



Office for Equality and Opportunity: Equality Law Call for Evidence

A response by
The Chartered Institute of Legal Executives
(CILEX)

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Introduction

- 0.1. CILEX would like to take the opportunity to respond to the Office for Equality and Opportunity's call for evidence on equality law. As a representative of a diverse legal membership body, CILEX supports the work into equality laws in England and Wales. As part of this response, CILEX surveyed members working across a variety of areas of law. CILEX has only responded to questions where there is sufficient evidential data to provide a meaningful contribution.
- 0.2. The Chartered Institute of Legal Executives (CILEX) is the professional association and governing body for Chartered Legal Executive lawyers (commonly known as 'CILEX Lawyers'), other legal practitioners and paralegals. Under the Legal Services Act 2007, CILEX acts as the Approved Regulator (AR) and delegates these regulatory powers to the independent regulator, CILEx Regulation Ltd (CRL).
- 0.3. CILEX represents over 17,000 members of which 76% of the membership are female, 16% of members are from an ethnic minority background, 4% are LGBTQA+ and 7% have a disability. Additionally, in terms of social mobility, 65% of CILEX members attended a non-selective state-run or state-funded school and 41% have an undergraduate university degree. 15% of members come from households which received free school meals.

1. Question 6: Do you have any evidence about the prevalence of pay discrimination on the basis of race, disability and sex in England, Scotland and Wales and/or the effectiveness of existing measures in reducing pay discrimination?

- 1.1. All CILEX members surveyed encounter claims of discrimination based on race and disability in their professional capacity on a regular and occasional basis. In reference to pay discrimination, CILEX members noted that discrimination on the basis of disability was occasional, whereas pay discrimination on the basis of race was rare. CILEX furthermore asked members in what capacity they encounter claims relating to pay discrimination. 15% of members responded to the survey based on personal lived experience, whereas 85% of members provide legal advice to either Claimants or Employers (or both). A majority of members who responded to the survey represented Employers.
- 1.2. CILEX is aware that for race/ethnicity discrimination, the Office for National Statistics (ONS) data¹ noted:
 - Black, African, Caribbean or Black British workers have consistently earned less than their White counterparts since 2012;

¹ Office for National Statistics, 'Ethnicity pay gaps, UK: 2012 to 2022', [Ethnicity pay gaps, UK - Office for National Statistics](#)

- Non-UK born Black employees earned an approximate 12% less than UK-born White employees. Non-UK born Black employees are noted to have the most marginal pay gap in the year 2022;
 - According to the 5-category classification (White; Asian or Asian British; Black, African, Caribbean or Black British; Mixed or Multiple ethnic groups; other ethnic groups), Asian or Asian British workers outearned their White counterparts. However, when reviewed on a more granular level, Chinese and Indian individuals had higher income, while Bangladeshi and Pakistani individuals had lower income when both were compared to White British workers.²
- 1.3. Furthermore, on the basis of disability, CILEX is aware that there has been notable change in the pay gap between disabled and non-disabled employees since 2014. The ONS notes that those with autism faced the widest pay gap, with 27.9%, closely followed by epilepsy (26.9%) and specific learning disabilities (20.3%)³. More significantly, disabled women are most discriminated against, being paid £4.05 less⁴.
- 1.4. CILEX understands that there are effective measures to tackle both race and disability pay discrimination in the UK. Namely, CILEX strongly supports the mandating of publicising and reporting pay transparency data to highlight where pay disparities are taking place and why. CILEX is aware that pay transparency measures in gender pay gap reporting has had great success in reducing pay discrimination.

2. Question 9: Do you have evidence about the actions the government could take, and those it should avoid, to make the right to equal pay effective for ethnic minority and disabled people?

- 2.1. CILEX strongly agrees that equal pay protections should be extended to race and disability and believes that mandating pay transparency could help strengthen the public sector equality duties.
- 2.2. CILEX believes that any transparency efforts should be paired with practical guidance and support to ensure that any data collected is meaningful, and that employers and businesses are guided in how to rectify any disparities in pay based on disability, race and sex. CILEX recognises that there are challenges, particularly with race/ethnicity, in ensuring the data is an accurate representation of those employed by businesses and how they identify. CILEX therefore recommends that

² Dentons, 'ONS publishes report on ethnicity pay gap statistics', [Dentons - ONS publishes report on ethnicity pay gap statistics](#).

