



On Equality and Equal Pay

How expanding the Equality Act would
increase discrimination and damage growth

Daniel Dieppe
With a foreword by Lord Sewell

CIVITAS

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Contents

About the author	iv
Foreword	v
Executive summary	vii
Recommendations	viii
Chapter 1. The problems with the Equality Bill	1
Chapter 2. A pathway towards better solutions	29
Chapter 3. Damaging for growth and good governance: equal pay law and efficiency	39
Conclusion: Weighing up the costs	61
Appendix: List of local authority equal value pay claims	63
Notes	66

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Lord Dr Tony Sewell CBE is an educationalist, academic, author, and Conservative life peer. In 2020, he was appointed chair of the Commission on Race and Ethnic Disparities, which found that while there were racial disparities, there was no evidence of institutional racism in British society. Today, Lord Sewell chairs Generating Genius, a charity he founded that helps black and disadvantaged students into STEM careers.

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Daniel Dieppe
March 2026

Foreword

In March 2021, the then Conservative government published my report, Commission on Race and Ethnic Disparities. In the section on ethnicity pay gap reporting, we concluded:

It is clear that pay gap reporting, as it is currently devised for gender, cannot be directly applied to ethnicity. There are significant statistical and data challenges that arise when substituting a binary protected characteristic (male and female) with a characteristic comprising multiple categories.¹

The overarching theme of the report was the importance of distinguishing between discrimination and disparity. A difference in pay, for example, may often be explained by demographic or structural factors rather than discriminatory intent. One such factor is age. Many individuals from ethnic minority backgrounds entering the workforce are more likely to be younger and therefore have not yet had the opportunity to reach the peak of their careers.

Even the National Health Service, which introduced ethnicity pay gap reporting in 2018, encountered serious difficulties in implementation. The resulting data proved confusing and, in some cases, counterintuitive. For example, Asian men were found to have a higher average pay than White men – largely explained by the high proportion of Asian men at consultant level. This illustrates how aggregated statistics can obscure rather than illuminate underlying realities.

Despite these complexities, the current Labour government has proposed extending the Equality Act 2010 to mandate ethnicity pay gap reporting and to compel equal pay regardless of the assessed 'value' of the work. Equal pay for equal work – doing the same job – has rightly been the law since the 1970s. However, the legal concept of 'equal value' allows courts to equate entirely different roles.

The consequences of this approach can be seen starkly in Birmingham, where the city council has been declared bankrupt following equal pay rulings. The city has endured prolonged industrial action, and thousands of council workers now face pay reductions, all stemming from a judicial determination that roles such as refuse collection and cleaning are of equivalent value.

This important report by Civitas exposes a government overly influenced by trade unionists and activists who are determined to implement a policy that is, in practice, unworkable. Crucially, the author is neither opposed to anti-discrimination principles nor to workers' rights. On the contrary, he demonstrates that the proposed Equality Bill risks undermining fairness in the workplace, increasing social division, and damaging economic growth.

In general, there is no consistent pattern in ethnicity pay data. Examples of positive and negative pay gaps coexist alongside cases of parity.

Lord Sewell

January 2026

Executive summary

The proposed Equality (Race and Disability) Bill aims to expand the 2010 Equality Act in two ways already set out in law. These are:

- i. Expand mandatory pay gap reporting for large employers to include ethnicity and disability.

This has been a legal requirement for sex since 2017.

- ii. Extend ‘equal value’ pay claims to include ethnicity and disability.

Equal value claims for sex entered British law in the early 1980s through European law (see page 3).

Although the Government’s aims to reduce racial and disability discrimination are laudable, this report finds that it will punish some who are not at fault for discrimination, and generate new discrimination. The report firstly looks to return to first principles to build a better pathway towards addressing discrimination, examining the crucial differences between discrimination and disparity. The conflation of these two related but distinct terms distorts anti-discriminatory efforts.

Given the Government’s growth mission, the report explores whether the Equality (Race and Disability) Bill would benefit this mission and foster conditions for good governance. The report highlights real concerns that the proposed law will reduce growth and harm the poorest in society, as has most noticeably occurred in Birmingham. The estimated cost to local authorities from equal value pay claims has been at least £3 billion, but is likely to be much higher (see page 44). We suggest a DOGE-style commission in each local authority to highlight the amount spent on equal value pay claims. Finally, the report examines the proposed and underexplored new race equality quango, which will oversee the proposed legislation, litigate against employers, and lobby the Government for more equality laws.

Recommendations

This report makes five recommendations:

1. The Equality (Race and Disability) Bill should not progress.
2. Discontinue all mandatory pay gap reporting, as first introduced in 2017.
3. Bring an end to all 'equal value' pay claims, which distort the market and undermine economic opportunity.
4. Given 'equal value' pay claims were introduced through European law, and we are now outside of European decision-making, use the 'Brexit dividend' to remove equal value pay claims.
5. Create a DOGE-style commission into equal value pay claims in local authorities.

Chapter 1.

The problems with the Equality Bill

Seeking to combat racial discrimination is a praiseworthy cause. Discrimination for reasons of ethnicity violates the moral principle that all people possess the same human dignity and undermines the aspirations of equal treatment of others in civil society, regardless of immutable characteristics. Compared to the judgement of people by character or merit, discrimination is also highly illogical, as it results in poor decision-making and inefficient outcomes. Non-discrimination is therefore both a compelling moral and pragmatic imperative.

The problem with the Equality (Race and Disability) Bill is not that it should not try to combat discrimination, but that it does not do so. In fact, it is likely that this Bill will increase discrimination rather than reduce it as intended.

The Equality (Race and Disability) Bill

The proposed Bill that has been put forward by the government is as follows:

The draft Bill will tackle inequality for ethnic minority and disabled people by:

- *enshrining in law the full right to equal pay for ethnic minorities and disabled people, making it much easier for them to bring unequal pay claims. Claimants currently face significant barriers when bringing pay discrimination claims on the grounds of ethnicity or disability. Enshrining in law the full right to equal pay for ethnic minorities as well as disabled people will make it easier for them to bring forward equal pay claims where they have been underpaid.*
- *introducing mandatory ethnicity and disability pay reporting for larger employers (those with 250+ employees) to help close the ethnicity and disability pay gaps. Surfacing pay gaps will enable companies to constructively consider why they exist and how to tackle them.²*

The first part of the Bill, equal pay rights, does not change what is or is not unlawful, but it does expand which individuals can make equal value pay claims. Presently, ethnic minorities and disabled people need to prove 'direct discrimination', whereas with this change in the law, they will instead be able to make an equal value pay claim. The costs and benefits of this legislation can be directly evaluated through high-profile equal value pay cases, such as that against retailer Next plc and Birmingham City Council. Evaluating these case studies, we can see how this part of the Bill will function, affect the workplace, and create a distorted view of the value of work.

The unforeseen consequences of the second part of the Bill, mandatory pay gap reporting, are more difficult to evaluate. On first inspection, it is intended as an additional regulatory 'nudge' policy — pointed red tape. Given the intention is to combat racial *discrimination* we can assume that the intention is that by enforcing transparency, those companies that are — be it unintentionally or secretively — engaging in unseen discrimination will either be made to improve their behaviour, or will be forced to publicise the evidence of their own discrimination.³ However, as we will show, such a transparent policy may achieve the opposite of what it aims, and create worse prospects for people.

At the time of writing, this aspect of the Bill has completed the consultation stage,⁴ with the extension of equal value pay claims yet to be released.⁵

Box 1.1 A brief timeline of anti-discrimination and equal pay law

1965 Race Relations Act – Outlawed discrimination on racial grounds in public places like pubs, hotels, cinemas and so forth. Established a Race Relations Board to investigate racial discrimination and lobby for stronger laws.⁶

1968 Race Relations Act – Extended the outlawing of discrimination to housing, employment, banking and most areas of the economy.⁷

1970 Equal Pay Act – Made it unlawful to pay women less than men for work rated as equivalent if work is of a ‘similar nature’.⁸ Act was required for entry into the EEC,⁹ and was enforced from 1975. Rejecting equal pay for equal value legislation, the Bill’s sponsor Barbara Castle said, “Equal pay for work of equal value” is too abstract a concept to embody in legislation without further interpretation.¹⁰

1975 Sex Discrimination Act – Made it unlawful to treat someone less favourably because of their sex. Outlawed indirect sex discrimination. Allowed discriminatory training and encouraging of a particular sex to a job if they were under-represented in that profession nationally.¹¹

1976 Race Relations Act – Introduces indirect racial discrimination. Allowed discriminatory training and encouraging of a racial group to a job if that group was under-represented in that profession nationally.¹²

1983 Equal Pay (Amendment) Regulations Act – Extended law to include ‘equal pay for work of equal value’, as required by a 1982 European Court of Justice ruling.¹³

1995 Disability Discrimination Act – Discrimination against disabled applicants and employees becomes illegal in the workplace.¹⁴

* This legislation was introduced to the Commons by diarist MP Alan Clark, who was infamously accused of being drunk during the debate, the only ever such occasion at the despatch box. Clark, A., *Diaries: In Power*, 28 July 1983, (1993), pp.28-30.

1998 Levez v T.H. Jennings – European Court of Justice ruled that the UK's two-year back pay limit for equal pay claims breached EU law. Back pay claims extended to six years.¹⁵

2000 Race Relations (Amendment) Act – Public bodies have due regard for promoting equality of opportunity and eliminating unlawful racial discrimination.¹⁶

2003 The Equal Pay Act 1970 (Amendment) Regulations 2003 – Extends two-year back pay to six years.¹⁷ Passes through statutory instrument (without Parliamentary debate).

2010 Equality Act – Consolidated previous discrimination and equal pay law. Created Public Sector Equality Duty. Allows employers to use protected characteristics in employment and promotion decisions when given two similarly qualified candidates to increase the representation of an under-represented group. Work is considered equal if demands of 'effort, skill and decision-making' are the same.¹⁸

2017 Equality (Gender Pay Gap Information) Regulations Act – Made gender pay gap reporting mandatory for employers with more than 250 employees.¹⁹

2026 Equality (Race and Disability) Bill – Intends to make ethnicity and disability pay gap reporting mandatory for employers with more than 250 employees. Extends equal value pay legislation to ethnicity and disability. Subject of this report.

How equal pay is assessed

There are three types of equal pay claims in British law. As this area of law is quite complicated, it is worth explaining each of them in turn here. The three types, as listed in the Equality Act are:

1. 'like work'
2. 'work rated as equivalent'
3. 'work of equal value'.

'Like work' and 'work rated as equivalent' were introduced in the original 1970 Equal Pay Act.²⁰ 'Work of equal value' was introduced through the dryly titled Equal Pay (Amendment) Regulations 1983, which itself was introduced to British law through a European Court of Justice (ECJ) judgment.²¹

Of the three, the first, 'like work', is the simplest. It is defined in Section 65(2) of the Equality Act as:

(2) A's work is like B's work if—

(a) A's work and B's work are the same or broadly similar, and

(b) such differences as there are between their work are not of practical importance in relation to the terms of their work.

This is what most people would commonly associate with an equal pay claim. Jobs with significant differences do not come under this type of equal pay claim.

The second, 'work rated as equivalent', is defined in Section 65(4):

(4) A's work is rated as equivalent to B's work if a job evaluation study—

(a) gives an equal value to A's job and B's job in terms of the demands made on a worker, or

(b) would give an equal value to A's job and B's job in those terms were the evaluation not made on a sex-specific system.

(5) A system is sex-specific if, for the purposes of one or more of the demands made on a worker, it sets values for men different from those it sets for women.

What makes this so confusing is that for work to be 'rated as equivalent', it must be, according to the Equality Act, of 'equal value', although this is a distinct category. What differentiates it from

* Nicholas Soames said of the Ministerial brief for this Act of Parliament was 'of such unbelievable banality and stupidity about something to do with equal opportunities of the worst sort, I mean it wasn't even sensible. It was just pathetic.' See VHS Wonderland (2022) 'The Real Alan Clark', from 24:20. Available at: https://youtu.be/EPu1xCj-gE4?si=uOyd1CzFqEASx_8l&t=1460

the 'equal value' category is that it must involve a job evaluation scheme by the employer.

Finally, 'work of equal value' is given in Section 65(6) of the Equality Act, which states:

(6) A's work is of equal value to B's work if it is—

(a) neither like B's work nor rated as equivalent to B's work, but

(b) nevertheless equal to B's work in terms of the demands made on A by reference to factors such as effort, skill and decision-making.²²

The Next employment tribunal: A wrong conception of discrimination

The case study of the Employment Tribunals of Miss M Thandi and others versus retailer Next plc is the clearest example of a legal case being fought on legislation equivalent to what is proposed, as it concerned the third type of equal pay claim that is being expanded.²³ This allows for a thorough examination of the practical consequences of ethnicity and disability equal value pay rights. It is unquestionably a cautionary tale.

On 22nd August 2024, an equal pay claim against Next was upheld, as the employment tribunal found Next should have paid its store staff the same as its warehouse workers, according to the 2010 Equality Act.²⁴ This finding resulted from Next being shown to have paid the predominantly male warehouse staff more than primarily female retail staff, and gave insufficient 'material factors' to explain why they had done so.²⁵ This was in spite of 'market forces' and 'business viability' being the only motivators behind the different levels of pay, and sex being found to have been 'no part of the reason, or motivation, for the difference[s]'.²⁶

There are a multitude of concerning elements of the judgment on this case, but the element especially relevant to this matter is the blurring of disparity and discrimination and the consequent

assumption of guilt until proven innocent.’ This section does not seek to suggest that the judgment made was an incorrect application of the law, but that the law is poorly thought through and will lead to additional, unintended discrimination. This poorly drafted law will be replicated in the Equality (Race and Disability) Bill.

Female retail workers in Next stores claimed against Next in 2018 on the grounds that retail staff, of whom around three-quarters were female over the relevant period, were paid less than warehouse staff, who were 53 per cent male.²⁷

They argued that the retail and warehouse work, although different jobs, were of equal value, and that, considering that retail was proportionally more female, paying retail staff less than warehouse staff was sex discrimination.

The tribunal concluded that there was no evidence to suggest that Next had directly discriminated against women – male retail staff were paid the same as female retail staff, and male warehouse staff the same as female warehouse staff.²⁸ It did find, however, that there had been ‘indirect discrimination’ – practices with the effect of putting certain groups ‘at a disadvantage.’²⁹

The tribunal further concluded that the market rates for warehouse workers were higher than those for retail workers. They also noted that there were specific pressures in recruiting and retaining warehouse staff that were not present for recruiting retail staff, and that this was a legitimate explanation for the difference in rates.³⁰ Consequently, they found that there was no direct discrimination in the pay levels set – they were set where they were because it was the economically logical amount to pay retail and warehouse staff, and no differential treatment was given on the grounds of sex.³¹

The judges also acknowledged that those who worked in retail were freely able to overcome a shortfall in pay by choosing to work in a warehouse. Next created schemes for its 25,000 retail staff to move to the warehouse, but only seven people took up the offer.³² Indeed, the tribunal found that the only lead claimant to give evidence had no obstacle to the shifts available at the warehouse, but did not want to work in the warehouse because ‘the work did not particularly appeal to her’.³³

* A recommended resource on this topic is Norrie, R. (2020) *How we think about disparity: and what we get wrong*. Civitas. Available at: <https://www.civitas.org.uk/publications/how-we-think-about-disparity/>

Next argued that ‘the non-wage amenities of retail work and the comparative unattractiveness of warehouse work’ were the reasons why 99.8 per cent of sales consultants (male and female) did not want to work in the warehouse.³⁴ Working in a warehouse was described as:

*... life in a big metal box, an environment of piped-music, the drone of machinery, machinery vibration, alarm sirens and the screeching of machinery, wheels and rollers continuously present in all areas, to which the worker was continuously exposed including during rest periods and lunch breaks.*³⁵

The lead claimant, Ms Cherry, stated she would need ‘a lot more money’ to consider working in the warehouse.³⁶

The judge rejected these points not as untrue but as irrelevant to whether retail and warehouse work were to be classified as equal work. In other words, the judge acknowledged freely that the *unequal characteristics* of the warehouse work, compared to the retail work, made it less appealing, but *that this was not relevant* to whether the jobs were equal work.

The retail and warehouse staff were paid differently entirely because of differences in supply and demand of labour, because the different jobs operated in different markets that had different levels of success and had different characteristics, including a different work environment and different daily tasks. None of this, however, was legally relevant to whether they could be paid differently, according to the Equality Act.

The judges upheld the claim of indirect pay discrimination against the women working in the retail stores.

The blurring of disparity and discrimination in the Next case

In a nutshell, the tribunal found that the disparity in pay between retail staff and warehouse staff was discriminatory because most of the retail staff were female, and they did not see a sufficient explanation as to why they were paid less than warehouse staff.

To try and condense the successful line of argument from the claimants into its key tenets, it had four fundamental steps. The first step was the detection of a pay disparity between retail and

warehouse workers. The second step was the realisation that retail workers were mostly female, and the warehouse staff were not. The third step was that the retail and warehouse jobs were viewed as equal value work, and the fourth step was that no sufficient evidence was given to explain why it was proportionate and reasonable that warehouse workers were paid more.

Most of the criticism of this judgment has centred on that fourth step: proportionate reasons why the warehouse workers might have been paid more. Arguments made around the different market rates across the two jobs, or the different working conditions of retail and warehouse workers, or the need to fill the warehouse positions, all exist within the legal question of whether the pay disparity was a proportionate means of achieving a legitimate business aim.

Economically speaking, if there is a higher supply of labour for retail work than warehouse work because retail work is more desirable, you would expect a lower price of labour for retail work. When more people want a particular job, the pressure to offer a higher salary is negated.

