the approach was unfair to business. He told us that “it just undercuts the good employers who want to do this stuff, especially if there are costs to it, in our highly competitive market.”¹² The Commission on Race and Ethnic Disparities published a report in March 2021 which called for ethnicity pay gap reporting to continue on a voluntary basis.¹³ However, many businesses, trade unions and other stakeholders agree that mandatory reporting is the best way forward.¹⁴

6. Career progression is important to many people. However, Sandra Kerr told us that employees from ethnic minority groups are often “at the bottom of organisations.”¹⁵ Charles Cotton, Senior Performance and Reward Adviser at the Chartered Institute of Personnel and Development (CIPD) suggested that reporting ethnicity pay data, along with a narrative and action plan, will demonstrate to employees, customers, and investors that a company is serious about tackling inequality.¹⁶ Research shows that closing the ethnicity pay gap makes business and economic sense. Ethnically and culturally diverse businesses can see up to 36% more profitability, while addressing race inequalities in the labour market could boost the UK economy by £24 billion a year.¹⁷

Data capture and reporting

7. We asked witnesses to explain some of the challenges associated with ethnicity pay gap reporting, concerning the gathering and reporting of relevant data, and enforcement.

8. Since its consultation, the Government has conducted a methodology testing exercise with stakeholders and has said there are “genuine difficulties in designing a methodology that provides accurate figures and one that allows for interpretation and meaningful action from employers, employees and the wider public.”¹⁸ Paul Scully MP, Minister for Small Business, Consumers and Labour Markets has cited a “wide range of technical and data challenges that ethnicity pay reporting brings.”¹⁹ He has focused on problems with statistical robustness, preserving anonymity, data protection and business burdens, and

9 Q2

10 Q2 [Sandra Kerr]

11 Q2 [Sandra Kerr], Q3 [Wilf Sullivan], Q4 [Matthew Percival]

12 Q3

13 The Commission on Race and Ethnic Disparities, [The Report](#), March 2021, p116

14 Q3 [Wilf Sullivan], Q4 [Matthew Percival], also see [e-petition 300105](#), “The TUC, CBI and EHRC issue joint call for mandatory ethnicity pay gap reporting”, TUC, 25 June 2021 last accessed 17 January 2022

15 Q6

16 Q40

17 McKinsey & Company, [Diversity wins: How inclusion matters](#), 19 May 2020, BEIS, [Race in the Workplace: The McGregor-Smith Review](#), 28 February 2017

18 [HoC Deb 20 September 2021 c14WH](#)

19 [HoC Deb 20 September 2021 c17WH](#)

reporting ethnicity gaps using a White/non-White binary figure for a characteristic with multiple categories. The Commission on Race and Ethnic Disparities recommended that employers report their data disaggregated by different ethnicities to provide more accurate information.²⁰ The Government has not published the results of the methodology testing exercise or shared the information with our Committee.

9. Witnesses were confident that ethnicity pay gap reporting could follow, wherever possible, reporting for the gender pay gap.²¹ Charles Cotton recommended that employers should use the same pay statistics and definitions of workers, pay, and reporting dates as currently used for gender.²² Turning to the size of organisation, Matthew Percival, Programme Director for Skills and Inclusion at the Confederation of British Industry (CBI) suggested that businesses that currently report for gender should also report ethnicity pay gaps.²³ Charles Cotton added that companies with over 250 employees are already well resourced to calculate and report ethnicity data, and their number is manageable for policing non-compliance.²⁴ Matthew Percival recommended that any schedule for implementing legislation must consider time for employers to run disclosure campaigns and a sufficient period between the publication of guidance and the first data capture point.²⁵

10. Capturing data alone is not enough to facilitate change. Wilf Sullivan told us that in the public sector, which is required to report ethnicity pay data, people have not had to be accountable for addressing whatever disparities they may find. He added that organisations are “collecting data for data’s sake.”²⁶ Matthew Percival said that for the CBI, the value of ethnicity pay gap reporting lies in the narrative and action plans that accompany the data. He told us that these give the employer the opportunity to explain their pay gaps and what they are doing to maintain employee confidence as part of the organisation’s diversity and inclusion commitments.²⁷ The Commission on Race and Ethnic Disparities recommended that employers who report their ethnicity pay gaps should also publish a narrative and action plan.²⁸