³ Office for National Statistics, 'Disability pay gaps in the UK: 2014 to 2023', [Disability pay gaps in the UK - Office for National Statistics](#).

⁴ TUC, 'Disability pay and employment gaps', [Disability pay and employment gaps | TUC](#).

the data collected and published accurately represent those groupings as outlined in the government list of ethnic groups as a baseline for data collected⁵.

- 2.3. Furthermore, CILEX cautiously agrees with the implementation of an 'Independent Equal Pay Enforcement Unit' as suggested by the European Human Rights Commission (EHRC). CILEX members note that one of the main barriers for those seeking to make an equal pay claim, is the current Employment Tribunal process and agree that this process should be simplified to ensure that Claimants are not at a disadvantage. However, CILEX stresses the importance of adequately resourcing such an enforcement unit. CILEX notes that across the UK legal system, Courts and Tribunals are under significant pressures and backlogs due to underfunding and inadequate resourcing. CILEX is concerned that although theoretically, an Independent Equal Pay Enforcement Unit would eradicate many barriers for those seeking to bring an equal pay claim and improve efficiency, without sufficient resourcing, this could inherently disadvantage Claimants and Employers alike.

3. Question 10: What evidence is there to establish the steps that should or should not be taken to make the right to equal pay effective for ethnic minority and disabled people?

- 3.1. CILEX is aware that similar frameworks in other jurisdictions demonstrate higher resolution rates for racial and disability-based pay claims when explicitly covered by equal pay legislation. Most closely to the UK, Ireland implemented the Employment Equality Act, which prohibits direct and indirect pay discrimination on any of the nine protected characteristics⁶. Since this legislation was revised in 2015, the Irish Human Rights and Equality Commission have highlighted that the legislation maximises efficiency of employees, improves employee retention and avoids legal costs and lost management time associated with litigation⁷. CILEX supports the introduction of equal pay provisions for other protected characteristics, such as race and disability to be prescribed in legislation.
- 3.2. CILEX believes that the current use of voluntary reporting on pay gaps is insufficient. CILEX therefore believes that relying on voluntary action alone is not sufficient to improve nor protect those who are currently impacted by equal pay discrimination based on race and disability. CILEX is aware that currently only 15% of employers report ethnicity pay gaps voluntarily, with disability pay transparency even rarer at below 10%⁸. CILEX calls for mandating enhanced pay transparency to improve the root cause of pay discrimination across disability and race in the UK.

⁵ Gov.uk, 'List of ethnic groups', [List of ethnic groups - GOV.UK](#).

⁶ L&E Global, 'Pay Equity Laws in Ireland', [Pay equity laws & requirements in Ireland | L&E Global](#).

⁷ Irish Human Rights and Equality Commission, 'Code of Practice on Equal Pay', p6.

⁸ Ibid (n1 & 3).

4. Question 11: What evidence is there of the changes needed to make expanding the equal pay scheme to claims on the basis of race and disability effective, if this approach were taken?

- 4.1. CILEX believes that support and adequate resourcing is crucial in ensuring that the changes needed to make equal pay claims based on race and disability effective. CILEX is aware that employers often do not have the tools nor expertise to carry out equal pay reviews on account of race and/or disability, particularly where employers are small to medium enterprises (SMEs). ACAS currently publicise 'Equal pay: employer responsibilities', which is a positive tool to assist employers in navigating equal pay provisions⁹. CILEX hopes that should legislation be enhanced to protect individuals from pay discrimination, representative organisations be included in discussions to best prepare employers as to their reporting responsibilities and best practice.

5. Question 12: What evidence is there regarding any potential barriers that individuals could face in making equal pay claims and approaches to address these barriers?