Furthermore, as Next testified, the ‘rapid expansion of online sales’ led to a much greater demand for warehouse staff to match a growing market, and therefore increased pressure for higher salaries.³⁷ In comparison, the price of labour in retail declined as the in-person retail sector shrank, causing lower salary offers for those staff. Next also showed that historically, some warehouses had been majority staffed by women over men, albeit for short periods of time.³⁸

Worse, in the 378-page report provided by expert witness Dominic Miles and fully accepted by the judges, it is an economically compelling argument to suggest that retail workers were overpaid compared to warehouse workers. The warehouse workers were paid according to market rates, but the retail workers were often paid according to minimum wage, as the market rate they would have been paid was below minimum wage. The minimum wage bound their salaries above that which the market would optimally pay them. The unrestricted warehouse workers therefore earned a smaller wage premium over retail workers than they otherwise would have.³⁹

With these things in mind, there is an understandable tendency to focus on Next’s proportionate means for achieving a legitimate

aim argument – that retail and warehouse workers were paid the economically logical salaries.

However, what has largely been missed is the way that the judges concluded that the work was of equal value, and therefore deserved equal pay.

One can see how the Equality Act's factors of 'effort, skill and decision-making' were used to determine 'equal value' between the retail and warehouse jobs in Table 1.1, copied from the tribunal judgment (see the following page).

This is quite a complicated table, so it is worth explaining in full.

The first column, 'Factor', depicts the 11 factors the tribunal used to assess the differences between warehouse and retail staff. These factors range from knowledge and responsibility to physical demands. The use of these comes from S65(6(b)) of the 2010 Equality Act – 'factors such as effort, skill and decision-making'.

The second and third columns, 'Claimant Level' and 'Claimant Score', represent how important each factor is to the work of the *retail staff*, the claimants. To do this, the tribunal used job descriptions as provided by Next.⁴⁰ As one can see, the 'Communication & Customer Service' skills required were quite high (B+) for retail staff, but the working conditions were quite easy, with only a (D+).

The fourth and fifth columns, 'Comparator Level' and 'Comparator Score', do the same for the *warehouse staff* who are being compared against. As with the retail staff, the tribunal used Next's job descriptions. As one can see, the warehouse staff needed very low 'Planning and Organising' and 'Communication & Customer Service' skills (E=), but do need a high level of 'Physical Demands' (A=) and endure difficult working conditions (B+).

Finally, the sixth and seventh columns compare the job requirements between the retail and warehouse staff according to the 11 factors. In nine of the 11 factors (apart from physical demands and working conditions), retail staff require 'equal or higher' demands. Therefore, the tribunal concluded, the warehouse and retail staff are deserving of the same pay.

* 'Physical Skills' was also deemed more demanding for warehouse than retail, but as the difference is very small, they are considered equal in the table.

Table 1.1: The judge's understanding of equal value work

Factor	Claimant Level	Claimant Score	Comparator Level	Comparator Score	Claimant Level Compared to Comparator	Claimant Level Above/Below
Knowledge	C+	45	D+	30	Equal or Higher	1
Planning & Organising	D+	30	E=	10	Equal or Higher	1
Responsibility for Assets	B+	60	D=	25	Equal or Higher	2
Responsibility for Health & Safety	C=	40	C=	40	Equal or Higher	0
Communication & Customer Service	B+	60	E=	10	Equal or Higher	3
Training & Mentoring	E=	10	E=	10	Equal or Higher	0
Mental Demands	C=	40	D+	30	Equal or Higher	1
Problem Solving & Decision Making	C+	45	E+	15	Equal or Higher	2
Physical Skills	C=	40	C+	45	Equal or Higher	0
Physical Demands	B=	55	A=	70	Lower	-1
Working Conditions	D+	30	B+	60	Lower	-2
Total Score		455		345		
% Against Max		55.2%		41.80%	9	7

Source: *Employment Tribunals (2023) 'Case Number 1302019/2018 & Others'*, on Gov.uk, p.126. Available at: https://assets.publishing.service.gov.uk/media/6489d992b32b9e000ca96787/MS_M_Thandi_Others_V_Next_Retail_Limited_1302019_2018-Judgment.pdf

This table was replicated across 24 job comparators in retail and warehouse work. In each of the 24 cases, the retail and warehouse work was deemed to be of equal value by the judge.⁴¹

It is not known precisely how the judges came to use such a system of 11 factors from the Equality Act, as section 65 provides very limited

detail.* There is no mention of physical demands in the Equality Act, for example, yet the judges incorporate this into their comparison.

What is wrong with equal value pay claims

The equal value section of the Equality Act, as used by the judges in the Next case, relates closely to the Marxist labour theory of value – the notion that the value of a good or service is determined by the labour (‘effort, skill and decision-making’) required to produce. This is very different to the classical capitalist preferences theory of value, where value is determined by the equilibrium between supply and demand, which has generally been in the Western economic ascendancy for several centuries.

This concern, however, does not get to the heart of why this case is such a troublesome application of anti-discrimination law: the legislation outlines that discrimination is found through disparity of outcome, not treatment.

The origin of the conclusion that this remuneration decision was inadvertently indirectly discriminatory, even though it in no way treated women differently from men, was in the assumption that discrimination is a *variation in outcome, not in treatment*. The treatment, after all, was concluded to be the same.⁴²

The reason the judges came to this bizarre pair of conclusions where, A) they affirmed that Next had been entirely ‘sex-blind’ and had not treated women differently to men on the basis of sex, and yet, B) they concluded that Next was liable for sex discrimination, was not Marxist or unintelligent judges — as some have hypothesised — but backwards legislation. Not backwards in the regressive sense, but literally back to front.

There is no reason to suggest that the judges handled the law of the land incorrectly in this case; the spurious conclusion was the result of a law that wrongly conceives of discrimination.

* The Judgment notes: ‘we have sought to design a scheme which is fair to all of the parties and where the assessment of the work of the claimants and the comparators is carried out against criteria that are applied equally to all. We seek to avoid implicit or covert weighting by ensuring that every factor has the same number of levels and all of them have the same potential scores.’ Employment Tribunals (2023) ‘Case Number 1302019/2018 & Others’, on Gov.uk, p.10, p.11. Available at: https://assets.publishing.service.gov.uk/media/6489d992b32b9e000ca96787/Ms_M_Thandi___Others_V__Next_Retail_Limited_-_1302019.2018-Judgment.pdf

Direct discrimination is a treatment. Indirect sex discrimination towards women — what was concluded in this case — is where a practice puts women at a disadvantage with men because of their sex, even if the practice is not directly targeted against women.

Next's treatment of the individuals is overall exonerated in the judgment: there is nothing about the mechanics of the warehouse work or retail work that significantly advantages men or women. There is nothing in the hiring practices or promoting practices in the retail or warehouse work which favours men or women. These were both agreed upon by the tribunal.

What they instead found was that social factors unrelated to Next plc, especially to do with working hour flexibility, geography of work and preferred working environments (within which exist non-wage benefits, such as clothing discounts), led women to be more inclined to prefer retail work.⁴³ It is arguable that much of this inclination is a consequence of social inequalities; more caring and other social responsibilities tend to fall on women, but it is far removed from Next's treatment of their staff.

Nonetheless, it did result in a disparity in the proportion of men and women working specifically in retail: retail was 77.5 per cent female and 22.5 per cent male on average over the course of the relevant period.⁴⁴

On the basis of the judgment, Next did not discriminate directly or indirectly towards any of their staff; they instead presided over a disparity in job selection that their staff chose of their own accord, and then selected salaries for different jobs based on sensible responses to the different markets they existed within. There was arguably 'indirect discrimination', but it had nothing to do with Next, but with a host of other possible factors, such as uneven caring responsibilities across society, or even the specific desires of each sex. However, because of a law that targeted disparity instead of discrimination and that examined addressing an outcome without consideration of root causes, Next was found to be discriminatory.

The distorted Next ruling is set to be extrapolated onto other retailers and beyond. Leigh Day, the law firm that represented 3,500 Next retail worker claimants, also represents 69,000 claimants from Asda, 16,000 from Tesco, 11,000 from Sainsbury's, 8,000 from Morrisons and 5,000 from Co-operative.⁴⁵ If Next's planned appeal to the Employment Appeal Tribunal fails, millions of pounds

of pay-out for six years of back pay per staff and the complete restructuring of salaries at the lower end of the income spectrum could be expected.⁴⁶ This, as we discuss further in Chapter 3, will have negative consequences for the retail sector.

When evaluating the Equality (Race and Disability) Bill, we should acknowledge that the legal change being introduced, to enshrine the full right to equal pay into law, would be the expansion of the exact precedent outlined above, but for race and disability. The example of the Next case is *the example* of what this law does in practice; it is the first major legal victory against a national retailer using gender equal value pay legislation based on the Equality Act.

Since the Bill does not locate genuine discrimination, it will penalise good behaviour and, in some cases, find it blameworthy. It is telling that Seema Malhotra, the Minister for Equalities, announcing the first Government consultation for the Bill to extend this to ethnicity and disability, said it would ‘tackle pay disparities’ — but did not mention discrimination.⁴⁷

The term ‘full right to equal pay’ is therefore an extraordinarily inaccurate description of what the Equality (Race and Disability) Bill intends to do. Most people, hearing about the extension of equal pay in law, would expect it to be related in some way to the strengthening of pay discrimination. Pay discrimination for the same work, however, was made illegal over 50 years ago, for women in 1975, for ethnic minorities in 1976, and for disabled people in 1995.⁴⁸ This anti-discrimination legislation is in a different vein entirely from equal pay for equal-value work. The Labour Minister Barbara Castle, upon introducing the first equal pay for same work Bill in 1970, said, “‘Equal pay for work of equal value’ is too abstract a concept to embody in legislation without further interpretation.”⁴⁹ Barbara Castle has been proved right, and it has been reinterpreted to absurd levels.

By using the Orwellian newspeak-esque ‘full right to equal pay’, as is used in the 2024 Labour Manifesto,⁵⁰ and the 2024 King’s Speech,⁵¹ the Government is misusing its terms. A more accurate description of this legislation might be the extension of ‘different jobs for the same salary’, or ‘mandated same pay for different work’. That way, a more truthful understanding of the proposed legislation may be brought about.

A Brexit dividend

A final, important point before analysing mandatory pay gap reporting. As the equal pay for equal value legislation was introduced to British law by a European Court of Justice ruling in 1982, any Government seeking to remove such law can advertise such a move as part of a ‘Brexit dividend’ of leaving EU law.⁵²

The celebrated 20th-century Judge Lord Denning once said that European law ‘is like an incoming tide. It flows into the estuaries and up the rivers.’⁵³ That may well be the case with equal value pay claims.

An ECJ judgment forced the hand of the British Government to introduce equal value pay claims in the early 1980s (clearly without the appetite of the relevant Minister, Alan Clark), and an ECJ judgment raised the limit for back pay to six years from two in the late 1990s.*

No-one, our analysis suggests, realised what the true effect of equal value pay claims were until decades after they were first introduced. Now that we know the true effect of these laws, it is time to remove their corroding effects from our legal system.

Repealing the equal value pay claims on the back of a ‘Brexit dividend’ could make such a move more politically opportune, were it to be taken up by the right political party. This is unlikely to be the current Government, which is wholly committed to the legislation despite the known potential consequences.⁵⁴ In 2023, Sky News reported that the then Conservative Government specifically chose to keep an aspect of the EU protection on equal value pay legislation while removing other EU laws from British law.⁵⁵

The problems with mandatory pay gap reporting

The greatest problem with the second aspect of the Bill — mandatory pay gap reporting — is that it is an impotent instrument against discrimination precisely because it cannot identify discrimination.

* For Alan Clark, see footnote on page 3 and page 5. For ECJ, see Box 1.1 ‘A Brief Timeline of Anti-Discrimination and Equal Pay Law in the UK’ on page 3 and page 4.

The logic of mandatory pay gap reporting is simple. It can identify whether a company's ethnic minority workforce is equally represented across the board from junior staff to the executive board. This occurs through aggregating the salaries of the majority and minority ethnic staff to see which is higher. If there is a disparity, then minority ethnic staff are not being promoted at the same rate as majority ethnic staff, and as such are potentially being discriminated against.

Of course, this sort of disparity could happen for a whole plethora of reasons, most of which are not motivated by racial discrimination. One example is if the ethnic minority staff were on average much younger than the white British staff, and were therefore in more junior positions and paid less. A second is that ethnic minority staff could, on average, be much more capable or educated than the white British staff, and thus have been promoted faster and therefore are, on average, paid more. A third is that the ethnic minority staff and white British staff in the company may have different preferred roles due to different personalities and interests and that this may result in different career paths within the company that lead to different pay discrepancies.

The age example is particularly pertinent in the British case. It is not unlikely that companies in the North East of England with 250 workers will have just a small handful of members of black staff — a group that is just 1.0 per cent of the region's population.⁵⁶ It is disproportionately likely that those one or two members of staff are junior staff — the minority ethnic population across the whole of the North East was just nine per cent in the 2021 Census,⁵⁷ but is 17 per cent across the region's schoolchildren in 2023/24, a standard consequence of demographic change — and thus would be expected to be paid substantially less.⁵⁸

Considering these factors, in order to accurately resolve whether the disparities identified are discriminatory, companies would also need to measure a set of control variables. In addition to the already collected gender, necessary controls would include age, obesity, religion, qualification level, experience and sexual identity at a bare minimum. They would also need to assume that unmeasured — and, in some cases, unmeasurable — characteristics such as motivation, preference, competence, conduct, ambition and punctuality had no effect. They would not just need to have no effect at an aggregate, national level across ethnicities, but, because of small sample sizes, they would need to have no effect at an individual level at every

company, because the reporting is being done at a company level. Alternatively, companies could try to measure these things, but it is extremely difficult to measure motivation, competence or ambition.

When measuring all of these things, it may be possible to identify likely cases of discrimination, where ethnic disparities are found after controlling for all other relevant variables. It is not likely that this level of information could be collected well, but it is possible. This is an extraordinary mountain of information to collect, and would be tremendously costly, bearing a large bureaucratic burden on companies. It would also risk removing the prerogative of the professional judgement of those making promotion decisions, which is itself an industry. However, the issue with this is more profound than either of these problems.

More worryingly, the solution relies on the adverse assumption of guilt until proven innocent. In the scenario above, companies need to illustrate comprehensively that they are treating those of different ethnicities entirely fairly in all circumstances in order to be found innocent of ethnic discrimination. If they cannot provide this burden of proof, they are found guilty.

As well as violating a foundational liberal principle, this acts to erode social trust. Innocence until proven guilty is not a barrier to justice but an expression of faith in society and in the general honesty of civic behaviour. Denying this is dangerous. Our fellow citizens will become unknown potential adversaries until proven friends, not trusted fellow countrymen until proven untrustworthy.

This is especially dangerous along ethnic divisions because it can tap into an individual's self-regard and natural warmth towards those more like themselves. This can lead to a specific mistrust: the mistrust of those of a different ethnicity. This is not a seed anyone should want to sow.

Rowing back from the solution of collecting evermore comprehensive data, we can limit the reporting to just gender, ethnicity and disability. This is a manageable reporting expectation. The problem with this is that it will be almost impossible to find sufficient evidence of discriminatory promotion practices within any given organisation.

In other words, you cannot properly establish whether disparities identified by mandatory pay gap reporting downstream indicate discrimination occurring upstream. Ordinary, expected inter-ethnic

disparities and genuine reprehensible racialised discrimination will be indistinguishable from each other under the proposed pay gap reporting.

This renders the Bill either ineffective or, more commonly, undiscerning. Innocent disparities may be perceived as discriminatory because insufficient care has been taken to properly understand them, and guilt may be assumed before it has been established. Real discrimination may remain undetected as, for example, organisations which are discriminatory towards ethnic minority groups in general but have higher pay given to staff of a favoured ethnic minority will be wrongly found innocent.

Targeting disparities will stimulate new discrimination

The worst unintended consequence of targeting disparities as a method of addressing discrimination is ‘positive discrimination’. As will be shown in the case studies of the Royal Air Force (RAF) and the Disability Business Forum, the use of hiring quotas for minority groups almost always has a negative effect. Although it may be known as ‘positive’ discrimination, its consequences are anything but.

2023 Royal Air Force recruiting and selection inquiry

The RAF recruiting and selection inquiry provides a helpful example of how a focus on disparity instead of discrimination in issues of ethnic and sex equality can lead to positive discrimination. This situation was not a matter of equal pay or pay reporting but of employment and progression quotas leading to unlawful discrimination contrary to the Equality Act. In this vein, the case study is indicative of the very real risk mandatory ethnic pay gap reporting presents.

In 2019, the RAF Executive Committee set a strategic aim to increase the diversity of the RAF inflow from the recruiting year 2020/21 to 2029/30. In particular, the committee wanted to achieve an air force that was 40 per cent women, 20 per cent Black, Asian and Minority Ethnic (BAME) and five per cent Lesbian, Gay or Bisexual (LGB) by 2030. They set incremental targets to achieve this, as seen in Table 1.2.

Table 1.2: Royal Air Force incremental diversity targets, 2020/21–2029/30

Inflow	20/21	21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30
Women	20%	22%	25%	27%	30%	32%	34%	36%	38%	40%
Ethnic Minorities	10%	12%	14%	15%	18%	18%	18%	19%	19%	20%

Source: Ministry of Defence (2023) *Non-Statutory Inquiry into Allegations of Institutional Bullying from Former Group Captain Recruiting and Selection*, p.12. Available at: <https://www.raf.mod.uk/documents/pdf/RAF-Recruiting-and-Selection-Non-Statutory-Inquiry-Report/>

The expressed motivation was that:

Improving our diversity is not only morally the right thing to do, it is mission critical. If we are to ensure that the most talented people are recruited and retained, if we are to harness the diversity of thought, skills and talent within the nation we serve and safeguard our nation's security, stability and prosperity, we must do more.⁵⁹

A lack of applicants made these targets extremely challenging to meet, especially BAME. In the first year, the targets were only closely met because some ethnic minority candidates intended for the following year were put forward, giving the numbers an end-of-year boost.⁶⁰

The next year, the ethnic minority target had to be revised down because there simply were not enough candidates to hire to reach the required target.

