



**Equality (Race and Disability) Bill:
Mandatory Ethnicity and Disability Pay Gap Reporting
Government Consultation
June 2025**

**Consultation Paper Response from the
Council of Ethnic Minority Voluntary
Organisations (CEMVO) Scotland**

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About CEMVO Scotland

CEMVO Scotland is a national intermediary organisation and strategic partner of the Scottish Government Equality Unit. Our aim is to build the capacity and sustainability of the ethnic minority (EM) voluntary sector and its communities. Since being established in 2003, we have developed a database network of over 600 ethnic minority voluntary sector organisations throughout Scotland to which we deliver a wide range of programmes that provide capacity building support to the sector.

As a national organisation, we continually engage with the EM voluntary sector and its communities, which enable us to gather intelligence about the needs and issues affecting the sector. This helps our organisation to deliver tailored support to the sector, and to work strategically with public, statutory, and government agencies to tackle a range of prevalent issues such as race equality, social inclusion, capacity building and civic participation.

One of our core programmes at CEMVO Scotland is Race for Human Rights. The aim of this programme is to help public service providers increasingly embed race equality and human rights in their strategic planning and day-to-day functions. This will be achieved by adopting an anti-racist and human rights-based approach.

This is a response to the Equality (Race and Disability) Bill: mandatory ethnicity and disability pay gap reporting consultation.

Equality (Race and Disability) Bill: mandatory ethnicity and disability pay gap reporting consultation

Q1. Do you agree or disagree that large employers should have to report their ethnicity pay gaps?

Somewhat Agree

CEMVO Scotland supports the principle of ethnicity and disability pay gap reporting. As previously set out in our latest response to [The operation of the Public Sector Equality Duty in Scotland](#)¹, this can be an effective tool to spotlight discriminatory practices or identify barriers such as recruitment and retention processes. If implemented correctly, this can increase the accountability of employers in eliminating discrimination.

Key Concerns

We are concerned that the **existing challenges** that large employers already face risk undermining the effectiveness of ethnicity pay gap reporting. Through our consultancy support with public sector bodies in Scotland, **persistent barriers** we see are a lack of workforce diversity, ethnicity data collection, recruitment, and retention processes. It is clear that although we have the Public Sector Equality Duty (PSED) and the Scottish-specific duties (SSDs), public bodies still fall short in meeting improved equality outcomes due to multiple factors such as a lack of understanding of the duties, systemic racism and implicit biases, inadequate resources, and a lack of senior leadership buy-in.

While we believe that ethnicity pay gap reporting has the potential to provide useful insights into racial inequality that can drive action to improve the lives of ethnic minority employees, we would like to stress the importance of **obtaining good quality data**. There are complexities in the process and calculations that need to be carefully considered to avoid the skewing of pay gap data. Especially concerning is the issue that low workforce diversity could mean that even one ethnic minority employee in a senior position could give the impression that white employees are paid less or there are few to no disparities. This could hinder action for race equality by obscuring the problem of discrimination. We also need to increasingly embed an intersectional approach to data collection for pay gap reporting to be effective and accurate.

It is of CEMVO Scotland's view that to ensure ethnicity and disability pay gap reporting is meaningful, the mandatory reporting requirement needs to be utilised to tackle pre-existing issues and enable public bodies to meet their PSED and their relevant additional duties. It is vital that we first focus on the root cause of the problems by increasing efforts in embedding human rights and race equality to eliminate racial

¹ [The operation of the Public Sector Equality Duty in Scotland - Scottish Parliament - Citizen Space](#)

discrimination and systemic biases. Accountability processes must also be in place to ensure sustainable change is made. From our experience, these are the fundamental steps needed to improve compliance from large employers, particularly public bodies.

Furthermore, we would highlight that the duty must be outcome focused. It is not sufficient for mitigating actions to be identified by employers; they must be tracked and measured with evidence provided on any outcomes.

Geographical Scope

Question 3. Do you agree or disagree that ethnicity pay gap reporting should have the same geographical scope as gender pay gap reporting?

Strongly Agree

CEMVO Scotland believes that the same geographical scope as gender pay gap reporting will aid employers in understanding the law and developing a consistent approach to reporting. However, we need to be mindful of the particular needs and challenges of Scottish stakeholders where we operate under the requirements of additional specific duties. This would mean further consultation with relevant stakeholders and the Scottish government to discuss how this can be appropriately supported and implemented.

Pay gap calculations

Question 5. Do you agree or disagree that employers should report the same 6 measures for ethnicity pay gap reporting as for gender pay gap reporting?

Somewhat Agree

CEMVO Scotland generally welcomes the continued use of the same 6 measures for gender pay gap reporting with ethnicity pay gap reporting. This can serve as a baseline to inform evidence-based practice, strengthen consistency and comparability of data. However, ethnicity pay gap data is inherently more complex than gender pay gap reporting so we strongly recommend that two extra measures are included to aid meaningful interpretation of the data: ethnic breakdown of the workforce and percentage of employees who disclosed their ethnicity.

Question 7. Do you agree or disagree that large employers should have to report on the ethnic breakdown of their workforce?

