



Department for  
Business & Trade

# Ethnicity Pay Reporting

Government response to consultation

July 2023

# Contents

Introduction	3
Background to consultation	4
Progress since the consultation closed	5
Further discussion with employers	5
The Commission on Race and Ethnic Disparities Report	6
Next steps	7
Annex - Summary of responses	8
Annex - Statistical analysis of consultation questions	12

## Introduction

The government is committed to addressing unjust racial disparities and ensuring that people from all walks of life have the opportunity to realise their potential.

This is all the more important as the UK population becomes increasingly ethnically diverse. Progress has been made on increasing ethnic minority employment; the latest available data for the first quarter of 2023, shows an ethnic minority employment rate of 69.4%, this is a record high and an increase of 1.1 percentage points on the same quarter a year ago<sup>1</sup>.

However, we know that challenges still remain. Data has shown there are wide variations in gross earnings between ethnic groups. While some ethnic minority groups earn more per hour than white British employees on average, others earn less<sup>2</sup>.

That is why in 2019 the government consulted on mandatory ethnicity pay reporting, which some individuals and organisations had proposed as a way of bringing more transparency to this area.

This response sets out the context of this consultation, a summary of responses received, and the further work in this area undertaken by the government since the consultation closed.

This work has led government to conclude that, while ethnicity pay gap reporting can be a valuable tool to assist employers, it may not always be the most appropriate mechanism for every type of employer. Therefore, as set out in the “Inclusive Britain” report, which was published in March 2022, the government will not be legislating to make ethnicity pay reporting mandatory at this stage.

Instead, we have produced guidance to support employers who wish to report voluntarily. This was published in April 2023.

---

<sup>1</sup><https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/labourmarketstatusbyethnicgroupa09>

<sup>2</sup><https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/articles/ethnicitypaygapsingreatbritain/2019>

## Background to consultation

In 2016 the government asked Baroness McGregor-Smith to examine the barriers faced by people from ethnic minorities in the workplace and consider what could be done to address them. Her 2017 report 'Race in the Workplace'<sup>3</sup> set out a range of actions for business and the government to take forward to help improve employment and career prospects for those from ethnic minority backgrounds. According to the report, equal participation and progression across ethnicities could be worth over £20 billion to the UK's economy per year.

One of Baroness McGregor-Smith's recommendations was that the government should legislate for mandatory reporting of ethnicity pay data by £20,000 pay band.

The government commissioned a 'One Year On' Review of the McGregor-Smith Report<sup>4</sup> in February 2018. The findings showed that limited progress had been made across the McGregor-Smith recommendations.

In response to these findings, in 2018 the Department for Business, Energy and Industrial Strategy (BEIS) consulted on a mandatory approach to ethnicity pay reporting<sup>5</sup>. The consultation sought views on:

- the benefits of gathering, monitoring and publishing ethnicity data;
- what ethnicity pay information should be reported;
- what contextual information should be reported or available;
- narrative and action plans;
- ethnicity data and classifications; and
- data handling and anonymity

The consultation closed on 11 January 2019.

---

<sup>3</sup> <https://www.gov.uk/government/publications/race-in-the-workplace-the-mcgregor-smith-review>

<sup>4</sup> <https://www.gov.uk/government/publications/race-at-work-2018-mcgregor-smith-review-one-year-on>

<sup>5</sup> <https://www.gov.uk/government/consultations/ethnicity-pay-reporting>

## Progress since the consultation closed

### Further discussion with employers

The government has continued to meet with businesses and representative organisations to understand the barriers to reporting and explore what information could be published to allow for meaningful action to be taken. It is essential that any reporting is reliable and robust. As part of this, the government ran a voluntary methodology testing exercise between June and August 2019 with a broad range of businesses to better understand the complexities outlined in the consultation using real payroll data.

This work has highlighted the genuine difficulties in designing a methodology that produces accurate figures that allows for interpretation and action from employers, employees and the wider public.