The pressure from within rose and legally ambiguous positive discrimination was actioned in an attempt to ensure that the targets were met against the tide the RAF were working against. This resulted in increased pressure within the RAF that discrimination was taking place, with one witness saying: 'My personal perspective was that we appeared to be offering earlier employment to people because of their ethnicity or gender; it didn't seem fair.'⁶¹

The inquiry noted that:

Staff at R&S [Recruiting and Selection] had felt angry and disappointed by the pull forward of female and EM [Ethnic Minority] candidates in RY [Recruiting Year] 20/21, because they believed that the decisions taken then had been morally and legally wrong; were not in the spirit of the values and standards of the Service; nor in the interest of the candidates themselves.⁶²

Irrespective of this, it was not until the Group Captain of Recruiting and Selection wrote a letter resigning her post in August 2022, explicitly stating that positive acts of discrimination took place, that the issues started to be resolved. Her remarkable letter stated that ‘during her tenure she had endured relentless institutional pressure to carry out overt acts of positive discrimination which she believed to be immoral, unethical and illegal’.⁶³

In the subsequent inquiry, it was concluded that these quotas had resulted in a total of 161 women or ethnic minority aviators being accelerated into training ahead of other candidates,⁶⁴ with the RAF eventually compensating 31 white men found to have been discriminated against.⁶⁵ The RAF furthermore acted contrary to the Equality Act 2010 by treating people with protected characteristics ‘more favourably’ than people without those characteristics.⁶⁶ The Shadow Board meeting in March 2022 concluded:

... the EM [Ethnic Minority] recruitment target was unrealistic, and they [Shadow Board] stressed the need to understand why people from EM backgrounds did not consider applying to join the RAF.⁶⁷

This is to not include the unintended secondary consequences of taking up an intentionally discriminatory hiring policy — which is difficult to predict. In the case of the RAF, on top of compensations and a formal apology from the new Air Chief Marshal, there was a shortfall in applications for Flight Lieutenant and Squadron Leader pilots in 2025 — although the RAF has strenuously denied any connection between the two events.⁶⁸

It is worth briefly noting that there is a growing number of case studies similar to the positive discrimination of the RAF recruitment process. In April 2025, the West Yorkshire Police was found to have temporarily blocked white applicants to increase ‘representation

from ethnic minorities'.⁶⁹ In August 2024, Thames Valley Police lost a discrimination case after three white officers were denied a promotion to improve the diversity of senior staff.⁷⁰ MI5, MI6 and GCHQ also host a summer internship scheme closed to white applicants.⁷¹

Ethnic discrimination of this variety is ever more common, and will only be incentivised by the proposed Bill. An extraordinary 41 per cent of white men aged 18–24 believe they are 'the least valued workers in my workplace', according to a May 2025 poll.⁷² This is hardly beneficial to creating a society where we judge people according to merit, skill and character, not the colour of their skin.

Disabled employees pay gaps

A second, and very different, unintended increase in discrimination has been highlighted by the Business Disability Forum (BDF), who criticise the 'many' unintended consequences of mandatory disability pay gap reporting.⁷³ The BDF has been very sincere that their critique is not because of ideological beliefs, admitting that 'in principle' they do not oppose reporting disability pay gaps.⁷⁴ However, thanks to the law of unintended consequences, they found that disability pay gap reporting causes worse outcomes for disabled staff.

The BDF's 'Great Big Workplace Adjustments Survey 2023' found that, of those who wanted to decrease their workload, 55 per cent of their respondents would consider decreasing their hours to help manage their disability or condition.⁷⁵ Employers that report a disability pay gap, however, often decline their requests for fewer hours because they know it would widen their disability pay gap.⁷⁶

This really is the worst of both worlds. The regulation is bad for the disabled employee, who cannot work his or her preferred number of hours. It is also bad for the employer, who wastes valuable company resources pointlessly massaging public figures.

Counterintuitively, the BDF finds, companies that invest in disability employment schemes have wider disability pay gaps than those that do not. Disabled employees are both likely to take up entry-level jobs and are less likely to join the senior leadership team.⁷⁷ Disability pay gaps, therefore, worsen outcomes for disabled workers while damaging business interests in the process. In the words of

the BDF report, reporting disability pay gaps ‘can inadvertently “incentivise” employers into non-inclusive behaviours which have a negative impact on disabled employees – the very opposite to what reporting seeks to achieve’.⁷⁸

While disability is a very different protected characteristic from ethnicity, some of these problems do match onto ethnicity, too. Employers may well be less willing to hire entry-level ethnic minorities if they know it will widen their ethnicity pay gap overall.

Generating discrimination with quotas

Admittedly, the Equality (Race and Disability) Bill does not come with explicit salary targets and quotas, but it does not seem a huge jump to suggest that this is its ultimate intention through the court of public opinion. This is precisely what has happened with the gender pay gap, as outlined by the Chancellor of the Exchequer, Rachel Reeves, who has pledged to achieve parity and end the gender pay gap ‘once and for all’.⁷⁹ Part of this plan regards forcing employers to create ‘action plans’ on how they intend to close pay gaps.⁸⁰ The pay gap data is intentionally publicly published so that the court of public opinion, or worse still, activist organisations claiming to work in the public interest, nudge employers to close their pay gaps.

This is equally the case with the new ‘right to equal pay’ – or mandated same pay for different work. In the Government’s consultation, it said, ‘it is clear that equal pay has still not been achieved’.⁸¹ Former Business Secretary Jonathan Reynolds also approved the 2025 Parker Review, which endorses ethnic minority targets for FTSE 100 boards.⁸² Despite all the warnings, the mindset of closing disparities through targets is well-embedded in the Government.

The Royal Air Force Inquiry provides a compelling example of how removing disparity, however nice it sounds, comes with the huge risk of discriminatory positive action. Disparities that exist because of something other than discrimination can only be closed, without a change in conditions, through discriminatory behaviour. Targeting ethnic pay disparity in companies is almost certain to result in ethnic discrimination to force a desired outcome. As the former RAF Group Captain of Recruitment and Selection found, it created a ‘toxic culture of chasing statistics’.⁸³

Ineffective at addressing ethnic disparities

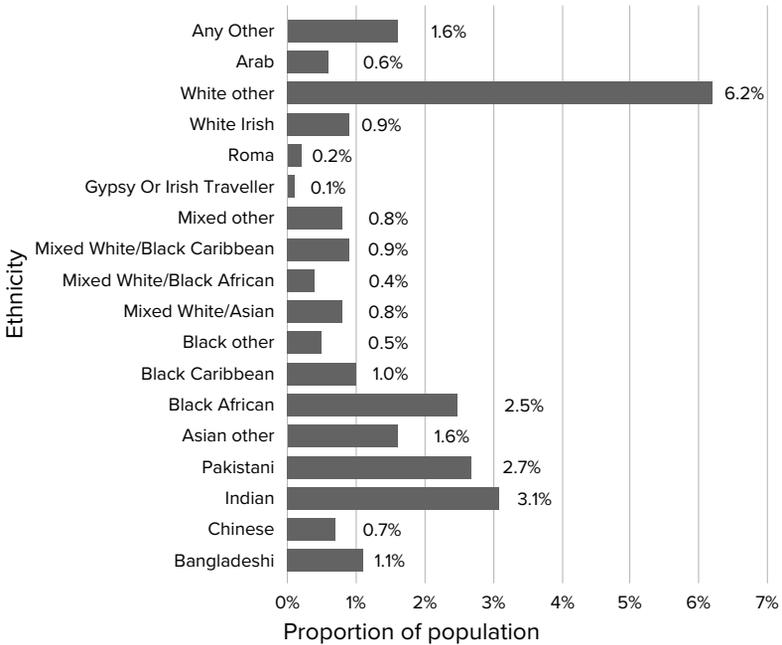
As well as finding innocent companies blameworthy and unintentionally creating more discrimination, mandatory ethnic pay gap reporting is also ineffective at addressing disparities. This is because the conditions upon which gender pay reporting is based are conditions that ethnicity can never adequately reflect. Ethnicity is ultimately far more complicated to report and reflect than gender, which only has two categories.

The mechanics of ethnic pay reporting

Irrespective of whether it was helpful or necessary, gender pay gap reporting as a legislative tool does come with some design advantages. Most obviously, it is binary, and these two groups account for close to half of the population each, throughout the country, with a similar age spread. This at least makes it possible to look at outcomes for male and female staff on defined, comprehensible and comparable terms.

In contrast, there are 19 official ethnic groups in the government's statistical classification, and, as is shown below, not only are most of these a small proportion of the overall UK population, but this share varies drastically across different regions of the country. To make conclusions from mandatory ethnicity pay reporting at a granular level would be difficult. To make conclusions across the national average is next to impossible. It is simply unfeasible to infer almost anything in terms of equal pay with sample sizes this small.

Figure 1.1: Population of England and Wales by ethnicity (excluding White British), 2021 census



Source: Gov.uk (2022) 'Population of England and Wales', 22 December. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/population-of-england-and-wales/latest/>

For an employer with 250 staff nationally who scarcely meets the threshold at which ethnicity pay reporting becomes mandatory, on average fewer than five workers for 14 of the 18 ethnic minorities can be expected. This problem is highlighted by Dr Tony Sewell's 2021 Government report into race disparities.⁸⁴

One solution to address the statistically insignificant groups is to cluster the 19 ethnicities into: Asian (9.3 per cent, or 23 per 250), Black (4.0 per cent, or 10 per 250), Mixed (2.9 per cent, or 7 per 250) and Other (2.1 per cent, or 5 per 250).

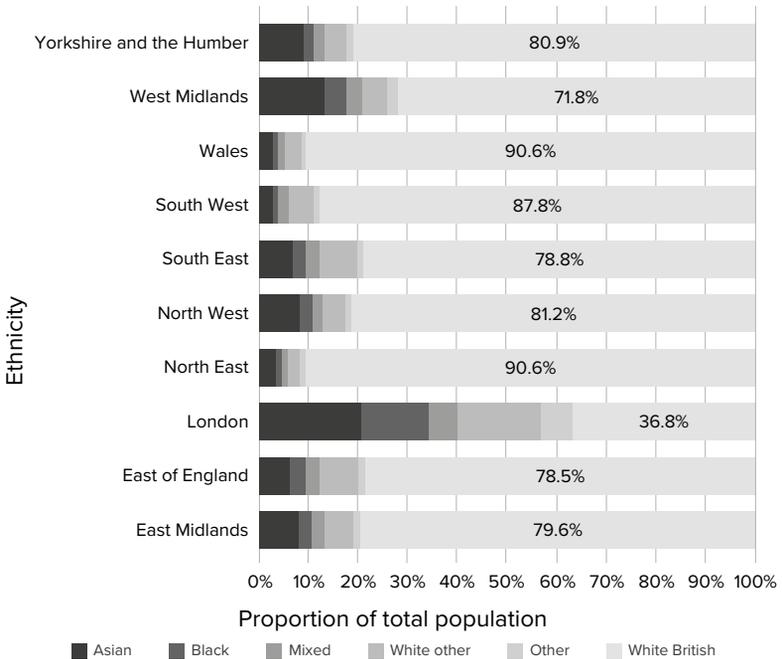
However, if anything, this would only act to cloud ethnic differences – such as the large discrepancies in outcomes between Bangladeshi, Pakistani, Indian and Chinese groups, or between Black Africans and Black Caribbeans. It also categorises completely different ethnicities together via ‘Mixed’ and ‘Other’. This is clearest in the cases Mixed White/Asian and Mixed White/Black African or Mixed White/Black Caribbean; lumping together vastly different cultures and histories under the all-encompassing blanket ‘Mixed’. Such categorisation is clumsy to the point of being derogatory.

This clumsiness is not unimportant, either. ‘Mixed White/Asian’ is a generally well-paid group while Mixed White/Black Caribbean is a generally low-paid group. Placing these groups together means that the point at which the group ‘Mixed’ has parity with the ‘White’ group will near-certainly not be the point at which either ‘Mixed White/Asian’ or ‘Mixed White/Black Caribbean’ reach parity. They will just average in the same place alongside the other ‘Mixed’ groups, nullifying the intention of the Bill.

In addition to these major clustering issues, such groupings would still not be nearly large enough for sample sizes to remain robust when taking into account large ethnic regional discrepancies across the country.

Figure 1.2 shows that although such groupings would have sufficient sample sizes in London, where the smallest group, ‘Mixed’, still has a 5.7 per cent population share (14 per 250, not great but workable), they would be entirely unrealistic in regions such as the North East, South West or Wales where ‘Black’, ‘Mixed’ and ‘Other’ each account for two per cent of the population or less.

Figure 1.2: Proportion of the population by ethnic group by region, England and Wales, 2021 census



Source: Gov.uk (2022) 'Regional ethnic diversity', 22 December. Available at: <https://www.ethnicity-facts-figures.service.gov.uk/uk-population-by-ethnicity/national-and-regional-populations/regional-ethnic-diversity/latest/>

Of course, the reporting could simply be White British versus 'BAME', with all distinctions within the minority ignored. Disparity data shows us clearly that this would obscure as much as it would reveal. None of this is to say that the data would not be interesting, but when considering the expressed intention to aid the diagnosis of cases of discriminatory disparities, it is quite clear that this does not work well.

Bringing BAME into parity with White British would mean nothing: it would mean an aggregate of 18 different minority ethnic groups had outcomes that averaged to the same point as the average for white British individuals. None of the substantial disparities across these 18 groups would even be acknowledged. No potential examples of discriminatory disparities would be revealed. As Dr Tony Sewell pointed out, BAME is a term with little meaning, 'held together by no more than what it is not.'⁸⁵

The Government’s suggested solution to this – mostly to protect the privacy of employees in line with the General Data Protection Regulation (GDPR) – is for employees to report all ethnic groups with 10 or more employees, and if not, report figures for just two groups.⁸⁶ This will be White British and non-White British in almost all scenarios. This solution hides as much as it highlights.

The mechanics of disability pay reporting

The Government recognised a similar problem with measuring disability in mandatory pay gap reporting. In its consultation, they recognised two methods for measuring the disability pay gap:

1. Measure the difference in pay between disabled employees and non-disabled employees – we call this a ‘binary approach’.
2. Measure the difference in pay between employees with different impairment types and non-disabled employees.⁸⁷

For option two, the Government suggested nine different measurable impairment types: vision, hearing, mobility, dexterity, learning, memory, mental health, stamina, and social or behavioural disorder.⁸⁸

The consultation concluded that, due to ‘the risk of individuals becoming identifiable, and greater complexity in calculations where people have multiple impairments’, the binary approach should be used to collect pay gap data.

On the face of it, this seems like a logical solution. According to the 2021 census, 18 per cent of people in England are disabled,⁸⁹ of which roughly half are in employment.⁹⁰ Measuring and comparing between one particular disability impairment, which probably makes up just one per cent of the total workforce, is statistically unworkable in most circumstances.

A binary approach to measuring disability, however, also poses its own problems. As the Business Disability Forum points out, removing binary notions of disability in the workplace creates ‘much less of a feel and culture of “them and us”, which in turn, allows for more inclusive behaviours to “take root” among people and colleagues.’⁹¹

Additionally, a binary methodology would mask as much as it would reveal. Someone with a mobility impairment, for example,

may expect a very different type of job and salary as someone with a debilitating mental health impairment in a mostly white-collar workplace, or a mostly blue-collar workplace.

Chapter 2.

A pathway towards better solutions

Defining disparity and discrimination

Much of the terminology relating to issues of social justice has become politically loaded on the left and right, so it is worth defining disparity explicitly: the state of being unequal.

Disparity is an outcome and is therefore downstream from actions. Disparity is not synonymous with inequality, which is a broader term that can relate to differences in any and all of treatment, context, opportunity and outcome, upstream and downstream.

Discrimination can be defined legally and conceptually. Legally, discrimination is separated into direct and indirect discrimination, according to the Equality Act 2010. For direct discrimination, the Equality Act states: 'A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.'⁹²

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. This is what the RAF fell foul of when discriminating against white men in their recruitment processes.⁹³

An indirect discrimination, meanwhile, occurs when 'a policy which applies in the same way for everybody has an effect which particularly disadvantages people with a protected characteristic.'⁹⁴

One example would be a rule specifying no beards at work, which could be indirectly discriminatory towards Sikhs, unless it could be shown as 'a proportionate means of achieving a legitimate aim'.⁹⁵

In his book *Discrimination and Disparities*, American economist Thomas Sowell provides three different, commonly used definitions of discrimination. Sowell outlines:

- a. A broad, non-prejudiced, definition, 'an ability to discern differences in the qualities of people and things, and choosing

accordingly'. For example, hiring someone because they displayed the most skill and competence.

- b. A narrow, more common understanding of discrimination, as 'treating people more negatively, based on arbitrary aversions or animosities to individuals of a particular race or sex'. For example, not hiring someone because of a dislike of their skin colour.
- c. Finally, a definition where 'individuals may be judged by empirical evidence on the group they are part of'.⁹⁶

Although similar, definitions B and C must be distinguished between. Definition C is not an irrational, prejudiced, 'taste-based' discrimination like definition B, but is instead rational and based on statistical evidence. Consequently, a higher quality of information can often address this form of discrimination.

A concept closely related to definition B is homophily, the preference for people like oneself. Of course, people can feel arbitrary race-based animosity towards those of the same ethnicity, however, it is not typical and is certainly not the focus of the impending Equality (Race and Disability) Bill. The focus of this Bill is specifically racial discrimination towards ethnic minorities from the majority white population, which is often a result of or related to homophily – especially in areas such as hiring and promoting staff, whereby the discrimination towards ethnic minorities is non-selection, as opposed to harassment or abuse.⁹⁷ Non-selection discrimination is effectively the same as homophilic selection.

This report seeks to address disparity and discrimination through these three distinct but related categories. Of course, there are grey areas involved, but they can be addressed when they arise. Appropriately responding to each requires separate solutions.