Strongly Agree

This information is essential if ethnicity pay gap reporting is going to give meaningful information on racialised inequalities in the labour market. This will help to mitigate shortcomings in data collection and paint a broader picture of an employer's workforce equality, for example when an employer might be performing well on pay gap but have very low workforce diversity or a small number of ethnic minority staff in high level positions skew data to give the impression an organisation has good workforce equality or that there is a pay gap in favour of ethnic minority employees. Such data could wrongly give the impression that racism is not a problem in the labour market and obscure the issue of structural inequalities and the need for anti-racist action in organisational practices.

We further recommend that large employers embed the practice of disaggregating ethnicity data when appropriate, as we will elaborate on in later questions.

Question 9. Do you agree or disagree that large employers should have to submit data on the percentage of employees who did not state their ethnicity?

Strongly Agree

If ethnicity pay gap reporting is to be meaningful and accurate, it is important to also capture issues with data collection such as low reporting rates and highlight this as something that must be addressed by employers. Low disclosure numbers will impact the results of data, therefore to gain meaningful insights from reporting we need to know how accurately the data represents employees' pay and where there is wider work to be done on lack of disclosure due to mistrust or misunderstanding of how data will be used. Otherwise, there is a risk that ethnicity pay gap data may be so poor as to be meaningless.

While low numbers of ethnicity data may risk breaching the anonymity of staff, there are ways that organisations can research well while also protecting privacy. Through our services, public/third sector employers found their confidence increased when we supported HR/senior management staff in embedding race equality and human rights knowledge into data collection/analysis and recruitment processes. It was also helpful for employers to understand the ways in which implicit biases can impact processes that exclude marginalised groups, empowering them to take anti-racist action to break down barriers and foster inclusive practices. For example, we recently supported an organisation in increasing its ethnicity disclosure rates as a result of positive data campaigning and strengthened communications. This reinforced organisational commitment and transparency in using data to improve workforce diversity and staff experiences. Due to this, it helped to build trust with employees and a culture of inclusion that can positively improve data participation.

Organisations should be required to reflect on possible reasons for low disclosure rates, seek expert guidance and pursue a course of published actions to address the issue.

Improvement or lack thereof should be tracked. Underlying factors that we have come across in our consultancy with public and third sector organisations in Scotland that may lead to a low disclosure rate include a lack of trust from employees, fear of discrimination, feeling that disclosure is pointless and poor communication between employers/senior staff and employees. Low ethnicity disclosure can be an indication of other issues affecting ethnic minority employees that need to be addressed.

Action plans

Question 11. Do you agree or disagree that employers should have to produce an action plan about what they are doing to improve workplace equality for ethnic minority employees?

Strongly Agree

Action plans should be a mandatory requirement of employers when publishing ethnicity pay gap, as should a narrative to accompany it. Data on pay gaps alone will not tackle inequality and discrimination: employers should be required to publish the steps they will take to address disparities highlighted in their pay gap reports, proportion of ethnic minority employees lower than the national proportions and reasons for low disclosure of ethnicity among employees. According to Close the Gap in 2023, their analysis shows that “82% of public bodies published a pay gap of over 5%, but only 9% of these had published an equality outcome or action to address its causes”. Meanwhile, not all public bodies had published information on occupational segregation as required by SSDs.²

Issues such as occupational segregation should be addressed in action plans rather than simply used to explain pay gaps. It is important that the organisations know they will be held accountable for inequalities and that ethnicity pay gap reporting is action focused rather than process focused. It is **not enough for organisations to identify actions, especially without clear accountability processes**. As previously addressed in our 2022 Review of the Operation of the Public Sector Equality Duty Scotland³ and below, stronger enforcement is necessary to ensure compliance with any duties.

² [Submission-to-the-EHRCJ-Committee-call-for-views-on-the-operation-of-the-PSED-in-Scotland.pdf](#)

³ https://cemvoscotland.org.uk/wp-content/uploads/PSED_Response_Final.pdf

Additional reporting requirements for public bodies

Question 13. Do you agree or disagree that public bodies should also have to report on pay differences between ethnic groups by grade and/or salary bands?

Strongly agree

Question 14. Do you agree or disagree that public bodies should also have to report on recruitment, retention and progression by ethnicity?

Strongly agree

Question 15. If public bodies have to report on recruitment, retention and progression by ethnicity, what data do you think they should have to report?

Under the specific duties in Scotland, listed authorities are already required to report the relevant protected characteristics on workforce composition and recruitment, development, and retention of staff. We strongly welcome this requirement to be extended across the nations to ensure consistent compliance and for large employers to lead by example. Public bodies have additional responsibilities to ensure equality among their workforce; this will aid in holding all large employers accountable.

Reporting on pay differences between ethnic groups by grade and salary bands will help to identify the prevalence of ethnic minority staff in senior or less senior roles, show where there may be a high percentage of ethnic minority staff in low paid jobs compared to white employees or a low percentage of ethnic minority employees in high paid positions compared to white employees.