- 5.1. CILEX members, including those with personal experiences, noted that the following barriers are prevalent when individuals seek to make equal pay claims:
- Fear of retaliation or victimisation
 - Length of Tribunal processes
 - Cost of Litigation
 - Lack of awareness of rights
- 5.2. CILEX is saddened that retaliation and victimisation continue to occur for those seeking to bring a claim for equality in the workplace. Understanding that these measures are already protected by legislation, CILEX seeks to discuss the variables that can be resolved via the proposed changes, and further legislative action.
- 5.3. As referred to in response to question 10, the introduction of an Independent Equal Pay Enforcement Unit could reduce the length and complexities of bringing a claim to the Employment Tribunals if resourced suitably. This proposal could significantly reduce the time and costs of litigation, whilst also promoting awareness and rights from the enforcement unit itself. This could rectify many barriers that individuals could face.

6. Question 13: Do you have evidence about the way the law works regarding employer and employee rights and responsibilities in relation to pay when reasonable adjustments are made?

⁹ ACAS, 'Equal Pay: employer responsibilities', [Preventing issues - Equal pay: employer responsibilities - Acas](#)

6.1. CILEX notes the decision of the Employment Appeal Tribunal in the case of *G4S Cash Solutions v Powell*¹⁰, whereby G4S failed in its duty to make reasonable adjustments for Mr Powell on the basis of pay. Notably however, the judgment found that protection of payment as a reasonable adjustment is not an 'everyday event' and it is not a long-term solution. Evidently, CILEX appreciates that provisions relating to protection of pay as a reasonable adjustment is heavily dependent on the facts of the case and is for a Tribunal to determine.

6.2. CILEX believes that as in any other case for reasonable adjustments, it is very dependent on the resources available to the employer at the time. CILEX therefore reiterates the importance of clear guidance for employers and the need for a clear reasonable adjustments policy requirement.

7. Question 19: What evidence is there to establish whether outsourced workers should be entitled to draw comparisons between their work and pay with those working for a principle employer in an equal pay claim?

7.1. CILEX understands that section 23 of the Equality Act 2010 allows for comparison for discrimination purposes, where a Claimant believes that they are being discriminated against (including disparity in pay) because of their race or disability. CILEX notes that this provision allows comparison not limited to the same employer, unlike equal pay claims under section 79 of the Act. CILEX is aware that both those of ethnic minorities and those with a disability are more likely to be subject to zero-hour contracts¹¹ and low paid work¹².

7.2. CILEX members noted that whilst there are mechanisms to utilise hypothetical comparators; Claimants often struggle to meet the test of causation. This is especially the case in outsourced work, where decisions can be justified on commercial grounds.

8. Question 21: Do you have evidence on the effectiveness of current enforcement of the equal pay scheme and/or evidence on who should have standing to bring an equal pay claim?

8.1. CILEX members believe that the following would most improve enforcement of equal pay rights:

- Stronger penalties for breaches
- Streamlined Tribunal Processes

¹⁰ [2016] UKEAT 0243.

¹¹ TUC, 'BME women almost twice as likely to be on zero-hours contracts as white men, TUC and ROTA find', [BME women almost twice as likely to be on zero-hours contracts as white men, TUC and ROTA find | TUC](#).

¹² Disability Rights UK, 'TUC slams 'zero progress' on Disability Pay Gap in Last Decade', [TUC Slams "Zero Progress" on Disability Pay Gap in Last Decade | Disability Rights UK](#).

- Greater powers for the EHRC
- 8.2. Several CILEX members noted that overall, the enforcement process needs to be simpler for the Claimant and less costly for all parties. CILEX believes that increased costs associated with discrimination claims in comparison to equal pay claims is burdensome to employers and Claimants, where the resources could be better used to improve the culture and pay structure of the workplace.

9. Question 22: What evidence is there about the effectiveness of current enforcement of the equal pay scheme by the EHRC?

- 9.1. Across the board, CILEX members believed that the EHRC require more powers to effectively enforce equal pay. CILEX is aware that the 2017 Gender Pay Gap Regulations is believed to lack strong, immediate sanctions to those who are not compliant with equal pay in the UK. The process is both time consuming and costly, which is a significant barrier to those seeking to bring an equal pay claim. Furthermore, CILEX notes that these regulations only cover gender pay discrimination, which evidently leaves those faced with disability and racial pay discrimination without a suitable recourse other than a full claim of discrimination.
- 9.2. CILEX recommends that power be provided to the EHRC to enforce clear penalties for non-compliance of equal pay regulations. Additionally, CILEX believes that the EHRC require more resource for additional staffing to ensure investigations are not unnecessarily delayed.