The difference between disparity and discrimination is most simply that discrimination is *ex-ante* treatment whereas disparity is an *ex-post* outcome. Discrimination before an event or decision will affect the outcome, but it is not the outcome itself. In this sense, discrimination is always 'upstream'. Disparity of outcome will have been caused by conditions beforehand, and is therefore always a 'downstream' consequence of a host of factors. Disparities do not, and cannot, fully inform us how they are created.

Disparity is neither a necessary nor sufficient indicator of discrimination. The existence of disparity does not confirm the existence of discrimination, and the absence of disparity does not confirm the absence of discrimination.

Groups can be discriminated against negatively, but, due to other factors, end up having equal or better outcomes. This is possibly true for British Chinese and British Indians who receive higher salaries than the national average.⁹⁸ Additionally, groups can receive no discrimination and end up with worse outcomes – for example, those beginning their careers or those living in lower-income areas may earn less without receiving discriminatory treatment.

It is worth qualifying this assumption. Differential, or unequal, treatment *is* a necessary condition for discrimination. Discrimination, after all, does require difference; if everyone were treated the same it would be impossible to have discrimination. As a consequence of this, some evidence of inequality in treatment is a necessary indicator of discrimination.

An indicator of discrimination is, however, not the same as discrimination itself. Without evidence of maltreatment, which mandatory pay gap reporting is not seeking to find, disparity should not be treated the same as discrimination. It is, if you like, a linguistic maltreatment of disparity to treat two distinct, but related, concepts as the same. Disparity and discrimination are like the relationship between cream and butter; the latter relies upon the former, but very much has its own distinct, upstream formation and disposition.

Explained disparities, unexplained disparities, discrimination and racism

The Sewell report, the Government's official 2021 review into race and ethnic disparities, noted that the term 'racism' often sits in an ambiguously articulated grey area between disparity and discrimination.⁹⁹ This is a considerable cause for concern. Firstly, when the term 'racism' is used to describe every observed racial disparity, it paints a picture of a society full of racial adversaries. This embeds a perception among ethnic minorities of a society set against them while inducing in the ethnic majority a sense of indignation and, in some cases, a reactive racial prejudice. Conversely, there can be a temptation to set such a high threshold to prove an act as being verifiably racist that real direct and indirect

racial discrimination that exists in Britain today is viewed as non-existent. Neither outcome is desired nor helpful for civil society.

This report focuses on racial discrimination and disparities affected by the Equality (Race and Disability) Bill and does not take part in speculating what does and does not constitute racism. Instead, this report takes it as self-evident that, as discrimination is illegal, immoral and inefficient, it should be contested irrespective of the threshold at which an act becomes racism.

In order to help clarify the relationship between disparity and discrimination, the Sewell Review also helpfully distinguishes between two different types of racial disparities, which it calls 'explained racial disparities' and 'unexplained racial disparities'.

Box 2.1: Explained and unexplained racial disparities

1. Explained racial disparities: this term should be used when there are persistent ethnic differential outcomes that can demonstrably be shown to be as a result of other factors such as geography, class or sex.
2. Unexplained racial disparities: persistent differential outcomes for ethnic groups with no conclusive evidence about the causes. This applies to situations where a disparate outcome is identified, but there is no evidence as to what is causing it.¹⁰⁰

One of the main reasons for this categorisation is to acknowledge that there exists a complex web of inequalities and differences between groups in the UK. Some of these, such as geographic inequality and different cultural traditions across different religious groups, are very obvious and easily identifiable. Many are much harder to identify or are as yet unknown. In the Government report, Dr Tony Sewell concluded: 'very few of them [racial disparities] are directly to do with racism.'¹⁰¹

Why definitions matter: ‘Explain or reform’

The 2017 Lammy Review into the treatment of ethnic minorities in the criminal justice system coined the term ‘explain or reform’ regarding taking action against discrimination. This principle has since become very influential in the racial disparity dialogue.¹⁰²

The concept is simple. If an ethnic disparity persists after controlling for other potential significant variables, then the relevant company or the government should take steps to close that disparity. This means that all ethnic disparities must either be explained by other variables or addressed. The *de facto* implication of such a concept is that unexplained racial disparities are to be viewed as racial discrimination.

This is an understandable conception. It is like Sherlock Holmes’ timeless assertion that ‘when you have eliminated all which is impossible, then whatever remains, however improbable, must be the truth’.¹⁰³ In this case, if you have controlled for all other factors, then whatever remains must be discrimination.

There are, however, two major problems with this methodology. Firstly, it requires explanations to be internally perfect, and secondly it requires them to be perfectly comprehensive. In other words, it assumes that you can perfectly control for the other impactful variables, and it assumes that you have comprehensively identified every other relevant variable.

Taking the first necessary assumption of the principle of ‘explain or reform’, we need regression models that are internally perfect. For ‘explain or reform’ to operate successfully, assuming that due diligence in attempting to explain is always being done, the analysis of the control variables, all the possible reasons for a disparity, must be infallible.

To give an example, we know that family structure has an impact on our employment prospects; children who grow up with both of their birth parents around and married to one another do, on average, better than other children.¹⁰⁴ To satisfactorily conduct ‘explain or reform’, we need to know *exactly how much* family structure impacts employment prospects. We also need to know that this impact is consistent over time, and we need to be sure that this impact is the same for all children of all ethnicities, and that it is unaffected by any immeasurable characteristics of the parents. This is obviously wrong — although marriages are more stable than

other relationships *on average* and two parents are better than one for children *on average*, these things are very far from being hard and fast rules.

The other major issue with ‘explain or reform’ is that it needs regression models to be perfectly comprehensive. To infer that a disparity persisted after controlling for relevant factors other than discrimination and must therefore be a consequence of discrimination, the list of control variables needs to be perfect. It cannot have any erroneous controls that bias the data, nor have any necessary controls missing. There can be no place for genuinely unexplained outcomes or certainly anything random.

Neither of these things change the fact that large unexplained social disadvantage, religious or ethnic disparities of any kind at a national level can provide a strong indication of the existence of discrimination in the country, especially when compared and correlated with genuine evidence of discrimination. The fundamental point is that *you can never perfectly explain* disparities at a company or individual level, and therefore fix discrimination at a company or individual level. It is not that Sherlock Holmes’ logic was wrong, but rather it cannot be implemented in this scenario where it is impossible to exclude every single other variable.

Addressing discrimination well

It is possible to identify and combat discrimination, but it must be done well. This short section will identify three principles for addressing discrimination better than through disparity. These principles will be used to develop and evaluate whether the Equality (Race and Disability) Bill adheres to them. The principles are targeting discrimination and not disparity, matching solutions to problems, and innocence until proven guilty.

Targeting discrimination, not disparity

The first and most important is targeting discrimination, not disparity. When disparity is targeted instead of discrimination, instances of discrimination are likely both missed and created. Closing non-discriminatory disparities is a necessarily discriminatory process — engineering an equal outcome across ethnicities where one would not take place requires the manipulation of specific ethnicities’

outcomes. This discrimination is just as serious as any other, as we saw with the RAF case study.

Leaving unaddressed discriminatory disparities is also a problem. If a group has achieved an equal outcome through additional merit whilst being discriminated against, this does not imply that the discrimination they faced was value-neutral or irrelevant. This discrimination is missed when targeting disparity.

It is also worth noting that when measuring the impact of solutions, the same should be done. The impact of the solution on discrimination, not on disparity, is what should be measured.

The proposed Equality (Race and Disability) Bill sadly fails this principle, focusing its attention entirely on disparities.

Matching solutions to problems

Matching solutions to problems is always a principle of good policymaking. The principle's application is simple. If applicants are being discriminated against in terms of who is being called for interview by employers, then the solution should specifically relate to the process of who is selected for interview. If applicants are being discriminated against in interviews, then the solution should relate to the interview process. If applicants are being discriminated against in promotion decisions, then the solution should relate to how promotion decisions are made.

This should not really need saying, but it is a principle that official government reviews and indeed the government itself have failed to adhere to consistently for the last decade.

Failing to do this invariably results in unintended consequences. Of course, unintended consequences are a risk in all contexts, but they are much more of a risk when solutions do not match problems. This is because if the solution addresses a variable that is impacted by the problem, but is not the problem itself, everything else that that variable is impacted by will also be manipulated, even if it should not be.

To take an example, if applicants being discriminated against in promotion decisions are addressed not by responding to how promotion decisions are made but instead by setting quotas as to who is promoted, then all of the other parts of the promotion decision-

making process are manipulated. Most obviously, potentially fair decisions on the grounds of competence, qualification, ambition or experience may be avoided. This can be avoided by simply matching solutions to problems.

The usual implication of matching solutions to problems, when combined with the fact that discrimination is an upstream problem, is that solutions to this issue should be *addressing treatment, not outcomes*.

The Equality (Race and Disability) Bill also performs poorly on this principle. Enshrining the full right to equal pay for ethnic minorities is not based on any evidence of unlawful unequal pay, so it proposes a solution with no problem given. Mandatory ethnic pay gap reporting provides a solution matched to the problem of insufficient data on exactly where pay disparities are. Targeting discrimination is far better than targeting disparities.

Innocence until proven guilty

The third and final principle, and another that is true in general, but often missed in this topic, is innocence until proven guilty. One should not be assumed discriminatory until proven otherwise; rather they should be assumed fair until proven discriminatory.

This is absolutely not to say that safeguards should not be placed to avoid discrimination. Possible solutions are a hugely valuable tool, whether or not discrimination has been proven. It is to say, however, that accusations of guilt without compelling evidence are neither a fair nor effective way of addressing discrimination. Innocence until proven guilty is not an arbitrary sequencing of justice, it is a fundamental tenet of a high-trust society and a necessary component of a fair legal process.

As well as violating a foundational liberal principle, guilt until proven innocent erodes social trust. Innocence until proven guilty is an expression of faith in society and in the general honesty and goodness of civic behaviour. Denying this proposition is fundamentally dangerous. Our fellow citizens become unknown potential adversaries until proven friends, rather than trusted fellow countrymen until proven untrustworthy.

Solutions should never require companies to prove their innocence without proof of guilt. Regulation to safeguard against the risk of guilt

is often helpful, but unevidenced accusations that need only not be quashed in order to be sustained are an extremely dangerous and inflammable precedent to set.

The proposed Equality (Race and Disability) Bill fails this in respect to the ‘full right to equal pay’, insofar as the Next judgment shows that organisations can be found not to pay people equally despite there being no evidence of direct discrimination.

It is worth briefly noting that this has already occurred and thus follows a dangerous precedent. The 1999 Macpherson Inquiry, into the Metropolitan Police after the racially aggravated murder of Stephen Lawrence, said, ‘In this Inquiry we have not heard evidence of overt racism or discrimination’.¹⁰⁵

Macpherson later declared it was ‘primarily apparent’ that the Metropolitan Police were institutionally racist.¹⁰⁶

Similarly, the more recent 2020 Williams Review into the Home Office after the Windrush scandal concluded:

*While I am unable to make a definitive finding of institutional racism within the department, I have serious concerns that these failings demonstrate an institutional ignorance and thoughtlessness towards the issue of race.*¹⁰⁷

This Bill would simply create more such unevidenced judgments in specific parts of the public sector and into the rest of the Government, the private sector, and beyond.

There are plenty of promising methods to address discrimination that can be taken within these three principles, but the proposed Bill does not appear to keep to any of them. This is not to propose inaction as such — surely itself a failing of the second principle, but wise and considerate action instead.

* A helpful discussion on the Macpherson Inquiry is: Green, D. (Ed.) (2000) *Institutional Racism and the Police: Fact or Fiction?* Civitas. Available at: <https://www.civitas.org.uk/publications/institutional-racism-and-the-police/>

+ The Williams Review is discussed in Norrie, R. (2020) *How we think about disparity: and what we get wrong*, Civitas. Available at: <https://www.civitas.org.uk/publications/how-we-think-about-disparity/>

The free market solution: Do nothing

It is worth briefly reflecting on one final solution offered by some free marketers: do nothing. Libertarian economist Milton Friedman favoured this as the solution for discrimination in the workplace. As he wrote in *Capitalism and Freedom*, preferential discrimination is inefficient and therefore puts the racist businessman at a competitive disadvantage:

*A businessman or an entrepreneur who expresses preferences in his business activities that are not related to productive efficiency is at a disadvantage compared to other individuals who do not. Such an individual is in effect imposing higher costs on himself than are other individuals who do not have such preferences. Hence, in a free market, they will tend to drive him out.*¹⁰⁸

Friedman's argument should not be misunderstood. It is not that Friedman is opposed to combating discrimination — far from it. He acknowledges, in the heat of the American civil rights movement in 1962, that the development of capitalism has been accompanied by reductions in discrimination.

While this may be true, it avoids the obvious question: is light anti-discrimination regulation really too great a burden for the market to bear? To oppose such legislation, one must argue that there is a good reason for an employer to pay someone less simply because they possess an immutable characteristic.

While perhaps laudable to want the least regulation necessary, this report agrees with such sentiments. While we may oppose the Equality (Race and Disability) Bill, we are not opposed to equal pay discrimination legislation altogether. The British anti-pay discrimination legislation that was passed in the immediate decades following Friedman's book in the 1960s and 1970s represented 'good law', and did not impose too great a regulatory burden on businesses. It was only when the European Community intervened and extended British law to encompass non-treatment-based discrimination that the law transformed into something altogether different.

Chapter 3.

Damaging for growth and good governance: equal pay law and efficiency

One important aspect of the Equality (Race and Disability) Bill is the effect it will have on economic growth and the conditions for good governance. In our current economic context, the impact of policies on growth and public finances is vital, as the Government rightly stresses. The 2024 Labour Party manifesto highlighted that its number one missional priority was to ‘Kickstart economic growth’,¹⁰⁹ a priority the Government has repeatedly reiterated since the general election in both the media and Parliament.¹¹⁰ If the evidence of Britain’s lacklustre growth since 2008 is anything to go by, this priority will likely be extremely difficult to meet.¹¹¹

Similarly, Labour’s manifesto noted that Britain had been let down by a lack of long-term strategic thinking in government, resulting in decisions being made from crisis to crisis. Labour promised to end the ‘chaos’ and rebuild trust through a reliable, reforming Government of the people.

Beyond mere words, the government has taken some quite serious steps to tackle these particularly prickly challenges. Most importantly for this report, the Government demonstrated some willingness to change the Employment Rights Bill to ease difficulties for businesses, setting a precedent that could be followed with the Equality (Race and Disability) Bill.¹¹²

This is not to comment on whether the Labour Government’s priorities are in order, but to note that taking growth seriously is clearly a high priority in both word and deed. Evidently, Government environmental and employment policy can be shaped to foster greater growth. The obvious question to ask is, therefore, where does the proposed Bill fall into Labour’s mission for growth and good governance?

Equal pay and good governance

The most immediate effect of the proposed Bill is the payouts large organisations will have to pay if they fall foul of the law. This is not something that will only affect the private sector – Birmingham City Council, the largest local authority in Europe, was effectively declared bankrupt primarily because of a gender equal pay claim in September 2023.¹¹³

Birmingham City Council, bankruptcy, and bin strikes

Unlike the Next case, Birmingham City Council's liabilities were not decided in open court, but by agreement with the trade unions UNISON and GMB.¹¹⁴ The estimated cost of the equal pay claim totals of over £400 million are huge sums compared to its annual revenue of about £750 million a year.¹¹⁵

This recent and giant equal pay claim, which resulted in a section 114 effective bankruptcy notice, is remarkably not the only pay claim the Council has faced.¹¹⁶ Since 2010, Birmingham has paid £1.4 billion in equal pay claims.¹¹⁷ Birmingham's current equal pay liabilities are so large that the Council estimated in 2023 that they increase by between £5 million and £14 million per month.¹¹⁸

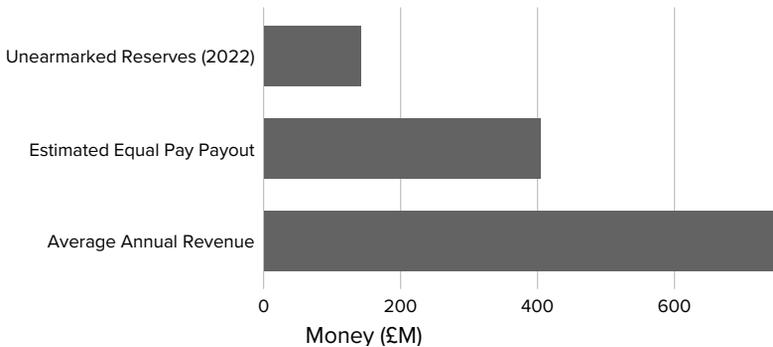
As with Next, the equal pay claims were not motivated by discrimination in treatment by the Council, but rather unequal pay between jobs in the Council predominantly held by women, and those predominantly held by men. In the case of Birmingham, primarily male refuse and road workers benefited from bonus schemes not offered to the primarily female in-house staff.¹¹⁹ During lockdown, in order to reduce Covid transmissions, the Council introduced a practice that allowed the predominantly male workforce 'to leave work early and still get paid for a full shift', but did not offer it to more female-dominated jobs.¹²⁰ This was believed to be contrary to the Equality Act 2010, and is the root cause of the recent dispute.

Unfortunately, we have very few further details of the case as neither the unions nor the Council have released the precise reasons behind the huge payouts. Analysis by the Audit Reform Lab argued that the original £760 million payout figure is a 'worst case' scenario – and a 'best estimate' of £250 million should have been quoted in the section 114 bankruptcy notice. Birmingham's auditor,

Grant Thornton, disputed this claim.¹²¹ Birmingham City Council draft statement accounts released in December 2025 for the financial year 2023/24 reduced the estimated cost to £404 million. There is, consequently, a great degree of speculation, or murkiness, behind the cost and legality of the case. The effects, however, have been notable and manifest.

The Council, upon revealing the scale of the equal pay claims, admitted it was ‘one of the biggest challenges this council has ever faced’.¹²² Examining Birmingham’s finances, this statement does not seem wide of the mark.