Key issues included:

- **Collecting data on ethnicity / burden on business** – a survey of over 100 organisations by PwC in August 2020 found that almost 35% of organisations surveyed did not collect any ethnicity data, with 50% identifying legal and General Data Protection Regulation (GDPR) requirements as a barrier to collecting the data. Among organisations that did collect ethnicity data, around 47% responded that they were unable to publish their ethnicity pay gap due to poor or insufficient data driven by low response rates.
- **Reporting on a binary basis** – one way to mitigate low employee declaration rates is to combine all individuals from an ethnic minority background into a single group for reporting purposes. For example, in 2019, the hourly median pay gap between those from a white background and all other ethnic groups combined was 2.3%. However, this approach masks the significant variations in labour market outcomes between groups. In 2019, the largest pay gaps, relative to white British Employees, were observed for individuals in Pakistani and Bangladeshi ethnic groups, while Chinese and Indian employees had a higher median hourly pay than white British employees.
- **Skewed results** - employers highlighted that reporting at a more granular level risked results being skewed by particularly large or small pay values because of low numbers within certain ethnic groups. If an employer with 300 people employs black individuals in proportion to the wider population (3% of the England and Wales working-age population is black according to the ONS), it means their average pay would be calculated from just 9 individuals (assuming that organisation has 100% declaration rates). If declaration rates are only 50%, average pay would only be calculated on 4-5 individuals. The uneven geographical distribution of specific ethnic groups complicates this issue further, for example, in Wales only 0.7% of the working-age population is black. It is not possible to draw reliable statistics when data is based on too few values. Reporting on such low numbers would also risk removing the anonymity of individuals.

## The Commission on Race and Ethnic Disparities Report<sup>6</sup>

The independent Commission on Race and Ethnic Disparities published their report on 31 March 2021 which set out a roadmap to addressing unjust racial disparities and improving fairness for all in the UK, and put forward 24 recommendations for further action across government, public bodies and the private sector.

The Commission suggested continuing the voluntary approach to ethnicity pay reporting and that the government should issue guidance on this. One of its key recommendations was that all employers that choose to publish their ethnicity pay figures should also publish a diagnosis and action plan to lay out the reasons for and the strategy to improve any unjust racial disparities. They also said that reported ethnicity pay data should be disaggregated by different ethnicities to provide the best information possible to facilitate change. Account should also be taken of small sample sizes in particular regions and smaller organisations.

To support employers undertaking this exercise, the Commission recommended that then Department for Business, Energy and Industrial Strategy (BEIS) be tasked with producing guidance for employers to draw on.

## Voluntary Ethnicity Pay Reporting Guidance

The government published the “Inclusive Britain”<sup>7</sup> strategy in March 2022 in response to the findings and recommendations from the Commission. The strategy set out more than 70 preventative and remedial actions to tackle unjust racial disparities, including an action to develop voluntary guidance<sup>8</sup> for employers on ethnicity pay reporting. The government has fulfilled this action and published guidance on 17 April 2023 for employers on how to voluntarily measure, report on any unfair ethnicity pay gaps within their workforce. Actions that employers can take to make workplaces fairer and more inclusive will be developed by an Inclusion at Work panel, established by the government in April 2023 as part of “Inclusive Britain”. In developing the guidance, the government has taken into account the findings from this consultation and undertaken further engagement with employers and employer representative bodies on the suggested approach and methodology.

---

<sup>6</sup> <https://www.gov.uk/government/publications/the-report-of-the-commission-on-race-and-ethnic-disparities/foreword-introduction-and-full-recommendations>

<sup>7</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities>

<sup>8</sup> <https://www.gov.uk/government/publications/ethnicity-pay-reporting-guidance-for-employers>

## Next steps

The government is determined to take steps to help employers address unjust ethnic disparities in the workplace, recognising that disparities emerge for a complex range of reasons and that not all disparities are a result of discrimination. Key to this is gaining a good understanding of the particular issues which may be driving those disparities. Introducing an effective pay reporting system is one way to achieve that because it helps employers build an evidence base for relative pay across ethnic groups and identify unexplained gaps. But, employers need flexibility to do this well.

Following the consultation and further work with employers, our “Inclusive Britain” strategy and the publication of ethnicity pay reporting guidance, and other voluntary measures undertaken by employers, we do not believe that now is the right time to take forward a mandatory approach to ethnicity pay reporting. It is clear that a single reporting model may not work for all employers and that “a one-size fits all” approach to action-planning will not be appropriate in all circumstances.

This consultation highlighted genuine difficulties in designing a methodology for ethnicity pay reporting, with mixed views on the best metric to use. It is therefore clear that it is not appropriate for the government to mandate a particular methodology.