10. Question 23: What evidence is there about the effectiveness of individuals bringing equal pay claims?

- 10.1. CILEX is aware that for individuals, there are significant barriers to success. Notably, the vast majority of equal pay claims recorded do not reach a full hearing, with 61% being withdrawn by the Claimant, 19% being struck out at early stages, and 18% having settled following ACAS reconciliation¹³. CILEX believes that the costs, complexities and lengthy duration of equal pay claims can both financially and emotionally drain Claimants.
- 10.2. CILEX members noted that one of the most effective ways to both improve the enforcement of equal pay rights, and the success of equal pay claims, is through group action or representative claims. CILEX has seen significant success for those undergoing group action claims in comparison to those undergoing the equal pay claim on an individual basis. A clear example includes the ongoing Asda case for equal pay¹⁴.
- 10.3. CILEX notes the ongoing increase of equal pay claims, with a 30% increase since 2020. CILEX hopes that adequate legislative protection and enforcement provisions can ensure that individuals are not in a position to withdraw their claim

¹³ *Personnel Today*, 'Thousands of equal pay claims still received by tribunals each year', [Thousands of equal pay claims still received by tribunals each year - Personnel Today](#).

¹⁴ *Asda Stores Ltd v Brierly and others* [2019] UKSC 0039.

on the basis of complex and lengthy processes. A clear, structured and enforceable equal pay protection is crucial to promote equality in an ever-growing diverse working force.

11. Question 24: What evidence is there that any person or organisation other than the individual complainant or the EHRC should be able to bring equal pay claims? Who should this be?

11.1. CILEX believes that there are many benefits in allowing another person or organisation other than the individual complainant or the EHRC the ability to bring equal claims. As discussed in response to question 12, two of the main barriers identified for individuals bringing equal pay claims are due to fear of retaliation and victimisation, and lack of awareness of rights. CILEX believes that allowing other persons or organisations to bring equal pay claims on the individual's behalf could eradicate and/or significantly reduce some of these concerns.

11.2. CILEX however feels that there should be limitations for those who can bring a claim on behalf of the individual complainant. It is important to recognise that whilst many have the intention to assist the individual in need, they may lack the knowledge to effectively manage and bring a claim on their behalf. CILEX believes that positive examples of who could bring a claim on behalf of an individual include:

- Trade Unions
- Dedicated Charities
- Statutory bodies or Government Agencies

12. Question 25: Do you have evidence about the possible impacts of introducing pay transparency measures on pay equality on the basis of sex, race or disability and/or employers?

12.1. CILEX strongly supports pay transparency measures on pay equality on the basis of sex, race and disability. CILEX notes that UK firms (250+ employees) reported a 19% reduction in median gender pay gaps following mandatory gender pay reporting¹⁵ and believe that mandatory reporting across all characteristics is vital to ensure greater accountability of employers to promote a positive and inclusive working culture. Furthermore, CILEX is aware that there many employer benefits in publishing transparency data; namely, employers who disclose their data experience better retention, higher candidate attraction and enhanced productivity in their workforce¹⁶.

12.2. As referenced in response to question 9, CILEX recognises that there are challenges in ensuring that data collected is an accurate representation of those

¹⁵ *The Policy Scientist*, 'Does Pay Transparency Reduce the Gender Pay Gap?', [Does Pay Transparency Reduce the Gender Pay Gap?](#).

¹⁶ *Financial Times*, 'Business school teaching case study: Can transparency improve pay equality?', [Business school teaching case study: Can transparency improve pay equality?](#)

employed in the organisation and how they identify. CILEX therefore recommends that the data collected and published accurately represent those groupings as outlined in the government list of ethnic groups as a baseline for data collected¹⁷.

- 12.3. CILEX does however recognise that there are some drawbacks, particularly financially and operationally for employers. CILEX notes that there is implementation costs linked to analysing data and adopting systems. CILEX believes that adequate advice and guidance for employers can assist in reducing the total cost of training and implementation. CILEX hopes that this can be arranged with the relevant stakeholders to make any transition as smooth as possible.