Figure 3.1: Birmingham City Council finances



Source: Birmingham City Council (2024) ‘Statement of accounts 2023/2024’. Made with Datawrapper. Available at: https://www.birmingham.gov.uk/downloads/file/31117/statement_of_accounts_20232024

The enormity of the final claim of £404 million is visualised above. The payout is over half the total revenue the Council receives each year, and cannot be paid from Birmingham’s reserves.¹²³ The Council’s recorded unearmarked reserves in 2022 were only £141 million.¹²⁴

This level of payout is not conducive to good governance, healthy democracy or fostering conditions necessary for growth in Birmingham. Instead of elected local councillors controlling the Council, Westminster-sourced commissioners are now wholly responsible for governance, strategy and finance, as a direct result of the section 114 notice.¹²⁵ In February 2024, the Westminster-sourced commissioners announced an ‘unprecedented’ budget,

with £300 million of savings to be found.¹²⁶ 600 job cuts were anticipated, the arts budget cut to almost nothing, streetlights dimmed, and bin collections made fortnightly. There were cuts to children's services, adult social care, homelessness prevention and youth services. Council Tax, meanwhile, rose by 7.5 per cent in 2025, with Birmingham having sought special dispensation from the Government to raise Council Tax by as much as 9.99 per cent for two years in a row.

In the spring of 2025, Birmingham City Council's woes slumped even further as a bin strike directly linked to equal pay claims hit the headlines across Europe.¹²⁷ A 'major incident' was declared at the end of March as 17,000 tonnes of rubbish were left uncollected on the streets.¹²⁸ Among the media fanfare, agency workers were filmed running away from rats,¹²⁹ waste was piled seven feet high in some city streets,¹³⁰ children were seen playing among rubbish,¹³¹ army experts were summoned to help the Council in office-based roles,¹³² and a 22-inch rat was caught by a pest controller.¹³³ To all intents and purposes, it was a deeply embarrassing strike with severe consequences for financial and waste management competence. One local businessman told *The Guardian* it was like living in 'a third world country'.¹³⁴

The root cause of the strike was totally and unequivocally linked to equal pay for equal value legislation. The trade union Unite has repeatedly made it clear since December that strike action 'is the result of the council's decision to abolish the safety-critical Waste Recycling and Collection Officer (WRCO) role'.¹³⁵ Unite says the WRCO role offers up to £8,000 pay progression and safety expertise to an 'often dirty and dangerous job' – the Council claims it is just over £6,000.¹³⁶ 150 workers will receive pay cuts in what is universally considered a physically demanding and gruelling job that only pays slightly more than minimum wage.¹³⁷ The removal of the role also ends fair pay progression for hundreds of others.¹³⁸

Birmingham City Council, however, have made it clear that they will not consider reintroducing the WRCO role as it 'would re-open an equal pay liability'.¹³⁹ The reason for this is that bin workers are overwhelmingly male. Although there are no official statistics on this, if it is anything like construction or building, it could be up to 98 per cent.¹⁴⁰ Certainly, in most Unite-released photos of the Birmingham strike, every single identifiable person is male.¹⁴¹

In this situation, it is hard not to sympathise with the ambitions of Unite the Union, which represents the striking binmen. After all, it is not the binmen's fault that an already tough job has potentially been made even less financially rewarding through equal value pay legislation. Equally, it is just as hard not to sympathise with Birmingham City Council. Their reputation has been severely damaged through claims of financial incompetence. It is right that they do whatever possible to protect their finances. In this case, causing tonnes of rubbish to be left on Birmingham's streets to avoid more bankrupting equal pay claims is understandable, if regrettable.

The Birmingham bin strike, metaphorically speaking, has been caused by an unstoppable force — the trade unions — meeting an immovable object — the equal pay legislation. Until there are reforms, there is no obvious solution to this impasse.

The effectively bankrupt Birmingham City Council, however, is just the tip of the iceberg. Glasgow City Council also paid an even larger £770 million equal pay settlement to 19,000 workers in 2022.¹⁴² Five other Scottish Councils, two Welsh Councils, Sheffield, Coventry, Sunderland, Barnet, Bradford, Bristol, Brighton, Southampton and Cumbria Councils are all threatened with claims, with the number increasing by the month.¹⁴³ One in four councils in England say they are 'likely to have to apply for emergency government bailout agreements to stave off bankruptcy in the next two financial years (2025/26 and 2026/27)', according to the Local Government Association.¹⁴⁴ The extension of equal pay claims to ethnicity would only worsen the problem and bankrupt more councils, despite there being no findings of direct discrimination.¹⁴⁵ Remarkably, Birmingham City Council has one of the most even gender pay gap figures in the country, with women earning just 1p less for every £1 earned by men in 2023, according to official figures.¹⁴⁶

Below is a summary of 58 cases of local authority equal value pay claims we have found, dating back to the early 2000s. The full list including each local authority is in the Appendix. The total back pay figure of £3.03 billion is likely an extreme underestimation, with almost half of the equal value pay claims figures either uncertain or unknown. GMB Union recently announced that it settled £1.01 billion for female council workers in just six local councils, further indicating the figure is an underestimate.¹⁴⁷ Most local authorities do not list the cost of their equal pay claims in their statement of accounts. It does, however, show the enormous cost of equal value pay claims which have been borne by the taxpayer.

Table 3.1: Summary of local authority equal value pay claims

Number of known claimants:	75,695
Number of known local authorities with equal value pay claims:	50
Total known cases of equal value pay claims:	58
Total estimated cost equal value pay claims:	£3.03 billion

See the methodology and full list of cases in the Appendix on page 63.

Given the enormous size of these equal value pay claims, and the likelihood of an extreme underestimation of this figure, a DOGE-style commission in each local authority to highlight the amount spent on equal value pay claims should be established to create the most accurate figure.

The payout challenge faced by the private sector may be even more difficult. Businesses are not protected from complete insolvency like local authorities, nor are they guaranteed income by taxation. As we know, retailer Next was stung by an equal pay claim last year. If Next loses in the Court of Appeal, it faces a £30 million payout.

Next: Equal pay more costly than higher taxes

Next's £30 million payout averages at just under £8,300 for each of the 3,605 claimants. This is, on the whole, a small number. As with many retail businesses, the majority of Next's staff are part-time, and the claimants include former staff, as well as current workers. From their 2024 Annual Report, it would appear Next employs

44,081 staff, with 70 per cent being women.¹⁴⁸ We can calculate, then, that less than 10 per cent of Next's current female workforce are participants in the equal pay claim.

As with Birmingham City Council, Next is just the tip of the iceberg of claims. Leigh Day, 'a law firm established to combat injustice',¹⁴⁹ lists no fewer than 109,741 clients from Asda, Tesco, Sainsbury's, Morrisons and Co-op making equal pay claims as of January 2025.¹⁵⁰ Next's 3,605 claimants, by comparison, is the smallest number of the lot. Asda's payout, the largest of the group, is expected to be £1.2 billion, with payouts of about £20,000 per person, according to Leigh Day.¹⁵¹ Compared to Asda's pre-tax profit of £180 million in 2023, this is an extremely weighty sum indeed.¹⁵²

The number of claimants has also increased. In January 2024, Next listed 2,500 equal pay claims.¹⁵³ Since then, the figure has climbed by 40 per cent. Participating trade unions have posted online claim forms for members to fill in, streamlining the process. Online campaign websites even advertise the Next case as a reason to suspect more successful equal pay claims.¹⁵⁴

With equal pay cases gathering increasing media interest, there is legitimate reason to suspect that the number of eventual claimants will be higher than Leigh Day's figures for last year.

For Next, the £30 million payout is comparatively small compared to their impressive 2024/25 pre-tax profits of £1.05 billion.¹⁵⁵ Next is, however, an extremely successful FTSE 100 business. Their £1 billion pre-tax profits are the highest on record. Many other British businesses have struggled, especially since the start of lockdown in March 2020.

Having said that, £30 million is still a significant dent in Next's operations. In 2024, Next calculated that a one per cent price increase on 'like-for-like' garments would make £13 million, meaning a price increase of 2.3 per cent across the board roughly equals the total equal pay claim.¹⁵⁶ Were the proposed Bill passed, and equal pay for equal value work extended to race, more companies and Councils would be affected, with far more significant consequences on their balance books.

* This figure is reached through the assumption that a 2.3 per cent increase in prices would yield a profit increase of the same margin as 1 per cent, as mentioned in the Next half year results. Multiply £13 million by 2.3 = £29.9 million (nearly £30 million), the value of the equal pay claim.

Despite the clearly considerable cost of the £30 million payout, Next has made it abundantly clear that the greatest impact on the business is paying retail and warehouse staff equally for different work.¹⁵⁷

The financial cost of paying different jobs the same

The court's imposition of paying different jobs the same completely changes the labour market. It replaces the use of supply and demand to determine salaries and ushers in equal pay for different work.

Effects of different jobs, same salary on Next

The consequences of forced equal pay for Next are immense. 'Inevitably some of our stores will no longer be viable if this ruling is upheld on appeal', Next said in its 2024 half-year report.¹⁵⁸ Next further stated that, 'Materially increasing store operating costs will result in more shops being closed when their leases expire, and will materially impede our ability to open new stores going forward.' In other words, Next's ability to grow and employ people, many on the lower ends of the income spectrum, will be seriously hampered if the retail staff must be paid the same as the more sought-after warehouse staff.

This is due to the laws of supply and demand. The company said:

*If, for many people, warehouse work is less attractive than work in stores [as the evidence before the Tribunal showed] ... how can a warehouse attract the number of employees it needs?*¹⁵⁹

This is especially concerning as the warehouse gathers a growing portion of Next's profits. There has been, as Next CEO Lord Wolfson put it, a 'dramatic shift to increased online shopping'.¹⁶⁰ In 2004, Next's retail stores made 72 per cent of total sales and 70 per cent of the company's profit. In 2024, Next recorded that retail made up 30 per cent of sales and just 19 per cent of profit.¹⁶¹

In fact, Next's retail sector is in comparative decline. In January 2026, Next stated that its UK retail stores' sales grew by 3.5 per cent compared to the UK online growth of 8.8 per cent and international

online sales growth of 33 per cent.¹⁶² Next's main route to future growth is the overseas market. As Next itself believes, 'following the money' is the best avenue of growth.¹⁶³

For workers on the lower end of the income spectrum, these structural changes are worrying. Next, much later than many competitors, has started to shift towards self-service tills at shops, and reports more applicants for retail jobs.¹⁶⁴ As a thriving business, Next is in the fortunate position of not instigating a round of redundancies but plans to reduce the number of jobs through the natural turnover of staff.¹⁶⁵ Other similar companies are not in that position.¹⁶⁶

One wonders, on the basis of profitability, why Next would continue to have a considerable retail presence if it loses in the Court of Appeal. Next's profitability, after all, is only 'protected by the fact that Retail is a relatively small percentage' of company profits, according to its own 2024 report.¹⁶⁷ Commenting on the possibility of store closures from the equal pay ruling, Lord Wolfson, the Next CEO said:

*We're not threatening to do anything. It is just pointing out the reality of store openings and closures. You wouldn't expect a retailer to renew a lease in a shop that's making a loss.*¹⁶⁸

From the point of view of Next, all the equal pay ruling achieves is an accelerated transition from retail to online. After all, the online arm now comprises the majority of sales and almost the entire expected future growth of the company. Enacting equal pay for equal value would not even reduce discrimination – Next was found not to deliberately set lower pay rates because of gender.¹⁶⁹ It would be of no perceivable benefit to UK plc. How can the Government aim for growth when its proposed Bill effectively asks retailers like Next to make diminishing profits in order to ensure staff are paid the same amount for different jobs?

Effects of different jobs, same salary in supermarkets

Next is, fortunately, in a healthy position. Its profit margins are 16.6 per cent and 8.9 per cent for online and retail, respectively.¹⁷⁰ Its pre-tax profit is £1.01 billion.¹⁷¹ Next has the financial headroom to make less profit. Other retailers facing equal pay litigation are less fortunate.

Supermarkets have a smaller profit margin than is often understood — an average of just 1.8 per cent during the height of the cost-of-living crisis in 2023,¹⁷² and an astonishing 0.7 per cent for discounters (Aldi, Lidl) in that period.¹⁷³ This has since climbed to three per cent under the most recent estimates.¹⁷⁴ Despite being much larger business, their total profits are not much greater. Tesco's pre-tax profit is £2.2 billion, whereas Aldi's is £536.7 million.¹⁷⁵

Equally, the cost of wages for supermarkets can be vast. Tesco, for example, employs 312,000 people in the British Isles, with a total wage bill of £7 billion.¹⁷⁶

It is hard to guess what the consequences of equal pay are for supermarkets, but it will be much worse than for a mid-market clothing business like Next. It is undoubtable that paying retail and warehouse staff the same would make them less competitive and profitable, with fewer opportunities to grow as a consequence. Unlike Next, Tesco is not just a mid-market brand, but the self-claimed cheapest full-line grocer that caters essential foods for all parts of society.¹⁷⁷ Raising prices, even by one per cent, will have very real consequences on the poorest people's food expenses.

Worse, Tesco's transition to online sales is not as simple as a clothes shop like Next. Only 13 per cent of Tesco's total sales are online, according to their most recent accounts.¹⁷⁸ Tesco simply cannot transform into a majority or wholly online-based business. Indeed, a wholly online Tesco business would likely have negative wider ramifications for wider civic society as an affordable food provider for millions. In an age of 'battered' high streets and hollowed city centres, why would anyone want to incentivise businesses leaving the physical retail sector?

Too much red tape? Mandatory pay gap reporting

The proposed Bill will add more regulations to every business with more than 250 employees to its name. Although we do not know the precise consequences, we can extrapolate the impact of regulations from the gender equal pay legislation had on businesses to estimate what the regulatory cost is for businesses.

As the Government's lead civil servant on ethnicity pay gap reporting has stated, the mandatory racial and disability pay gap reporting will be aligned 'as much as possible' with the 2017 gender pay gap legislation.¹⁷⁹ Therefore, to better understand this regulation, it can

be explored through the Government's gender pay gap statutory guidance.

To understand this guidance, I have pigeon-holed the guidance into two separate categories: 'nannying ideas' and 'contested recommendations'. Let's examine each of these in turn.

The first group is 'nannying ideas'. These are nice, if a little belittling, bureaucratic ideas. For example, in the statutory guidance, the Government recommends giving part-time employees the 'opportunities to progress' and good 'support' so that they are more likely to stay.¹⁸⁰ They recommend examining the gender balance of job promotion applicants, recording who is leaving the organisation and analysing the differences in performance scores.¹⁸¹ These are positive, if anodyne, ideas that are hard to disagree with, but are perhaps beyond the expected remit of Government.

The second group is 'contested recommendations'. It is far from certain that these non-mandatory ideas are positive either for the company or for combating discrimination. Perhaps the most egregious example is for companies to set a 'specific, time-bound target' to make your organisation more inclusive.¹⁸² As happened with the RAF, time-bound targets can create a 'toxic culture of chasing statistics' and far greater amounts of discrimination against groups not being sought.¹⁸³

Another contested recommendation is offering unconscious bias training, 'to make people aware of any harmful unconscious biases they may have.'¹⁸⁴ Unconscious bias training, however, is rooted in critical race theory and often creates more resentment and racial stereotyping.¹⁸⁵ It is, in other words, an extremely dangerous and counterproductive measure to impose upon employees in the workspace.

'All jobs', the Government also recommends, should have 'flexible working where possible'. While perhaps a less controversial suggestion, it does somewhat contravene the civil service's own policy for 60 per cent minimum office attendance, although the Government does admit flexible working is not possible with a 'strong business reason' against it.¹⁸⁶ No reason is given why flexible working would decrease the gender pay gap. Flexible working is therefore another deeply contested recommendation.

A simpler recommendation from the Government is the appointment of diversity managers to executive positions to develop diversity strategies.¹⁸⁷ While a seemingly virtuous idea, every organisation must ultimately choose what strategies and actions it wishes to prioritise. An executive diversity appointment will transfer resources that may have been used to grow the organisation into diversity policies. By recommending the appointment of diversity managers to executive positions, the Government implicitly recommends the devaluation of growth for businesses.

The final contested recommendation is the production of a 'supporting narrative' and 'action plan' to supplement the mandatory reporting.¹⁸⁸ Presumably, this would include the other contested recommendations the Government gives to reduce the pay gap, although very little detail is given. As we have ascertained, many of these recommendations are not helpful for a company to combat discrimination, let alone grow and succeed.

While all 'contested recommendations' of the statutory guidance are non-mandatory, the third and final group are 'damaging regulations', which are a legal requirement. This is a potentially growing list through the proposed Bill. The Government consultation asks whether all employers should be required to produce an action plan for reducing inequality for ethnic minorities and disabled employees.¹⁸⁹ The Government have also separately said they want to introduce this for gender, too.¹⁹⁰

This is on top of the publishing of gender pay gap data, which must be available for three years online. This data must be supplemented by a written statement, with the threat of legal involvement from the Equality and Human Rights Commission (EHRC), if inaccurate or untimely data is reported.¹⁹¹

This data must cover:

- mean differences in hourly pay
- median differences in hourly pay
- percentage of employers in each quartile of pay
- mean differences in bonus pay
- median differences in bonus pay
- percentages of employers receiving bonus pay
- the breakdown of the workforce by ethnicity.

It is, on the whole, an additional regulation most organisations do not presently bother to cover,¹⁹² that Civitas research has previously shown makes almost no impact towards reducing the gender pay gap.¹⁹³ It is not even known whether reducing the gender pay gap is a good thing, necessarily.

The pay gap reporting itself is not without a financial burden on companies. The Equalities Office's own impact assessment ahead of the 2017 mandatory gender pay gap reporting legislation found that it would be a net annually recurring cost to businesses of £3.8 million.¹⁹⁴ The initial cost of implementation, the assessment said, would be £1.3 million.