Following on from this consultation, the government continued to meet with businesses and representative organisations to understand the barriers to undertaking ethnicity pay reporting. The government ran a voluntary methodology testing exercise between June and August 2019 which highlighted the complexities and genuine difficulties in designing a methodology. The government published guidance on 17 April 2023 for employers on voluntary ethnicity pay reporting.

## Annex - Summary of responses

In October 2018, the government consulted on proposals to introduce mandatory ethnicity pay reporting. The consultation did not consider alternative options, such as government encouragement of good practice where employers have voluntarily reported.

The consultation ran between October 2018 and January 2019. We received 321 responses.

The government is grateful to all who took the time to provide considered and constructive answers to the consultation questions, as well as those who participated in roundtable discussions and provided further evidence subsequently to enhance our understanding of the issues raised.

This section provides a summary of the responses to the consultation.

### Main benefits for employers in reporting their ethnicity pay information (question 1)

The consultation sought views on the main benefits for employers in reporting their ethnicity pay information.

More than 9 out of 10 employers and business organisations (91%) were supportive of ethnicity pay reporting to some extent, as were the majority of individual respondents.

Respondents saw a requirement for increased transparency as an opportunity for employers to gain a better understanding of their workforce. This will enable them to develop targeted action plans to address imbalances and provide a benchmark to measure success against their targets.

Some employers also judged that increased transparency would lead to people from ethnic minorities having equal access to development and progression opportunities.

### Methodology to calculate pay gaps and contextual information that should be reported (questions 2 – 3)

#### Methodologies and metrics to calculate and report pay gaps

The consultation sought views on the type of ethnicity pay information that should be reported to allow for meaningful action to be taken without placing undue burdens on businesses. There was a clear message in the responses that employers wanted to see alignment, where possible and appropriate, between mandatory ethnicity pay reporting and existing arrangements for gender pay reporting.

There were mixed responses on the preferred metric to report ethnicity pay gaps. Some respondents preferred a binary pay gap figure (white / all other ethnic groups combined) due to its simplicity. However, there were concerns that this approach could mask significant differences in pay between ethnic groups.

The main alternative proposed was to report on multiple pay gap figures (e.g. white / Asian, white / black, white / mixed, white / other) which would overcome some of these challenges. However, several organisations raised concerns that this approach would lead to numbers that would be too low to report reliable statistics and protect anonymity. This would be more problematic for smaller organisations around the 250 threshold and in organisations where self-reporting rates are low.

Most respondents were supportive of reporting ethnicity pay information by pay quartiles, mirroring the gender pay gap methodology.



## Supporting and contextual information

Most respondents highlighted that the inclusion of some contextual data is important to ensure the reporting is understood accurately. Several employers stated that they would find it helpful to benchmark their data against the demographic profiles of the geographies in which they operate. Variables such as sector, age, gender and part-time working were identified to a lesser extent.

Whilst employers were generally supportive of considering contextual information alongside ethnicity pay reporting, it is clear that contextual factors will vary significantly between employers. Some organisations highlighted that they should have the flexibility to explain their data in the context of their business rather than requiring all organisations to provide prescriptive additional information.

A large number of respondents stated that it would be useful for the government to provide guidance on what contextual data could be useful and signpost the availability of relevant data sources for comparison.

We believe that it is important that employers have the opportunity to decide if it is appropriate for them to report at the current time. If they decide to report, the government believes it is for individual businesses to decide which type of methodology is best for them. Given the data difficulties uncovered in the consultation and the following work on methodology, it is clear that it is not appropriate for the government to mandate a particular methodology.

## Should an employer that identifies disparities in their ethnicity pay in their workforce be required to publish an action plan for addressing these disparities? (Question 4)

The consultation sought views on whether an employer that identifies disparities in their ethnicity pay should be required to publish an action plan to address these disparities.

There was no consensus amongst employers on whether an action plan should be required in situations where there are unjust racial disparities in ethnic pay data. Business organisations were broadly in favour of mandatory action plans.