13. Question 29: What evidence is there about the effectiveness of the Equality Act 2010 (Equal Pay Audits) Regulations 2014?

- 13.1. CILEX believes that the Equality Act 2010 (Equal Pay Audits) Regulations 2014 (the Regulations) in principle is a useful tool to ensure that employers continue their obligations following an equal pay breach. With penalties of up to £5,000 for non-compliance, CILEX believes that this is a positive way to ensure that employers can best remedy equal pay discrepancies.
- 13.2. However, in practice, CILEX is aware that application of the Regulations is very rare. CILEX believes that the Regulations could extend further, noting that the Regulations only come into effect post-issue of a claim. CILEX hopes that following this inquiry, work can be done to focus on proactive mechanisms to ensure best use of the Regulations. To avoid ambiguity and unmanageable organisational disruption, CILEX recommends that the EHRC should lead audits for employers, to simplify enforcement in the future.

14. Question 31: What evidence is there on the possible impact of requiring employers to undertake equal pay audits in cases where pay discrimination has been found in relation to race or disability?

- 14.1. CILEX understands that bodies such as the TUC and EHRC frequently recommend extending audit obligations to include race and disability. CILEX agrees with the view that systematic inequalities can often be unknown unless tracked, and therefore unresolvable.
- 14.2. CILEX believes that further pilots be undertaken to understand the key similarities and issues for race and/or disability pay discrimination. CILEX is aware that to date, there is limited knowledge and work available.

¹⁷ Gov.uk, 'List of ethnic groups', [List of ethnic groups - GOV.UK](#).

15. Question 33: What evidence is there on the prevalence of combined discrimination in England and Wales and Scotland?

- 15.1. CILEX is aware that 45% of UK adults have experienced workplace discrimination of various kinds, whether this be based on race, disability, gender etc. However, CILEX notes that there are extreme limitations in specific data on combined discrimination¹⁸.
- 15.2. Based on the data that is available, CILEX noted that intersectional claims often fail at early stages¹⁹. Additionally, looking at BME women specifically, those with disabilities are faced with a 'triple impact' of compounded underemployment, low pay and job insecurity²⁰.

16. Question 34: What evidence is there as to whether there is currently sufficient legal protection against discrimination based on a combination of protected characteristics?

- 16.1. As highlighted above, CILEX notes the extreme limitations in current data available for those facing combined discrimination. CILEX calls for more investigation into combined discrimination in the Employment Tribunals across the UK.
- 16.2. CILEX notes the current legislative gaps in the Equality Act 2010, noting that combined or dual discrimination is omitted from the Act. CILEX strongly recommends reverting to discussions around section 14 of the Act to resolve this issue. CILEX is aware that in many cases, the lack of legislative protection for discrimination based on a combination of protected characteristics can cause additional costs, time and emotional turmoil for both the employer and particularly the Claimant. Famous examples include the case of *O'Reilly v BBC & Anor*²¹, where age and sex were the combined protected characteristics concerned.

17. Question 35: What evidence is there on access to redress in cases of combined discrimination?

- 17.1. CILEX reiterates that there are extreme limitations to data available in reference to combined or dual discrimination. Due to the lack of active legislative protection for combined discrimination, there is no suitable redress available without duplicating the work, cost and emotional turmoil required in litigation.
- 17.2. CILEX as a representative of an ever-growing diverse legal profession, representing a diverse workforce, calls for adequate legislative protection for those who encounter combined discrimination. Due to the current lack of legislative protection for combined discrimination; legal, procedural and institutional barriers hinder coherent presentation, fair hearings and meaningful

¹⁸ Ciphcr, 'Nearly half of UK adults have experienced workplace discrimination', [Nearly half of UK adults have experienced workplace discrimination](#).

¹⁹ William, Corby, Pauksztat, 'Intersectional Claims at the Employment Tribunal', (2025)

²⁰ TUC, 'BME women and work', [BME women and work | TUC](#)

²¹ 2200423/2010 (ET)

remedies for combined harms. CILEX stresses the need for clear and available data on the experiences of those seeking to make a claim on the basis of combined discrimination in order to suitably identify the solution for both employers and employees who remain vulnerable on this point.