Pay gap reporting is hardly essential. This was shown when the Office for Equalities, then under the ministerial oversight of Liz Truss, and with the approval of the Equality Human Rights Commission, decided to suspend the enforcement of the gender pay gap in 2020, and delay it by six months in 2021 because of 'unprecedented uncertainty and pressure'.¹⁹⁵ By default, therefore, there are more important priorities for the 10,000 businesses affected by the gender pay gap reporting. Today, 81 per cent of businesses do not self-report ethnic pay gap statistics, although this number has decreased over time.¹⁹⁶

Professional services and the DEI industry

Happily for businesses, the diversity, equity and inclusion (DEI) industry is on hand before legislation has even been implemented. PwC, the world's second-largest professional services company, offers a 'multidisciplinary team' to prevent 'extensive reputational damage' and the 'costly' legal ramifications of not preparing the pay gap reporting.¹⁹⁷ PwC claims it usually takes between six to 12 months to review policies, make systems changes, implement data privacy notices and communicate carefully.¹⁹⁸ There are seven steps PwC recommends for businesses:

1. Collect diversity demographic data.
2. Job levelling. Review job levelling structures.
3. Pay gap calculations. 'Collaborate' with PwC's 'global team of experts' to calculate the diversity pay gap.
4. Understand what's driving pay gaps.
5. Assess equal pay risk. Conduct an equal pay review.

6. Transparency and voluntary disclosures. Make disclosures beyond the legal requirement.
7. Create an action plan. This is essential for ‘meaningful change’.

As one can see, PwC recommends ‘showcasing a progressive approach’ to ‘show what you are doing’ to create an inclusive culture. They suggest checking that HR systems can collect the data and that you have the right permissions from staff. They further advise addressing the pay gap before it is mandated by law – and finding areas ‘masked’ by the data. For instance, running a warehouse in poorer white areas could hide a pay gap in the head office.¹⁹⁹ PwC even recommends going beyond what is mandatory; the company itself self-reports its ethnicity, socioeconomic background, disability and sexual orientation pay gap, and even disaggregated ethnicity gaps into individual categories.²⁰⁰

PwC warns potential clients that pay gap reporting is even more confusing for multinational businesses. ‘Unfortunately,’ PwC’s employment lawyer remarked in a webinar, ‘it gets even more complicated than having to comply with this Bill in the UK when it comes in when you’ve got European employees complying with the EU pay transparency directive, CSRD’ (Corporate Sustainability Reporting Directive), and individual EU member state rulings.²⁰¹

PwC has taken its own medicine. To reduce their own pay gaps, PwC has instigated ‘inclusive leadership programmes’, rewards for partners who have contributed towards diversity targets, and progression coaches for female and ethnic minority directors.²⁰²

Like any business, PwC intends to upsell its products, which its DEI Reporting and Regulation Director, and Diversity, Equity and Inclusion Manager have created. There is no shame in going above and beyond what is necessary for your clients.

On the other hand, PwC is increasingly representative of the growing British DEI industry. They are far from alone in offering their services to organisations to become more inclusive. This is hardly surprising as it is increasingly difficult to comply with DEI legislation.

Same pay, different work regulation

Admittedly, the mandatory pay gap reporting is relatively straightforward. Leaving aside its unnecessary nature, regressive outcomes, contested recommendations and action plans (whatever that may look like), it is at least a reasonably simple document to complete. The same cannot be said for the same pay, different work legislation, which is extremely complicated. After all, as happened with Next, a company can be completely free of direct discrimination yet still be found to have breached the law.²⁰³

Legally speaking, Next has always had an optimistic opinion of the equal pay court case. Prior to the judgment, Next thought it was ‘possible (but not probable)’ they would lose.²⁰⁴ Post-judgment, Next stated that it is ‘possible (but unlikely)’ that it will lose the appeal.²⁰⁵ As Next admit, however, it is a ‘legally complex’ case. If the local authority case studies are anything to go by, there is plenty of scope for falling foul of the law.

This underlines the regulatory burden of the proposed legislation. As Ryan Bourne wrote in *The Times*, equal pay had led to businesses and public employers having to:

*... constantly second-guess how pay differentials affect many groups, dreading the day that a judge might declare that two roles with different demographic representation are of “equal value”, despite different market wages.*²⁰⁶

This is seemingly impossible to comprehend or predict. It is no wonder, then, that companies are splashing out on DEI managers to help them through a legislative minefield.

The problem is that every penny spent on DEI is a penny not spent on growing their business, which the Government has said is its number one objective. It is counterintuitive for the Government to want businesses to focus more on DEI when innovative and productive businesses are the only route to growth.

This new legislation is also a massive boon for the legal industry. Next’s case, with over 3,500 claimants, began in 2018. It took six years for the court to find a judgment, and the case continues today with an appeal. As might be expected, Next hired top lawyers. The company, in other words, played by the book — and lost. Extremely complicated legal cases involving thousands of trade union

members, large FTSE 100 companies and plenty of court time may be great for the legal trade but are terrible for growth.

Already, equal pay complaints take up 12 per cent of employment tribunals' time.²⁰⁷ The Government itself admits there are vastly more equal pay claims compared to direct or indirect discrimination claims.²⁰⁸ The more businesses spend on legal affairs, the less they spend on wages, lower prices, or growing into new markets.

Worryingly, the equal pay consultation suggests the Government believes the high number of claimants suggests the legislation is good law, as it 'offers a stronger form of redress'.²⁰⁹ The real reason equal pay claims are so common is because the understanding of discrimination is so watered down under current legislation that it is too easy to claim.

Additionally, the Government intends to cut loopholes from the current legislation to make the law watertight. Some businesses avoid equal pay laws by outsourcing one section of their workforce to another company to avoid comparisons between the outsourced workers and in-house employees. The Government plans to prevent this in the new legislation.²¹⁰ While this may close a loophole, it will doubtless bring plenty more unsuspecting companies into the legal minefield of equal pay law. As the consultation admits, the term 'outsourcing' has no legal basis in law, so the total scope for further claims could be very high. The hospitality sector, for instance, frequently uses agency workers when short-staffed.

While, as we saw, the mandatory pay gap regulation is extensive, navigating same pay for different work legislation is impossible. There are some helpful actions to take – simplifying your pay structure being the primary example. Avoiding different groups from being on different levels of pay, especially now it may include disability, gender, and up to 19 different ethnicities, however, is impossible to monitor.

Contextually, this legislation builds upon a rapid growth of regulation. As the Centre for Policy Studies calculated, the cost of regulation rose by £6 billion a year throughout the 2010s,²¹¹ despite the 'One-in, two-out' regulatory approach of the Conservatives.²¹² Labour promised in their 2024 manifesto that new economic regulation would support growth.²¹³ It is hard to see how the extension of mandatory pay gap reporting and the same pay for different work legislation achieves that.

Powerful new equality quango

To monitor the new equal pay law, the Government announced a new quango, the Equal Pay Regulatory and Enforcement Unit, in April 2025. This proposed scope of this new quango is not only extraordinarily extensive but implicitly leftist in its political objectives. To address the dangerous new powers of this quango, we will address each of its powers in turn.

Box 3.1: What is a quango?

Quangos are government-funded, partly independent government bodies. The term, which originates from the 1970s, is short for ‘quasi-autonomous’. The breadth of quangos is very broad, including non-departmental public bodies, executive agencies, advisory committees, regulatory quangos, and public sector companies among others. Well-known quangos include the BBC, the Bank of England, the British Museum, the Gambling Commission, HMRC and Network Rail. The British Hallmarking Council, Boundary Commission for Northern Ireland, and Human Tissue Authority are perhaps less well-known quangos, but operate under the same principles. Each of these bodies are taxpayer-funded, given a specific remit, but not under a Minister’s direct control.

The controversy surrounding quangos is threefold. Firstly, there are accusations that quangos quietly expand the size of the Government. Secondly, there are arguably too many quangos. The British Government lists no fewer than 418 non-ministerial government bodies and agencies, the vast majority of which will be quangos.²¹⁴ Thirdly, quangos remove accountability from Government Ministers and therefore Parliament. This is the argument the Government made when it abolished NHS England in March 2025. NHS England, a quango which managed the NHS, limited ‘democratic control’, according to Keir Starmer.²¹⁵

Firstly, the Equal Pay Regulatory and Enforcement Unit will have extensive legal powers. According to the consultation, it will have the power to provide legal advice surrounding the legislation, bring

legal proceedings in its own name and intervene in legal proceedings brought by others.²¹⁶ There will, presumably, be no requirement for activist lawyers to pursue local authorities or companies for equal pay claims in future because much of their activity will be taxpayer-funded.

The scope of the quango's legal power is vast. The Government also hopes the quango can pursue investigations, enter into statutory agreements with employers, seek injunctions and issue compliance notices. This is not just upholding the law, but wishing to apply it in a specific and deliberate manner.

Secondly, the quango can build corporatist relationships within the state architecture, arguably paralysing effective public administration. The consultation explicitly states that the quango will work 'with the involvement of trade unions'. As we have seen, trade unions have been the driving force behind equal pay claims to date. The size and extent of these claims have contributed towards the effective bankruptcy of Birmingham City Council through their claimants. There is no good reason why the Government should actively participate with trade unions to cause more equal pay claims against the already much-suffering, cash-strapped local authorities.

Thirdly, the Government consultation is unambiguous that the Equal Pay Regulatory and Enforcement Unit will step into the busily growing DEI sector. Its remit includes 'providing training on equal pay and good practice for employers, HR professionals and employees'. This could result in the replacement of DEI departments at major professional services companies by taxpayer-funded quango operatives.

Finally, and most controversially, the quango will act as a taxpayer-funded lobby group to campaign for the expansion of equalities legislation using the instruments of state. The political objectives of the equal pay quango is very thinly veiled indeed.

The consultation tells us that it will build capacity within 'allied sectors, organisations and communities'. It will undertake 'research, monitoring and publishing reports', much like a politicised organisation. One can expect the quango to push for more equal pay regulation and enforcement, which in turn will stimulate a larger and better-funded equal pay quango. One would expect the quango to report research on the importance of equal pay for equal

value legislation and the necessity for the quango's existence. It is like creating an endless self-perpetuating, self-fulfilling prophecy.

So far, very few researchers and commentators have noticed the wide and extortionate scope of the new quango. This could be because the full details are buried deep within a dry consultation, or perhaps because the Labour Government has announced at least 27 new quangos since coming to power in 2024.²¹⁷ Either way, this is likely one of the most under-examined areas of Government which deserves more scrutiny.

Critically examining the supporters of more equality law

Before moving on to disability legislation, it is worth briefly examining the economic arguments in favour of extending the Equality Act, as the Government proposes. Helpfully, the House of Commons Women and Equalities Committee produced a report detailing these reasons in February 2022.²¹⁸

In this report, the Committee argued that ethnic pay gap reporting should be made mandatory, along with supporting narratives and action plans written by employers.²¹⁹ This, the Committee argued, should be legislated for within 14 months by the then Conservative Government.

The Women and Equalities Committee report, however, far from being naïve, appears firmly ideological in its approach to pay gap reporting. Its evidence session, held in advance of the report, only examined expert witnesses in favour of mandatory pay gap reporting.²²⁰

The only business representatives heard were the Race Director from Business in the Community, which campaigns for ethnic pay gap reporting,²²¹ and the Skills and Inclusion Director from the Confederation of British Industry (CBI). Given the one-sided nature of the panel of witnesses, it would perhaps be better to ask why the Committee offered such little scrutiny to the idea of mandatory pay gaps.

The flawed nature of the Committee's evidence process aside, the report was hardly ecstatic about pay gap reporting. The Committee admit it is only a 'fairly basic indicator' of inequalities and 'not a silver bullet'.²²² Nevertheless, 'Pay gap reporting' means 'leaders can ask tough questions about what their business is doing to

address disparities’ – thus revealing the Committee’s inherent and concerning blurring of disparity and discrimination.²²³ The word ‘discrimination’, in fact, does not appear once in the whole report.

Interestingly, the Women and Equalities Committee’s report cited two pieces of evidence that closing the ethnic pay gap is good for the economy. These were that ethnically and culturally diverse businesses are up to 36 per cent more profitable, and that addressing race inequalities could boost the UK economy by £24 billion a year.²²⁴ Sadly, neither of these statistics is remotely compelling.

The first statistic, that ethnically diverse companies are up to 36 per cent more profitable, is from a McKinsey & Company 2019 report. It found a 36 per cent correlation between average company earnings before interest and taxes, and the percentage of ethnic minorities on executive teams. This came from examining 533 companies from the US, UK, Brazil, Mexico, Singapore, Nigeria and South Africa.²²⁵ This means the report uses very different definitions of ethnic groups across several different countries in very different economic conditions. Singapore is the fourth richest country as measured by GDP per capita;²²⁶ Nigeria remains a developing country.²²⁷ What creates an ethnically diverse executive board also hugely varies. While Singapore measures ethnic groups by Chinese/Malay/Indian/Other, the United Kingdom merges these groups into ‘Asian’.

Intriguing as it might be, it is impossible to compare these to Nigeria as the McKinsey report did not define the diversity of ethnic groups there.²²⁸

Even using this incredibly complicated form of measurement, the correlation between diversity and profitability is not necessarily increasing – McKinsey found it fell by two percentage points between 2014 and 2017.²²⁹ Sceptical analysis by Professors of Accounting Jeremiah Green and John Hand found ‘no statistically significant difference’ when measuring the US S&P 500 firms index for diversity and profitability in 2019.²³⁰ In any case, a correlation between diversity and profitability has very little to do with pay gap reporting in the first place.

The second statistic, ‘addressing race inequalities in the labour market could boost the UK economy by £24 billion a year’, is even more unconvincing.²³¹ The statistic originates from a 2017 Department for Business, Energy and Industrial Strategy (BEIS) race

review, and is highlighted no fewer than eight times in the BEIS review, or on average, once every 12 pages.²³² £24 billion is, to point out the obvious, a huge sum of money and 1.3 per cent of GDP if fully captured, so it is hardly surprising the review highlighted it so heavily.

It is, however, a seriously flawed figure. It was calculated in two steps. First, the review totalled the potential salaries of BME groups if their employment levels were the same as those of white people, and on the median salary, which came to £16.8 billion.²³³ Secondly, for employed individuals, they calculated how much BME individuals would earn if they were represented like white individuals with the same education — which totalled £7.1 billion. Together, these two figures came to £24 billion.

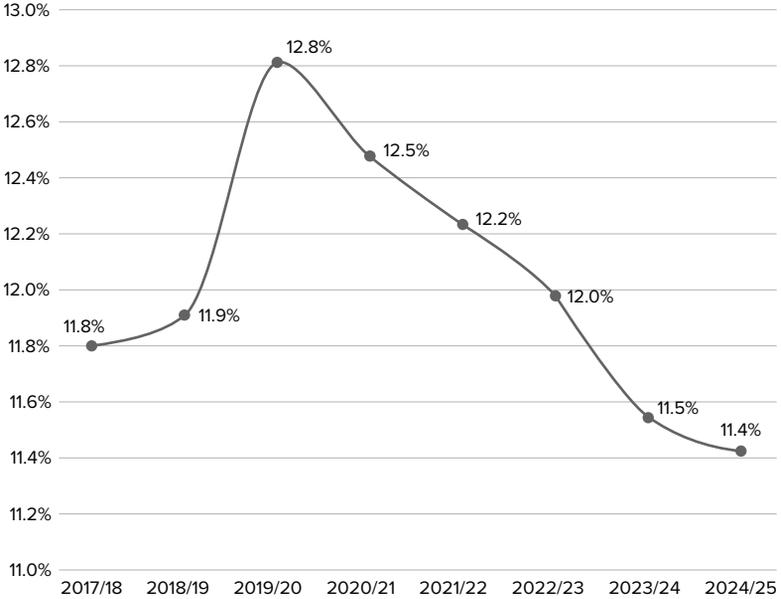
The flaws of the £24 billion figure are almost as large as the number itself. The review lists no fewer than 10 different assumptions regarding the final £24 billion figure that would distort it. None of these flaws are more incontrovertible than the assumption that there will be no displacement effects on the currently employed population if enacted, a huge figure potentially as large as the £24 billion figure itself.

The most significant question surrounding the £24 billion figure is what exactly it has to do with growth. The £24 billion figure should more accurately be described as the total disparity between white and BME incomes, as that is what it is. There is little evidence of a missing market to grow into; insufficient evidence being pointed to of a misuse of BME skills and talent, or evidence of business mismanagement. To assume, as the Review and the Women and Equalities Committee do, that it would ‘boost’ the UK economy by £24 billion a year, is to necessarily assume that every single penny of the £24 billion lost is due to racial inequalities — which is largely unevicenced.

All this falls on the assumption that pay gap reporting improves salaries in the workplace, but this also remains unevicenced. Writing for a Civitas report in 2020, Dr Richard Norrie explored how, in the aftermath of mandatory gender pay gap reporting in 2017, pay gaps increased, not decreased.²³⁴ Furthermore, as the pay gap was decreasing before mandatory pay gap reporting was introduced anyway, there is little evidence to suggest that the intervention had a considerable impact.²³⁵

As is shown in the following graph, it was only since 2023/24 that the average median gender pay gap in companies with more than 250 employees was less than when it was first published in 2017/18.

Figure 3.2: Average UK median gender pay gap (%), 2017–2025



Source: Author analysis of Gender Pay Gap Data, 2017-25. Made with Datawrapper. <https://gender-pay-gap.service.gov.uk/viewing/download> (data accessed: 01/07/2025)

What is perhaps most intriguing from the graph is that the pay gap rose *before* the Covid lockdowns in 2020. Were a parallel timescale to emerge from mandatory ethnic pay gap reporting, it would take until 2033 for the gap to be lower after the legislation is passed. This is hardly overwhelming evidence of successful legislation.

Conclusion: Weighing up the costs

There is, on the whole, almost no good reason to expand the Equality Act as the Government proposes. In fact, the opposite is apparent – the Equality Act should be amended and the equal value pay claims removed at first instance, and mandatory pay gap reporting discontinued.