Disclosing ethnicity

11. Not all employers are confident in calculating their ethnicity data. Some have cited concerns with low disclosure rates, discomfort with talking about race at work, and GDPR restrictions.²⁹ Wilf Sullivan told us that, in order to encourage employees to disclose their data, businesses should communicate the reasons they need ethnicity data and “most crucially” what they will use it for.³⁰ Several witnesses agreed that employers should ask their employees to share information using the 18 ethnicity categories listed in the census.³¹ Matthew Percival argued that this will make people more comfortable in disclosing

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

21 Q24 [Sandra Kerr and Charles Cotton], Q25 [Wilf Sullivan and Charles Cotton]

22 Q25

23 Q4

24 Q24

25 Q32

26 Qq37-38

27 Q9

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

29 [“Increasing number of employers calculating ethnicity pay gap, PwC study finds”](#), PwC, 10 September 2020 last accessed 16 January 2022

30 Q33 [Wilf Sullivan]

31 Q24 [Sandra Kerr], Q27 [Matthew Percival]

their ethnicity rather than having only the binary options of White or BAME to choose from.³² He recommended that businesses should only report the binary headline figure and use the disaggregated data for granular analysis—where appropriate—as part of their supplementary narrative.³³

Data protection

12. Some employers remain cautious about ethnicity pay gap reporting because they are uncertain of their legal position concerning data protection. Matthew Percival explained that there is a legal way to capture and use race and ethnicity data for pay gap reporting. He added that some “cautious lawyers”, however, may advise risk-averse organisations that the safest thing to do is nothing.³⁴ Hogan Lovells, a global law firm, has published a guide for General Counsels dispelling the “legal myths” that may prevent employers from reporting their ethnicity pay gaps.³⁵ Matthew Percival said he would like to see the Information Commissioner’s Office (ICO) issuing similar guidance to employers.³⁶ Sandra Kerr emphasised the importance of such guidance being “in plain English” so it is clear that data protection is not a barrier to action.³⁷

Sample sizes

13. The Commission on Race and Ethnic Disparities has claimed that the unreliability of sample sizes is a significant barrier to reporting useful data.³⁸ It argued that a large company employing some 250 people would have approximately the same number of male and female employees when recording gender pay data. However, the same company would be comparing ethnicity data on average between 225 White and 25 ethnic minority employees.³⁹ Charles Cotton acknowledged that, unlike gender, ethnicity is distributed unevenly across the UK, meaning some businesses will be using higher sample sizes and some smaller.⁴⁰ Matthew Percival told us that pay gap reporting should not be viewed as simply an exercise to report information and produce “league tables” of good and bad employers. He suggested that if employers use data reporting to remain accountable for their commitments towards an inclusive workplace, “lower sample sizes do not negate and render the exercise futile.”⁴¹ He added that the data will still reveal any trends in ethnic disparities and indicate areas where an organisation should challenge itself to do better.⁴²

32 Q27

33 *ibid*

34 Q26

35 “[Hogan Lovells collaborates on Guide to Ethnicity Pay Gap reporting](#)”, Hogan Lovells, 14 April 2021 last accessed 17 January 2022

36 Q26

37 Q26

38 The Commission on Race and Ethnic Disparities, [The Report](#), March 2021, p116

39 *ibid*

40 Q27

41 Q27

42 Q35

Enforcement

14. Finally, we heard that robust enforcement processes must be in place.⁴³ Witnesses agreed that although deferring the publication date for gender pay gap reporting during Covid-19 was necessary, the Government should not have suspended enforcement.⁴⁴ Sandra Kerr told us that 50% of employers chose not to report, and still delayed reporting by the postponed date, even though they had the data.⁴⁵ Wilf Sullivan added that this sent the wrong message to employers.⁴⁶ At present it is unclear if enforcement powers for ethnicity pay gap reporting will sit with BEIS or the Equality and Human Rights Commission. Charles Cotton said that it probably makes sense to have one body responsible for enforcing gender and ethnicity pay gap compliance, and that that body will need adequate resources.⁴⁷