18. Question 36: What evidence is there as to the effectiveness of commencing section 14 of the 2010 Act in protecting against combined discrimination and providing redress for those who have experienced it?

- 18.1. CILEX strongly supports the commencement of section 14 of the Equality Act 2010. As it currently stands, while existing single-strand discrimination law can protect those with intersecting identities (to some extent), section 14 allows Claimants to assert inseparable combinations. CILEX agrees with the view of the Discrimination Law Association that section 14 is necessary to simplify the complaints process to avoid undue complexities²².
- 18.2. CILEX believes that section 14 would provide for a clear, single cause of action, with simpler litigation and legal recognition of inseparable grounds. In turn, CILEX notes the direct increase in access to justice for those seeking to bring a claim for combined discrimination. Due to the lack of available data on those with multiple protected characteristics, it is difficult to ascertain how many individuals will benefit from the protections of section 14. CILEX hopes that following this inquiry, work will be done to improve the current available data to reflect the diversity of a modern work force.

19. Question 37: What evidence is there as to the effectiveness of any other actions to protect against combined discrimination and provide redress for those who have experienced it?

- 19.1. CILEX notes that in the case of *O'Reilly v BBC*, it is important to recognise that whilst the case had significant complexities, the Tribunal were able to recognise the combined effects without legislative provisions²³. However, the procedural complexities remained a barrier to swift resolution without the protection of clear legislative provisions.

20. Question 41: Do you have any evidence on the effective steps that can be taken by employers to reduce/prevent sexual harassment in the workplace?

- 20.1. CILEX recognises the work undertaken by the Equality and Human Rights Commission in publishing updated technical guidance ahead of the new duty to prevent sexual harassment in the workplace announced in October 2024²⁴. CILEX

²² *Discrimination Law Association, 'Supplementary evidence to WEC re S14 – following a request from the WEC for supplementary evidence as to whether section 14 of the Equality Act (combined discrimination/dual discrimination provision) should be introduced', [Supplementary evidence to WEC re S14 - following a request from the WEC for supplementary evidence as to whether section 14 of the Equality Act \(combined discrimination/dual discrimination provision\) should be introduced, DLA produced a detailed response | Discrimination Law Association](#)*

²³ *O'Reilly v BBC & Anor 2200423/2010 (ET)*

²⁴ *EHRC, 'Sexual harassment and harassment at work: technical guidance', [Sexual harassment and](#)*

believes that clear and accessible guidance is the key to ensure that employers understand their obligations to prevent sexual harassment in the workplace. As noted in the guidance, employers should:

- Consider the risks of sexual harassment occurring in the course of employment
- Consider what steps it could take to reduce those risks and prevent sexual harassment of their workers
- Consider which of those steps it would be reasonable for it to take
- Implement those reasonable steps²⁵

21. Question 44: What evidence is there regarding expanding the Equality Act 2010's workplace protections to volunteers?

- 21.1. In a response to the 2019 consultation on sexual harassment in the workplace, 90.9% of CILEX members surveyed believed that wider Equality Act 2010 protections, including in respect of sexual harassment should be extended to volunteers, where they are not already covered by relevant provisions. CILEX notes that where there are potential administrative burdens for employers, respondents believed that this was acceptable and is not enough to leave volunteers unprotected by the Act.
- 21.2. CILEX believes that expanding the Equality Act 2010's workplace protections to volunteers will provide clarity and confidence to volunteers, particularly those who are disabled or from an ethnic minority background.

22. Conclusion

- 22.1. CILEX supports the work of the Office for Equality and Opportunity in reviewing equality laws in the UK, specifically in relation to disability and race. CILEX strongly agrees with the mandating of publicising transparency data in relation to disability and race, and the proposal that disability and race be protected under equal pay legislation. CILEX hopes that this will improve the current lack of available data in this area of law. CILEX remains severely concerned that those who are faced with combined or dual discrimination remain inadequately protected by legislation. Therefore, CILEX urgently calls for reforms to combined discrimination and enactment of section 14.

[harassment at work: technical guidance | EHRC.](#)

²⁵ *Ibid.*