There is no evidence that the present law will remove discrimination, due to a confusion between disparity and discrimination. There will inadvertently be more discrimination, as the government promotes other forms of discriminatory practice to close off incorrectly perceived cases of discrimination. Closing a non-discriminatory disparity is necessarily a discriminatory process, as explored in the RAF case study.

Beyond discrimination, there is strong evidence that it will let down exactly the groups of people it seeks to help, as the Business Disability Forum demonstrated. A similar phenomenon may occur with ethnic minorities.

Worse, extending equal pay for equal value pay claims to ethnic minorities and disabled people will damage economic growth. As we observed in the Next case, equal pay for equal value claims are often more costly than tax rises. Most concerning, it will cause higher prices for the poorest consumers. It will also deteriorate economic circumstances for low-paid workers, as occurred for binmen working for Birmingham City Council. Similarly, Next is less likely to hire retail staff because of the equal value pay claim.

Equal value pay claims have also bankrupted Birmingham City Council and could financially ruin many more councils in the years to come. This is disastrous for good governance. Equal value pay claims total over £3 billion to local authorities, a huge waste to taxpayers.

Addressing poor equality legislation is not easy. The public understanding of equality legislation and equal pay is poor, if not fundamentally mistaken. In the public square, and across companies, HR departments and public sector organisations, disparity is conflated with discrimination. Equal value pay claims are

confused with the original equal pay for equal work claims that were introduced 50 years ago.

If this equality legislation is ever to be reversed, there must be a reframing of equality language. It must be understood that 'equal value' pay claims are essentially 'equal pay for different jobs'. It is anti-competitive, anti-business, market-restricting legislation because it replaces supply and demand from the job market.

Given equal value pay claims were introduced through European law, and we are now outside of European decision-making, it is worth using the 'Brexit dividend' to bring an end to this particular legislation.

As the final chapter explores, one of the most concerning developments from the Equality (Race and Disability) Bill is the new equality race quango. There is no good reason why taxpayers should fund a semi-autonomous organisation that will actively lobby for more equality laws, litigate against British companies and local authorities, and work with 'allied' groups. This must be stopped as soon as possible, and investigated in greater detail through broader consultation.

There is a better way of doing equality legislation. Legislation can aim at discrimination, not disparity. The DEI industry, so often a limiter of economic growth, can be deprioritised by the Government, and the potential for genuine merit and skill can be properly recognised. After all, that is what is best not only for minority groups, but for all people in wider society.

Appendix: List of local authority equal value pay claims

As there is no official list of equal value pay claims, this list is by no means exhaustive or complete, but it does hope to give the most realistic estimate of the total number and cost of equal value pay claims to local authorities, borne by taxpayers.

The methodology for creating this table can be traced in the endnotes. For each local authority listed, we have specifically highlighted the reason why we are confident (but not necessarily certain) it was an ‘equal value’ pay claim — that is, the second or third type of equal pay given in law (see page 4), and the source for the total pay claim and the total number of individual claimants. Some of the claims, as noted in the final column, are projected.

Table A.1: Local authority equal value pay claims

No.	Local Authority	Total Claims	Pay Claim	Date
1	Anglesey, Isle of, County Council	208	£4 million	2016 ²³⁶
2	Angus Council	Uncertain	£2.853 million	2006 ²³⁷
3	Barnet, London Borough of	400	£10 million +	2025, ongoing ²³⁸
4	Barnsley Council	271	Unknown	2024, ongoing ²³⁹
5	Birmingham City Council (I)	Uncertain	£1.4 billion	2024 ²⁴⁰
6	Birmingham City Council (II)	6,000	£404 million	2023, ongoing ²⁴¹
7	Bolton Council	93	£7 million	2010 ²⁴²
8	Bradford City Council	100+	£1 million +	2025, ongoing ²⁴³
9	Bridgend Council	1,684	£17 million	2012 ²⁴⁴
10	Brighton City Council (I)	800	£1.6 million	2023 ²⁴⁵
11	Brighton City Council (II)	1,600	£10 million +	2024, ongoing ²⁴⁶
12	Bury Borough Council	943	£2 million +	2012 ²⁴⁷
13	Cardiff Council (I)	3,000	£11.5 million	2008 ²⁴⁸
14	Cardiff Council (II)	1,571	£7.5 million	2012 ²⁴⁹

ON EQUALITY AND EQUAL PAY

No.	Local Authority	Total Claims	Pay Claim	Date
15	Carmarthenshire	Uncertain	£13 million	2012 ²⁵⁰
16	Conwy Council	318	£5.8 million	2008 ²⁵¹
17	Coventry City Council	180	£30 million	2024, ongoing ²⁵²
18	Cumberland Council (Ex-Cumbria)	500	Uncertain	2025, ongoing ²⁵³
19	Denbighshire	230	£2.061 million	2010 ²⁵⁴
20	Derby City Council	150	Undisclosed	2022, ongoing ²⁵⁵
21	Doncaster Council	525	Unknown	2010 ²⁵⁶
22	Dudley Borough Council (I)	400	Uncertain	2010 ²⁵⁷
23	Dudley Borough Council (II)	Uncertain	£5 million	2018 ²⁵⁸
24	Dumfries & Galloway Council	251	£4.5 million +	2007 ²⁵⁹
25	Dundee City Council	600	£20 million	2022, ongoing ²⁶⁰
26	Edinburgh City Council (I)	400	£15.263 million	2012 ²⁶¹
27	Edinburgh City Council (II)	3,000	Combined with claim (I)	2012 ²⁶²
28	Fife Council	1,200	£50 million	2025 ²⁶³
29	Glasgow City Council	19,000	£770 million	2022 ²⁶⁴
30	Gwynedd Council	2,000	£20 million	2008 ²⁶⁵
31	Kingston upon Hull City Council	1,300	£14.81 million	2010 ²⁶⁶
32	Kirklees Borough Council	2,000	£7 million	2005 ²⁶⁷
33	Knowsley Borough Council (I)	100+	Undisclosed	2013 ²⁶⁸
34	Knowsley Borough Council (II)	1,000+	£10m+	2025, ongoing ²⁶⁹
35	Leeds Council	2,434	Uncertain	2025, ongoing ²⁷⁰
36	Monmouthshire	Uncertain	Uncertain	2012 ²⁷¹
37	Neath Port Talbot Council	2,400	£6.4 million	2013 ²⁷²
38	Newcastle City Council	Unknown	Unknown	2010 ²⁷³
39	North Ayrshire	500	£13 million	2016 ²⁷⁴
40	North Lanarkshire Council	1,808	£15 million	2013 ²⁷⁵
41	Pembrokeshire (I)	Uncertain	£3.5 million	2012 ²⁷⁶
42	Pembrokeshire (II)	100	£200,000+	2015 ²⁷⁷

APPENDIX: LIST OF LOCAL AUTHORITY EQUAL VALUE PAY CLAIMS

No.	Local Authority	Total Claims	Pay Claim	Date
43	Reading Borough Council	158+	£15 million	2020 ²⁷⁸
44	Rotherham Council	121	Unknown	2025, ongoing ²⁷⁹
45	Sefton Council	1,750	£3.5 million	2013 ²⁸⁰
46	Sheffield City Council (I)	1,100	£20 million	2011 ²⁸¹
47	Sheffield City Council (II)	3,600	£36 million	2023, ongoing ²⁸²
48	South Lanarkshire	3,000	£2 million+	2014 ²⁸³
49	Southampton City Council	800	£49.2 million	2025, ongoing ²⁸⁴
50	St Helens Borough Council	500	£560,000	1998 ²⁸⁵
51	Sunderland City Council	300	Uncertain	2024, ongoing ²⁸⁶
52	Swansea Council	3,000	£13 million	2013 ²⁸⁷
53	Swindon Borough Council		£6.2 million	2010 ²⁸⁸
54	Torfaen	Uncertain	£1 million+	2012 ²⁸⁹
57	Walsall Council	4,000	Unknown	2010 ²⁹⁰
58	West Dunbartonshire	300	Undisclosed	2025, ongoing ²⁹¹
Total:		75,695	£3.03 billion	

There are a number of councils we think have faced an ‘equal value’ pay claim, but could not verify, including North Ayrshire (II),²⁹² Flintshire,²⁹³ Gateshead,²⁹⁴ Highlands,²⁹⁵ Moray,²⁹⁶ North Lanarkshire (II),²⁹⁷ Perth and Kinross,²⁹⁸ St Helens Borough Council (II),²⁹⁹ Westmorland and Furness,³⁰⁰ and Wolverhampton.³⁰¹

Notes

Foreword

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Chapter 1. The problems with the Equality (Race and Disability) Bill

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Appendix: List of local authority equal value pay claims

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- 250 'Equal value' pay claim: 'over the years people who carried out traditionally male jobs like rubbish collectors or street cleaners were paid more...' [see video], BBC News (2012) 'Equal pay: Welsh councils agree £75m in pay claims', 17 December. Available at: <https://www.bbc.co.uk/news/uk-wales-20740932> '£13 million' cited from: Ibid.
- 251 'Equal value' pay claim: 'Hundreds of claimants – including cooks, cleaners and carers – are expected to launch legal bids to receive back-pay dating back years with the local authority. They are claiming they were paid less than their male counterparts.' Cited from: Hughes, O. (2013) 'Equal pay claims could cost Conwy £5.8m', in *North Wales Live*, 19 April. Available at: <https://www.dailypost.co.uk/news/local-news/equal-pay-claims-could-cost-2844520> '£5.8 million' cited from: Ibid. '318' cited from: *North Wales Live* (2013) '1,100 North Wales women go to employment tribunal over equal pay', 17 April. Available at: <https://www.dailypost.co.uk/news/north-wales-news/1100-north-wales-women-go-2764777>
- 252 'Equal value' pay claim: 'The mostly female staff say refuse workers, a male-dominated profession, enjoy benefits they do not.' Cited from: Nevett, J. (2024) 'Coventry City Council urged to reassure taxpayers over pay claims', on BBC News, 2 February. Available at: <https://www.bbc.co.uk/news/uk-england-coventry-warwickshire-68167440> '680' cited from: Peters, D. (2025) 'EXCLUSIVE: Coventry equal pay bill could be more than £30m', in *The MJ*, 5 June. Available at: <https://www.themj.co.uk/exclusive-coventry-equal-pay-gbp30m> '£30 million' cited from: Ibid.
- 253 'Equal value' pay claim: 'Examples include what she called "job creep" where the roles of carers or teaching assistants have changed dramatically over time and are much more skilled and demanding now than in the past. But the pay has slipped behind - and more so in female dominated roles than male ones. Other examples include male dominated jobs - getting higher bonuses, or better perks - either linked to annual holidays or something called task and finish, in which workers can either go home, or earn overtime, after finishing a specific task.' Cited from: Asthana, A. (2023) 'Councils face bills of millions of pounds amid hundreds of fresh equal pay claims from women', on ITV News, 10 August. Available at: <https://www.itv.com/news/2023-08-10/hundreds-of-women-lodge-fresh-equal-pay-claims-against-councils> '500' cited from: Cooper, I. (2025) '500 Cumberland Council workers to sue over unequal pay claim', in *The Cumberland Times*, 4 July. Available at: <https://www.newsandstar.co.uk/news/25283127.cumberland-faces-substantial-financial-risk-500-sign-pay-claim/>
- 254 'Equal value' pay claim: 'Care staff and canteen workers are among those claiming they were underpaid for many years in comparison to male workers in other council jobs'. Cited from: *North Wales Live* (2013) '1,100 North Wales women go to employment tribunal over equal pay', 17 April. Available at: <https://www.dailypost.co.uk/news/north-wales-news/1100-north-wales-women-go-2764777> '230' cited from: Ibid. '£2.061 million' cited from: Denbighshire County Council, *Statement of Accounts 2014/15*, p.58. Available at: <https://www.denbighshire.gov.uk/en/documents/your-council/budgets-and-finance/statements-of-accounts/statement-of-accounts-2014-15.pdf>
- 255 'Equal value' pay claim: 'the claims come from a time where the council paid bonuses or other supplements to those in roles predominantly held by men.' Cited from: Winslow, L. (2022) 'City council defends approach to equal pay cases after union says local authority has spent more on legal fees than total cost of claims', in *Local Government Lawyer*, 13 October. Available at: <https://www.localgovernmentlawyer.co.uk/employment/395-employment-news/51864-city-council-defends-approach-to-equal-pay-cases-after-union-says-local-authority-has-spent-more-on-legal-fees-than-total-cost-of-claims> '150' cited from: Ibid. 'Undisclosed' cited from: Derby City Council (2024) 'Derby City Council – Response FOI438771343', pp.2-3. Available at: <https://secure.derby.gov.uk/foi/download?id=13347>
- 256 'Equal value' pay claim: 'The Equalities Act (2010) which has replaced the Equal Pay Act (1970), sets out in legislation that all employees are entitled to be paid equally for "work of equal value".' Cited from: Ministry of Housing, Communities & Local Government (2018 to 2021) and Neill, B. (2010) 'Councils free to raise £250 million for underpaid workers' on Gov.uk, 27 October. Available at: <https://www.gov.uk/government/news/councils-free-to-raise-250-million-for-underpaid-workers> '525' from: Doncaster Metropolitan Borough Council, *Statement of Accounts 2010/11*, p.6. Available at: <https://www.doncaster.gov.uk/documents/DocumentView/Stream/Media/Default/Council%20and%20Democracy/Documents/Statement%20of%20Accounts%202010-2011.pdf>
- 257 'Equal value' pay claim: 'Cleaners, carers, caterers and lollipop ladies are among the 400 female workers who could soon have their back pay in the next few weeks, if they agree to the offer.' Although not explicit, this is almost certainly an equal value pay claim. Cited from: Personnel Today (2010) 'Dudley Council

- staff begin receiving equal pay deals after 13-year wait', 21 January. Available at: <https://www.personnel-today.com/hr/dudley-council-staff-begin-receiving-equal-pay-deals-after-13-year-wait/> '400' cited from: Ibid. 'Uncertain'. In Dudley Statement of Accounts from 2010/11, there are clearly provisions for equal pay claims, but it is not clear how much was paid out. See: Dudley Metropolitan Borough Council, *Statement of Accounts for the Year End 31 March 2011*. Available at: <https://www.dudley.gov.uk/media/8026/statement-of-accounts-2010-11.pdf>
- 258 'Equal value' pay claim: 'Hundreds of women took legal action against Dudley Council after claiming they were not being paid enough compared to men.' Cited from: Parkes, T. (2018) 'Dudley Council forced to pay out £5m in equal pay dispute', in *Express and Star*, 18 July. Available at: <https://www.expressandstar.com/news/local-hubs/dudley/2018/07/18/dudley-council-forced-to-pay-out-5m-in-equal-pay-dispute/> '400' Cited from: Ibid.
- 259 'Equal value' pay claim: 'the Supreme Court has upheld their right to compare their terms and conditions with men who are also employed by the council but work in or from different workplaces'. Cited from: Hutchinson, L. (2013) 'The same but different', on Law Society of Scotland, 19 August. Available at: <https://www.lawscot.org.uk/members/journal/issues/vol-58-issue-08/the-same-but-different/> '251' cited from: UK Supreme Court (2013) *JUDGMENT North and others (Appellants) v Dumfries and Galloway Council (Respondent) (Scotland)*, p.6. Available at: https://supremecourt.uk/uploads/uksc_2011_0046_judgment_149c465d7b.pdf '£4.5 million' cited from: PwC (2015) *Dumfries & Galloway Council: Annual report to those Charged with Governance and the Controller of Audit*, p.5. Available at: https://audit.scot/uploads/docs/report2015/fa_1415_dumfries_galloway.pdf
- 260 'Equal value' pay claim: 'Women are outraged by a pay structure which gives bonuses to workers in predominantly male roles such as plumbers and electricians while ignoring mainly female roles in care and educational support.' Cited from: Stewart, S. (2022) 'Equal pay claims from low-paid women could cost council £20m', in *The Sunday Post*, 11 July. Available at: <https://www.sundaypost.com/fp/equal-pay-claims-could-cost-council-20m/> '£20 million' cited from: Ibid. '600' cited from: Audit Scotland, *Dundee City Council 2024/25 Annual Audit Report*, p.26. Available at: https://audit.scot/uploads/2025-10/aar_2425_dundee.pdf
- 261 'Equal value' pay claim: 'citing male comparators such as refuse drivers, grave diggers etc. ... they were not in the same job and they were not rated as equivalent ... but because of bonuses earned by the male counterparts, lower-graded men actually ended up taking home higher-pay'. Cited from video embedded in: BBC (2012) 'Victory for Edinburgh council staff over equal pay', 10 January. Available at: <https://www.bbc.com/uk/news/uk-scotland-edinburgh-east-fife-16496913> '400' cited from: Ibid. '£15.263 million' is combined with Edinburgh equal pay claim (II) cited from: Audit Scotland (2013) *City of Edinburgh Council: Annual report on the 2012/13 audit*, p.12. Available at: <https://www.edinburghtramingquiry.org/wp-content/uploads/2017/09/ADS00052.pdf> Given the provision of a further £13 million for more 'anticipated equal pay settlements', it is likely this figure is much higher.
- 262 'Equal value' pay claim: This is a separate and distinct equal pay claim to Edinburgh City Council (I). "Equal pay for work of equal value is an important principle – but we aim to ensure it happens in practice too." The 400 workers affected by that ruling finally received their payments within weeks of the council decided [sic] in January not to take an appeal to the Supreme Court [Edinburgh City Council (I)]. However the decision was expected to have a knock-on impact on other workers and the council was left grappling with a further 3000 cases, all of which have now been fully settled. The latest move, which affects the likes of classroom assistants, clerical assistants and social care workers, came after the council lost a hearing at the Court of Session in November of last year.' Cited from: Ferguson, B. (2012) 'Edinburgh City Council agree settlement on equal pay dispute', in *The Scotsman*, 26 October. Available at: <https://www.scotsman.com/news/edinburgh-city-council-agree-settlement-on-equal-pay-dispute-1602681> '3,000' cited from: Ibid. 'Combined with claim (I): the most accurate picture is probably given through a combined figure. See previous footnote.
- 263 'Equal value' pay claim: 'persuaded the Dundee Tribunal that job evaluations which restricted their right to claim equal value with male workers, such as refuse collectors gardeners and street sweepers, were unreliable.' Cited from: Cloisters (2025) 'Daphne Romney KC successfully represents 1200 claimants in an equal pay claim against Fife Council'. 17 July. Available at: <https://www.cloisters.com/insights/daphne-romney-kc-successfully-represents-1200-claimants-in-an-equal-pay-claim-against-fife-council-nbsp> '1,200' cited from: Ibid. '£50 million' cited from: Ibid
- 264 'Equal value' pay claim: 'Campaigners had said workers in roles such as catering or cleaning were receiving up to £3 an hour less than those in male-dominated areas such as refuse collection.' Cited from: BBC News (2022) 'Glasgow City Council to pay £770m to settle equal pay dispute', 11 November. Available at: <https://www.bbc.com/uk/news/uk-scotland-glasgow-west-63584376> '£770 million' cited from: Ibid. '19,000' cited from: Ibid.
- 265 'Equal value' pay claim: 'The claimants include hundreds of cooks, cleaners and carers who were discriminated against while their male colleagues enjoyed higher salaries.' Cited from: *North Wales Live* (2013) 'Women's back pay claims could cost council £20m', 19 April. Available at: <https://www.dailypost.co.uk/news/north-wales-news/womens-back-pay-claims-could-2851288>

