



Pay transparency: how Britain went from trailblazer to playing catch-up

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The UK Government recognised the connection between transparency and the elimination of the gender pay gap when it introduced legislation requiring large employers in England, Wales and Scotland to report annually on their gender pay gap. However, some nine years on, Great Britain's requirement that employers simply report limited data looks increasingly inadequate when compared with developments across the Channel.

By 7 June, EU Member States must transpose the EU Pay Transparency Directive 2023/970 (PTD) into national law. The PTD followed recognition by Member States that the application of the principle of equal pay for equal work or work of equal value is hindered by a lack of transparency about pay levels within organisations. Workers lack sufficient information about pay levels for categories of workers performing the same work or work of equal value to be able to bring successful equal pay claims.

Given the UK Government's recent promise to go 'further and faster in closing the gender pay gap', is Great Britain moving towards convergence with EU standards?

Indeed, the UK itself may soon be required to give effect to the PTD. The Equality Commission for Northern Ireland and the Northern Ireland Human Rights Commission argue that, by virtue of the UK Government's obligation to ensure that the law of Northern Ireland keeps pace with certain EU equality legislation, the PTD must be transposed into the law of Northern Ireland. The UK Government has not accepted that it is required to give effect to the PTD; but the possibility of divergence between Great Britain and Northern Ireland on pay transparency is something that employers should be aware of.

In this article, we examine what the PTD requires of EU Member States, how this compares to the UK's plans for pay transparency, what this means for Northern Ireland in particular and the key steps employers across the UK should be taking to prepare.

The EU Pay Transparency Directive

Pay gap reporting and jobs of equal value

As is well known, EU employers will have to regularly publish information about the pay gap between female and male workers. Employers within scope will have to comply with their reporting obligations on a phased basis, with the largest employers reporting from 7 June 2027 onwards. Those reports will be broadly similar to reports here, covering mean and median gender pay gaps, gaps in discretionary/variable pay, the share of men and women receiving such pay and the gender split across pay quartiles. However, Article 9(1)(g) PTD will require the provision of information about the gender pay gap for groups of workers whose jobs, though

different, have been assessed as being of equal value because they demand comparable skills, effort or responsibilities. The PTD's emphasis on work of equal value reflects an acknowledgement, recorded in its recitals, that work predominantly carried out by women has been persistently and systemically undervalued.

Article 10 PTD goes further still; where the Article 9 reports reveal a gender pay gap of 5% or more in any category of workers (ie a group of workers performing the same work or work of equal value) that an employer cannot objectively justify, or remedy within six months, then a 'joint pay assessment', ie a detailed assessment by employers with worker representatives must be carried out to address any gaps.

Right to information about pay, average pay, and pay criteria

Under Article 7 PTD, workers will have the right to information about their individual pay level, and average pay levels broken down by sex, not just for workers performing the same or similar roles to them, but also in relation to workers undertaking different jobs if it is work of equal value. Under Article 6 PTD, workers will have the right to information about the criteria the employer uses to determine pay, pay levels and pay progression.

Job applicants

The recitals to the PTD make clear that an important element of eliminating pay discrimination is pay transparency prior to employment. Not only will applicants have the right under Article 5 PTD to receive information from prospective employers about the intended salary or salary range for each role, but Article 5(2) prohibits employers from asking applicants about their current pay and pay history.

Prohibition of pay secrecy

Similarly, Article 7(5) PTD prohibits pay secrecy. Contractual terms that restrict workers from disclosing information about their pay will be unlawful. This goes much further than s.77 of the Equality Act 2010 (EqA 2010), which merely renders pay secrecy clauses unenforceable.

UK call for evidence on pay transparency

In April 2025, the UK Government issued a 'call for evidence' relating to several areas of equality policy, including improving pay transparency. The Government's response to the call for evidence has not yet been published. The reason for that is unknown, but it may be that uncertainty about the position of Northern Ireland is delaying matters.

The call for evidence makes clear that the Government is committed to taking a range of steps to expand and strengthen equal pay rights and pay gap reporting requirements and has sought views on introducing a range of measures very similar to the PTD in the UK. Those measures under consideration include:

- requiring employers to provide the specific salary or salary ranges on job adverts or prior to an interview;
- preventing employers from asking candidates about their current or historic pay, so that employers have to set their own parameters for pay negotiations;
- requiring employers to publish or provide employees with information on pay, pay structures and criteria for pay progression; and
- requiring employers to provide employees with information on their pay levels and how an employee's pay compares to those doing the same role or work of equal value to theirs.

The Government also consulted separately on the Equality (Race and Disability) Bill (ERD) and mandatory ethnicity and disability pay reporting for larger employers, which the Government recently confirmed it will introduce.