15. **The Government has acknowledged that ethnicity pay gap reporting should be mandatory. Businesses are ready for Ministers to follow through on this commitment and bring forward legislation. We recognise that capturing and reporting ethnicity pay gap data is a more complex exercise than for gender, especially given disproportionate sample sizes of ethnicity across the UK. Solutions are available as long as employers are willing, and the purpose of the exercise is clear. Ethnicity pay gap reporting is not about producing a league table or punishing organisations who, due to geographic location, may not have access to the same talent pool. A pay gap is an indicator for employers to identify, understand and address trends in ethnic disparities across their own workforce.**

16. *The Government should introduce mandatory ethnicity pay gap reporting by April 2023 for all organisations that currently report for gender. Legislation should include the requirement for employers to publish a supporting narrative and action plan. The Government should produce guidance, with clear explanations on:*

- a) *data protection to reassure employers how they can legally capture, retain and report ethnicity pay gap data;*
- b) *methods for capturing, analysing and reporting ethnicity pay data; and*
- c) *the body responsible for enforcement and what powers that body will have.*

43 Q28 [Wilf Sullivan]

44 Q22 [Sandra Kerr and Matthew Percival], Q23 [Wilf Sullivan]

45 Q22

46 Q23

47 Q29

Conclusions and recommendations

Ethnicity pay gap reporting

1. The Government has acknowledged that ethnicity pay gap reporting should be mandatory. Businesses are ready for Ministers to follow through on this commitment and bring forward legislation. We recognise that capturing and reporting ethnicity pay gap data is a more complex exercise than for gender, especially given disproportionate sample sizes of ethnicity across the UK. Solutions are available as long as employers are willing, and the purpose of the exercise is clear. Ethnicity pay gap reporting is not about producing a league table or punishing organisations who, due to geographic location, may not have access to the same talent pool. A pay gap is an indicator for employers to identify, understand and address trends in ethnic disparities across their own workforce. (Paragraph 15)
2. *The Government should introduce mandatory ethnicity pay gap reporting by April 2023 for all organisations that currently report for gender. Legislation should include the requirement for employers to publish a supporting narrative and action plan. The Government should produce guidance, with clear explanations on:*
 - (a) *data protection to reassure employers how they can legally capture, retain and report ethnicity pay gap data;*
 - (b) *methods for capturing, analysing and reporting ethnicity pay data; and*
 - (c) *the body responsible for enforcement and what powers that body will have.* (Paragraph 16)

Formal minutes

Wednesday 2 February 2022

Members present:

Caroline Nokes, in the Chair

Theo Clarke

Elliot Colburn

Philip Davies

Kim Johnson

Kate Osborne

Bell Ribeiro-Addy

Draft Report (*Ethnicity Pay Gap Reporting*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 16 read and agreed to.

Question put, That the Report be the Fourth Report of the Committee to the House.

The Committee divided.

Ayes	Noes
Theo Clarke	Philip Davies
Elliot Colburn	
Kim Johnson	
Kate Osborne	
Bell Ribeiro-Addy	

Question accordingly agreed to.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned till Wednesday 9 February 2022 at 2.00pm]

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

Wednesday 12 January 2022

Sandra Kerr CBE, Race Director, Business in the Community; **Matthew Percival**, Programme Director - Skills and Inclusion, Confederation of British Industry (CBI); **Charles Cotton**, Senior Performance and Reward Adviser, Chartered Institute of Personnel and Development; **Wilf Sullivan**, Equality Officer, Trades Union Congress (TUC)

[Q1-40](#)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

Session 2021-22

Number	Title	Reference
1st	Levelling Up and equality: a new framework for change	HC 702
2nd	Appointment of the Chair of the Social Mobility Commission: Katharine Birbalsingh CBE	HC 782
3rd	Reform of the Gender Recognition Act	HC 977

Session 2019-21

Number	Title	Reference
1st	Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act	HC 386
2nd	Appointment of the Chair of the Equality and Human Rights Commission	HC 966
3rd	Unequal impact? Coronavirus and BAME people	HC 384
4th	Unequal impact? Coronavirus, disability and access to services: full Report	HC 1050
5th	Unequal impact? Coronavirus and the gendered economic impact	HC 385
6th	Changing the perfect picture: an inquiry into body image	HC 274