- 266 'Equal value' pay claim: 'The Equalities Act (2010) which has replaced the Equal Pay Act (1970), sets out in legislation that all employees are entitled to be paid equally for "work of equal value"'. Cited from: Ministry of Housing, Communities & Local Government (2018 to 2021) and Neill, B. (2010) 'Councils free to raise £250 million for underpaid workers' on Gov.uk, 27 October. Available at: <https://www.gov.uk/government/news/councils-free-to-raise-250-million-for-underpaid-workers>
- '1,300' cited from: Kingston upon Hull City Council, *Kingston upon Hull City Council Statement of Accounts 2009/10*, p.23. <https://cmis.hullcc.gov.uk/CMIS/Document.ashx?FgPIEJYIotS%2BYGoBf5oIA%3D%3D-N-HdURQburHA%3D&WGewmoAfeNQ16B2MHuCPMRKZMwaG1PaO=ctNJf55VA%3D&WGewmoAfeNR9xqBux0rI08Za60IavYmz=ctNJf55VA%3D&czJKcaeAi5tUfLIDTL2UE4zNRBcoShgo=PK5nfpYv%2Fraw7D2S3yOEWIOQ9D9isao6NK8mP%2FT22HNLXPQv%2B2SQA%3D%3D&d99j0jagIP-d993jyOJqFmyB7X0CSQK=ctNJf55VA%3D&kCx1AnS9%2FpWZQ40DXFVdEw%3D%3D-hfIUd-N3100%3D&mCTIbCubSfRxSDGW9IXnlg%3D%3D=hFfIUdN3100%3D&UzwrRPf%2B23zd4E7lkn8Ly-w%3D%3D=pvRE6AGJFLDNIh225F5QMaQWCtPHwdhUFCZ%2FLUQzga2uL5jNRG4jdQ%3D%3D&UjovDxwdjMPoYv%2BAJvYtyA%3D%3D=ctNJf55VA%3D>
- 267 'Equal value' pay claim: 'The employees, who could receive about £3,500 each, worked in roles such as cleaning, catering, and home care and other blue collar jobs, according to the Huddersfield Examiner.
- The dispute arose after workers and unions realised that pay scales were slightly different in different council roles, with the roles that were traditionally female-orientated bearing the brunt of disparity'. Cited from: Thomas, D. (2005) 'Council to pay millions in equal pay settlement', on Personnel Today, 30 September. Available at: <https://www.personneltoday.com/hr/council-to-pay-millions-in-equal-pay-settlement/>
- 268 'Equal value' pay claim: 'It stated women and men should be paid equally, but men – such as street sweepers and binmen – received bonuses, while female colleagues did not'. Cited from: Waddington, M. (2013) 'Knowsley council staff win tribunal over equal pay', in *Liverpool Echo*, 7 May. Available at: <https://www.liverpoolecho.co.uk/news/liverpool-news/knowsley-council-staff-win-tribunal-3377657>
- 269 'Equal value' pay claim: 'more than 1,000 workers employed by the local authority in female dominated roles may have been paid less than their male counterparts for years, despite carrying out work rated as "of equal value"'. Cited from: Winson, L. (2025) 'North West council faces equal pay claims which could amount to "tens of millions", union warns', in *Local Government Lawyer*, 15 October. Available at: <https://www.localgovernmentlawyer.co.uk/employment/395-employment-news/62513-north-west-council-faces-equal-pay-claims-which-could-amount-to-tens-of-millions-union-warns>
- 270 'Equal value' pay claim: Leeds City Council equal pay claim is described as 'Task and Finish' makes it highly likely to be equal value. Cited from: GMB, *GMB Congress 2025: General Secretary's Report*, p.63. Available at: <https://www.gmb.org.uk/assets/media/downloads/3382/general-secretarys-report-compressed.pdf>
- 271 'Equal value' pay claim: 'over the years people who carried out traditionally male jobs like rubbish collectors or street cleaners were paid more...' [see video]. BBC News (2012) 'Equal pay: Welsh councils agree £75m in pay claims', 17 December. Available at: <https://www.bbc.co.uk/news/uk-wales-20740932>
- 272 'Equal value' pay claim: 'Female catering, cleaning and care staff were the main beneficiaries.' Cited from: Personnel Today (2007) 'Neath Port Talbot claims to be first Welsh council to settle equal pay bill', 25 April. Available at: <https://www.personneltoday.com/hr/neath-port-talbot-claims-to-be-first-welsh-council-to-settle-equal-pay-bill/> '2,400' cited from: Ibid. '£6.4 million' cited from: Ibid.
- 273 'Equal value' pay claim: 'The Equalities Act (2010) which has replaced the Equal Pay Act (1970), sets out in legislation that all employees are entitled to be paid equally for "work of equal value"'. Cited from: Ministry of Housing, Communities & Local Government (2018 to 2021) and Neill, B. (2010) 'Councils free to raise £250 million for underpaid workers' on Gov.uk, 27 October. Available at: <https://www.gov.uk/government/news/councils-free-to-raise-250-million-for-underpaid-workers> It is possible Newcastle faced a £12 million equal value pay claim, but it could not be verified that this was due to equal value pay claims. See: Berry, M. (2005) 'Women get just rewards as Newcastle shares out £12m', 18 July. Available at: <https://www.personneltoday.com/hr/women-get-just-rewards-as-newcastle-shares-out-12m> and MacElean, N. (2009) 'From here to equality', in *Local Government Lawyer*, 22 November. Available at: <https://www.localgovernmentlawyer.co.uk/employment/312-employment-features/323-from-here-to-equality>
- 274 'Equal value' pay claim: 'The Scottish council has reached an agreement with more than 500 current and former employees who argued they had been paid less than others doing work of equal value'. Cited from: Eichler, W. (2018) 'North Ayrshire settles 500 equal pay claims', on LocalGov, 6 March. Available at: <https://www.localgov.co.uk/North-Ayrshire-settles-500-equal-pay-claims/44864> '500' cited from: Ibid. '£13 million' cited from: Herald, I. & Hillel, S. (2020) 'Ayrshire council to fight almost 400 new claims for equal pay', in *Daily Record*, 17 June. Available at: <https://www.dailyrecord.co.uk/ayrshire/ayrshire-council-fight-almost-400-22206137>
- 275 'Equal value' pay claim: There have been two distinct waves of equal pay claims in North Lanarkshire. This first wave comprised 'to bonuses which were historically paid to certain roles – roles which were largely held by men and in relation to which there was no basis for awarding bonuses. This means that females (and males) in roles of "equal value" were underpaid as they did not get bonuses. These bonuses ended around 2006-2007'. Cited from: Miller Samuel Hill Brown, 'FAQs – North Lanarkshire Council Equal Pay

- Claims'. Available at: <https://www.mshblegal.com/settlement-agreements-fags-nlc-equal-pay-claims.html>
The second wave related to the job evaluation which was carried out by NLC in 2006-7 and changed the grading and salary scales. These claims challenge the fairness of the job evaluation scheme. It is argued that the historic bonus arrangements were taken into account when NLC calculated grades and pay scales for the comparator roles, and this caused some jobs to receive a higher grade or rate of pay than others.' (Ibid). This is arguably an equal value pay claim too. '1,808' cited from: Miller, G. (2010) 'North Lanarkshire Council face a huge £15million payout over employees equal pay claims', in *Daily Record*, 3 March. Available at: <https://www.dailyrecord.co.uk/news/local-news/north-lanarkshire-council-face-huge-2594035> '£15 million' cited from Ibid.
- 276 'Equal value' pay claim: 'over the years people who carried out traditionally male jobs like rubbish collectors or street cleaners were paid more...' [see video]. BBC News (2012) 'Equal pay: Welsh councils agree £75m in pay claims', 17 December. Available at: <https://www.bbc.co.uk/news/uk-wales-20740932> '£3.5 million' cited from: *The Pembrokehire Herald*, 'Justice at last for female employees', 24 February. Available at: <https://pembrokeshire-herald.com/21439/justice-at-last-for-female-employees/>
- 277 'Equal value' pay claim: 'the claim has finally been settled despite the continuing claims from the council that some women were not entitled to payment as there was "no male comparator" in their job role.' Cited from: *The Pembrokehire Herald*, 'Justice at last for female employees', 24 February. Available at: <https://pembrokeshire-herald.com/21439/justice-at-last-for-female-employees/> '£200,000+' cited from Ibid.
- 278 'Equal value' pay claim: 'These claims arose because Reading council previously had a system of paying bonuses to staff in manual occupations, and they were predominantly men. The bonuses were not available to women doing jobs of equal value.' Cited from: UNISON (2016) 'Women drag last equal pay claim council to court, says UNISON', 17 October. Available at: <https://www.unison.org.uk/news/press-release/2016/10/women-drag-last-equal-pay-claim-council-to-court-says-unison/> '158' cited from: Markson, T. (2020) 'Reading Borough Council has forked out £15m on equal pay claims', in *The Reading Chronicle*, 12 March. Available at: <https://www.readingchronicle.co.uk/news/18298746-reading-borough-council-forked-15m-equal-pay-claims/> '£15 million' cited from: Ibid.
- 279 'Equal value' pay claim: '121 claims — Task & Finish'. Cited from: GMB, *GMB Congress 2025: General Secretary's Report*, p.63. Available at: <https://www.gmb.org.uk/assets/media/downloads/3382/general-secretarys-report-compressed.pdf> '121' cited from Ibid.
- 280 'Equal value' pay claim: 'Equal Pay compensation payments were made to ... mainly to school based employees (catering staff, bus escorts; supervisory assistants).' Cited from: Sefton Council, 'Public Document Pack', p.47. Available at: <https://modgov.sefton.gov.uk/moderngov/documents/g1578/Public%20reports%20pack%2C%2025th-Jun-2008%2010.00%2C%20Cabinet%20Member%20-%20Corporate%20Services.pdf> Additionally, the *Liverpool Echo* reported that Sefton Council re-jigged their pay bands, seeing certain jobs see pay reductions to stop equal pay claims. See: Siddle, J. (2013) 'Two thousand Sefton Council workers face pay cuts under equal pay legislation' [sic], in *Liverpool Echo*, 3 May. Available at: <https://www.liverpoolecho.co.uk/news/local-news/two-thousand-sefton-council-workers-3402572> '1,750' cited from: Ibid. '£3.5 million' cited from: Ibid.
- 281 'Equal value' pay claim: 'The appeal court found for the Sheffield lunchtime staff and carers, ruling that productivity bonuses granted to male street cleaners and gardeners, which were subsequently incorporated into their salaries, were discriminatory against women doing work of equal value. It emerged that the men were being paid between 33.3% and 38% more than women for occupations that the council agreed were effectively comparable'. Cited from: Bowcott, O. (2011) 'Sheffield council agrees to back pay for 1,100 women', in *The Guardian*, 29 September. Available at: <https://www.theguardian.com/society/2011/sep/29/sheffield-agrees-back-pay-women> '1,100' cited from: Ibid. '£20 million' cited from: Ibid.
- 282 'Equal value' pay claim: 'The GMB said the claims centre around the council's job evaluation scheme which it said routinely discriminates against women-dominated roles, under-paying those in female dominated roles.' Cited from: *Yorkshire Post*, 'Yorkshire council faces equal pay claims over 'truly scandalous' practices', 25 September. Available at: <https://www.yorkshirepost.co.uk/news/politics/yorkshire-council-faces-equal-pay-claims-over-truly-scandalous-practices-4348152> '3,600' cited from: Wickens, Z. (2025) 'Sheffield City Council reaches £36m equal pay agreement', on *Employee Benefits*, 24 September. Available at: <https://employeebenefits.co.uk/pay-strategy/sheffield-city-council-reaches-36m-equal-pay-agreement/281316.article> '£36 million' cited from: Ibid.
- 283 'Current and former female employees argued that they were earning less than men in comparable, but different, jobs'. Cited from: BBC News (2014) 'South Lanarkshire Council settles equal pay dispute', 26 February. Available at: <https://www.bbc.co.uk/news/uk-scotland-glasgow-west-26355673> '3,000' cited from: Ibid. '£2 million+': "The council will now have to pay out millions in equal pay claims, although the exact details of the overall settlement will remain confidential." Cited from: Sharman, L. (2014) 'South Lanarkshire Council reaches equal pay settlement', on *LocalGov*, 28 February. Available at: <https://www.localgov.co.uk/South-Lanarkshire-Council-reaches-equal-pay-settlement/35739>
- 284 'Equal value' pay claim: 'Members of the waste operation service previously had a "task and finish" arrangement where they could finish their shift early if all of their rounds were completed.' Cited from: Lewis, J. (2025) 'Southampton City Council equal pay claim hits £49.2m', in *Daily Echo*, 15 July. Available

- at: <https://www.dailyecho.co.uk/news/25315255.southampton-city-council-equal-pay-claim-hits-49-2m/> '£49.2 million' cited from: Ibid. '800' cited from: GMB Southern Region (2025) 'Unions agree equal pay deal for hundreds of Southampton City Council staff', 17 July. Available at: <https://www.gmb-southern.org.uk/news/unions-agree-equal-pay-deal-southampton>
- 285 'Equal value' pay claim: 'the appellants, brought proceedings against their employer, the St Helens Borough Council, complaining under section 2 of the Equal Pay Act 1970 that they were less well paid than men doing comparable work.' Cited from: House of Lords (2007) Judgments - St Helens Borough Council (Respondents) v. Derbyshire and others (Appellants). Available at: <https://publications.parliament.uk/pa/ld200607/ldjudgmt/jd070425/derby-1.htm> '500' cited from: *The Times* (2007) 'Dinner ladies win equal pay battle', 25 April. Available at: <https://www.thetimes.com/best-law-firms/profile-legal/article/dinner-ladies-win-equal-pay-battle-tswc2nj6ndm> '£560,000' from Ibid.
- 286 'Equal value' pay claim: 'It argues that those employed at SCAS, who are mainly women, have been unable to access the same pension scheme that predominantly male council workers use.' Cited from: BBC News (2024) 'Care workers to take legal action amid equal pay row', 24 January. Available at: <https://www.bbc.co.uk/news/articles/c51303yx12a> '300' cited from: Ibid.
- 287 'Equal value' pay claim: 'A Swansea Council spokesman said, "The offer will be made to predominantly female staff who work in posts such as care, catering, cleaning and teaching support."' Cited from: Turner, R. (2013) 'Council agrees equal pay settlement', in *Wales Online*, 29 March. Available at: <https://www.walesonline.co.uk/news/wales-news/council-agrees-equal-pay-settlement-2208306> '3,000' cited from: Ibid. '£13 million' from: Ibid.
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Should Britain's equality laws be expanded? This report analyses the largest proposed expansion to the Equality Act since its creation in 2010. Under government proposals, mandatory pay gap reporting and equal value pay claims will be fully expanded to race and disability, where they are currently only available for gender.

Given the primary role that equal value pay claims have played in compromising major British businesses, the bankruptcy of Birmingham City Council, eroding public services and damaging local authority finances, the report argues for the removal of equal value pay claims altogether, rather than their expansion as is currently planned.

Furthermore, while the expansion of mandatory pay gap reporting to ethnicity and disability may have laudable aims and intentions, *On Equality and Equal Pay* argues it will inadvertently stimulate more discrimination. As Lord Sewell writes in the foreword, 'it is a policy that is, in practice, unworkable.' Instead, the report offers a pathway to better solutions for tackling discrimination by heading back to first principles. The conflation of disparity and discrimination, the report notes, distorts anti-discrimination efforts. The crux of the problem is that closing a non-discriminatory disparity – as the proposed expansion intends – is a necessarily discriminatory process.

On Equality and Equal Pay delves into the unintended consequences of equal value pay claims and their murky origins in a 1982 European Court of Justice ruling. In addition, the report finds dozens of local authorities have been stung by equal value pay claims totalling billions of pounds – and which the report argues are unworkable, costly and damaging.

This important report by Civitas exposes a government overly influenced by trade unionists and activists who are determined to implement a policy that is, in practice, unworkable. Crucially, the authors are neither opposed to anti-discrimination principles nor to workers' rights. On the contrary, they demonstrate that the proposed Equality Bill risks undermining fairness in the workplace, increasing social division, and damaging economic growth.

Lord Sewell, chair of the Commission on Race and Ethnic Disparities

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