Collecting and publishing data on these additional factors is important as it helps to identify any barriers in recruitment practices for ethnic minority applicants and racism impacting ethnic minority employees progression to more senior roles. Data that should be gathered and reported includes the number/proportion of ethnic minority applicants, the number/proportion of those who are shortlisted and the number/proportion offered jobs. This should be reported with information on the type of job and pay grade for each role recruited for. Progression data should include how long it takes on average for ethnic minority employees to progress to senior roles compared to white counterparts.

Ultimately, a lack of workforce diversity by ethnicity remains prevalent in public bodies and data collection must be improved for organisations to measure progress, identify barriers, and take positive action. As learned from PSED and SSDs, mandatory reporting and action plans simply do not go far enough to tackle systemic racism and improve equality outcomes unless there is increased enforceability as we argue below.

Dates and deadlines

Question 19. Do you agree or disagree that ethnicity pay gap reporting should have the same reporting dates as gender pay gap reporting?

Somewhat Agree

It is of CEMVO's view that employers should embed a practice of adopting an intersectional approach in data. We generally believe that the same reporting dates as gender pay gap reporting will ensure consistency and support intersectional and disaggregated data analysis. Therefore, we recommend that organisations be encouraged to also publish data across the mandatory reporting characteristics e.g. women of colour and ethnic minority employees with disabilities. This can be further discussed with relevant stakeholders to explore what this would look like.

Enforcement

Question 23. Do you agree or disagree that ethnicity pay gap reporting should have the same enforcement policy as gender pay gap reporting?

Somewhat Agree

We agree that ethnicity and gender pay gap reporting should have the same enforcement policy, however we believe the way that EHRC currently enforces gender pay gap reporting could be improved upon through a more active approach. It is the view of CEMVO Scotland that the EHRC should utilise its existing powers more to address organisations that fail to comply and to pursue enforcement action through the courts. Employers who fail to comply should be named publicly and persistent failure should result in appropriate escalation of enforcement action.

In the case of enforcement action for public bodies, we acknowledge that there is a fine balancing act between financially penalising a public body who fails to meet their legal obligations with the fact that reduced budget impacts those who receive support and services from that public body, risking their rights being violated. CEMVO Scotland would suggest that for a public body that fails to meet their obligation (which should include reporting the extra data detailed in responses to questions 13 and 14, as well as publishing narratives and actions plans), they must receive intensive support from experts and earmark/ringfence a certain amount of their budget to progressing to address the inequality that has been identified in their ethnicity pay gap reporting. If this support is provided by experts with regular check-ins and progress reports provided then CEMVO Scotland believe this could improve a public body's compliance with their equalities duties.

Ethnicity: data collection and calculations

Question 25. Do you agree or disagree that large employers should collect ethnicity data using the GSS harmonised standards for ethnicity?

Strongly Agree

To achieve consistent, accurate and reliable reporting measures, large employers should use the GSS harmonised standards for collecting ethnicity data. This helps to build a good evidence base for organisations to measure progress and improve accuracy and representation in disaggregating ethnic groups. As we have been consistently supporting organisations to incorporate the ethnicity harmonised standard as used in the 2022 Census in Scotland, we highly welcome this being adopted by large employers to improve pay gap reporting.

Question 26. Do you agree or disagree that all large employers should report ethnicity pay gap measures using one of the binary classifications as a minimum?

Somewhat Disagree

The duty should state that employers can only use the binary classification if it is not possible to release any level of disaggregated data to protect employee privacy in line with data protection. Data must be published with the highest level of disaggregation possible.

It is CEMVO Scotland's recommendation that white British and white other should not be split if white other will be included in the ethnic minority category – option 2 should be used as a first preference instead. Splitting the white category can overstate the proportion of ethnic minority employees and will therefore obscure the results. Non-white people are most affected by institutional racism and the data collection method should reflect this by seeking to show disparities between visible racialised communities and their white counterparts.

Question 28. Do you agree or disagree that employers should use the ONS guidance on ethnicity data to aggregate ethnic groups? This would help protect their employees' confidentiality.

Somewhat Agree

CEMVO Scotland believes it is sensible for employers to use the ONS guidance to aggregate ethnic groups only when absolutely necessary to protect the privacy of employees. Government guidance should stress that data is to be reported with the least aggregation possible. Aggregating ethnic groups where it is not necessary to protect the identity of employees will obscure potentially significant differences

between groups e.g. Arab employees and employees in the ‘any other ethnic group’ category. Through our services, we commonly see employers struggle with data collection processes as ethnicity data is not disaggregated well enough to reflect racial disparities within ethnic minority groups. For example, South Asian is not enough to capture the varying levels and forms of inequalities faced by those who are Indian, Pakistani, or Bangladeshi (in the decade to 2022 Pakistani and Bangladeshi employees had a 13.3% and 17.5% pay gap respectively compared to white British employees in England and Wales, while Indian employees had a negative pay gap). ⁴

Question 29. Is there anything else you want to tell us about ethnicity pay gap reporting?

We would further encourage the UK Government, and the respective nations within devolved powers, to co-design and produce rigorous statutory guidance with relevant stakeholders for ethnicity pay gap reporting to targeted and meaningful.

⁴ [Ethnicity pay gaps, UK - Office for National Statistics](#) (see Figure 2)