The call for evidence notes that the transparency measures under consultation are likely to prompt employers to resolve underlying equal pay issues, for example, 'to be in a position to confidently publish salary information in job adverts, employers will need to first undergo a job evaluation process, and ensure that they have a clear pay and reward structure. In so doing they may uncover disparities that are not based on objective differences in job requirements and seek to rectify these'.

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The Government in the call for evidence noted that pay transparency may be beneficial for other groups who face similar barriers, including disabled people and other underrepresented groups. This was also acknowledged in the recitals to the PTD, which made clear that an 'intersectional approach is important for understanding and addressing the gender pay gap'.

Equality action plans and pay transparency

Under s.33 of the Employment Rights Act 2025, which inserts s.78A into the EqA 2010, the Secretary of State may make regulations requiring large employers to develop and publish equality action plans setting out the steps those employers are taking in relation to prescribed matters relating to gender equality, including addressing the gender pay gap.

While the regulations are yet to be made or published in draft, on 4 March 2026, the Government published initial guidance for employers in England, Scotland and Wales on creating equality action plans (subsequently supplemented by step-by-step guidance on 7 April 2026), stating that subject to legislation, the production and publication of such action plans will remain voluntary for the time being and are expected to be mandatory from spring 2027. The published initial guidance includes specific guidance on increasing pay transparency that echoes the PTD in striking ways, encouraging employers to include pay information in job adverts and to be transparent about the criteria used to determine pay and pay levels.

What should employers in Great Britain do now?

Regardless of the legislative position, we fully expect to see pay transparency evolve to become a business imperative for all UK employers. Employees will come to expect increased pay transparency, and employers will recognise the role that increased transparency can play in improving employee recruitment, retention and engagement. Accordingly, even before further legislation arrives, including the ERD, we would suggest that employers proactively consider making their pay policies and processes more transparent. We have three key suggestions.

First, employers should stop asking job applicants questions about their current or historic pay. In the US, it is being argued, in several prominent class action lawsuits against employers, that basing pay decisions on historic pay has a disparate impact on female employees, and an analogous argument could already be made here under s.19 EqA 2010. During recruitment, employers should be more open about pay and should provide clear information about the intended salary ranges and why some candidates will be paid towards the top end of the range. Employers who continue to set pay by reference to a job applicant's pay history, or their propensity to negotiate for higher pay, may find themselves exposed to indirect discrimination claims, or may struggle to defend themselves against future equal pay claims.

Secondly, and linked to this, employers should give very careful thought to remuneration decisions based on actual or perceived market forces, and to how they remunerate lateral hires. A recent article in the *Financial Times* (FT) reported that male job applicants are more likely to inflate their potential book of business to a prospective employer, whereas female applicants are more likely to undervalue it. According to the FT, some law firms already make their own adjustments to applicants' business case figures to redress the balance. Employers who are not making such adjustments, or whose assessment of an applicant's value on the market is based even in part on that applicant's own assessment of their value, may run into difficulties if they need to defend themselves against future equal pay claims.

Finally, just as EU employers will need to review and compare the value of different jobs across their organisations and ensure that there are no unjustified disparities in pay between workers undertaking work of equal value, UK employers would be well advised to undertake similar equal pay audits now focusing on different roles that may amount to work of equal value (for example, HR and IT professionals), ideally on a privileged basis.

Audits of this kind will equip employers to devise meaningful equality action plans before such plans become

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mandatory in 2027, to defend themselves more effectively against any discrimination or equal pay claims that may be threatened or brought, and to comply with the more granular reporting obligations that the Government is likely to introduce in due course.

Employers in Northern Ireland

As for employers in Northern Ireland, currently not subject to any reporting obligations at all, if the UK Government decides that it is obliged to transpose the PTD into the law of Northern Ireland, then employers may suddenly be faced with the need to comply with legislation implementing the PTD. Prudent employers will want to take steps now to prepare for this eventuality, particularly given the likely overlap with future UK legislation in any event.

Conclusion

Many international employers will already be mirroring the changes they are making in the EU and the US over here, but all would be well advised to consider this now. Given the recent announcements about the ERD and equality action plans, and the looming prospect of PTD transposition in Northern Ireland, it can surely only be a matter of time before the UK catches up with its EU counterparts.

KEY:

PTD

Directive 2023/970 to strengthen the application of the principle of equal pay for equal work or work of equal value between men and women through pay transparency and enforcement mechanisms [2023] OJ L132/21

EqA 2010

ERD

Equality Act 2010

Equality (Race and Disability) Bill