For gender pay gap reporting, it is not a mandatory obligation for employers to publish a narrative or action plan alongside their data. Employers are strongly encouraged to publish a narrative to explain the reasons for the results. Some go further and give details about actions that are being taken to reduce or eliminate the gender pay gap in their organisation. This level of transparency and public scrutiny, including scrutiny from an organisation's own employees, is clearly desirable as an incentive for improvement. Around half of employers in scope published a narrative with some form of action plan in the first year of gender pay gap reporting.

Those in favour of voluntary action plans often cited a preference to mirror the gender pay gap regulations where action plans are encouraged but not mandated. Respondents also highlighted that mandatory action plans would increase burdens on employers and risk over-simplification by the government setting the parameters for what meaningful action should be taken to address any unjust racial disparities found in the reported figures.

Conversely, some respondents believe that action plans should be mandated to hold organisations accountable on the steps they are taking to drive positive action.

The government believes that employers should have the freedom to determine how they set out the actions they will take to tackle the barriers ethnic minorities may face in their particular organisation but that some guidance on good practice may be helpful.

## Challenges in collecting, analysing and reporting ethnicity pay information (questions 5 – 9)

### Classifications of ethnicity in the collection and reporting of ethnicity data

The consultation sought information on whether organisations responding to the consultation collected ethnicity data and, if yes, the classifications that were used.

Over 75% of employers and business organisations that responded to the question in the consultation collect data on ethnicity. Of those employers that collect data on ethnicity, 67% collect in line with the 2011 ONS Census; 11% in line with the 2001 ONS Census; and 22% use other variations of ethnic classifications.

Nearly all employers and business organisations agree that a standardised approach to classifications of ethnicity should be used to ensure data is consistent, meaningful and comparable across organisations and over time.

A few respondents highlighted that they do not currently have Human Resources (HR) systems and processes in place to collect this information. The consultation sought views on the estimated cost of implementing or changing HR systems to allow for new classifications. Some employers stated that there would be a cost associated with altering any HR systems to accommodate any changes to the classifications, although we received very few responses with specific estimates.

### Self-reporting and non-disclosure rates

The consultation sought views on the most effective approaches for employers to improve ethnicity reporting rates by individuals. It also asked whether employers should encourage self-reporting and non-disclosure rates (i.e. percent of employees that have proactively selected 'prefer not to say').

A small number of responses preferred the government to mandate the sharing of ethnicity data by employees. However, the majority of responses focused on the actions that employers already take or may take to improve the sharing of this data voluntarily.

Several respondents pointed to Equality and Human Rights Commission (EHRC) research in their own responses, some also suggested the actions by Nationwide outlined in our consultation document were helpful in understanding how employers should approach this task, and some pointed to recommendations made by Baroness McGregor-Smith in her 2017 Review.

The most effective actions for encouraging self-reporting, according to EHRC research, were:

- Collecting ethnicity data at continuous stages throughout employment; recruitment, 'on-boarding', appraisals and other business administration contact points.
- Consistent cross-organisation communication campaigns that encourage employees to self-report their ethnicity, outlining how this information will be used to embed equality, diversity and inclusion in organisational culture and change.
- Providing different formats for staff to provide this information, taking into consideration that not everyone uses a computer.

There was a strong sentiment that the government should ensure employees data sharing remains voluntary but positively encouraged through clear communications by both business leaders and government. There was broad consensus that this exercise in itself demonstrates the level of trust employees have in their organisation, its leaders and managers.

Some employers highlighted that it would be useful for companies to publish self-reporting and

non-disclosure rates (i.e. percent of employees that have proactively selected 'prefer not to say') as this information could be used as an indicator of whether an organisation has created a culture where employees feel confident in disclosing their ethnicity to their employer.

### Data handling and anonymity

The consultation sought views on what steps should be taken to preserve the confidentiality of individuals.

Several respondents expressed the view that there should be a minimum threshold for reporting, below which employers are not legally required to report. There were limited responses on what level the threshold should be set at, but we did receive some indication that this figure should be between 5 to 10 responses in each group.

Some responses asked how the General Data Protection Regulation affected employers' ability to collect ethnicity information. Other significant issues include understanding how long the data can be kept for.

The government's new guidance on ethnicity pay reporting includes advice on addressing these key data challenges.

### Scope of mandatory ethnicity pay reporting and support measures for employers (questions 10 – 11)

The consultation sought views on employer or employee size thresholds that should be within scope for mandatory ethnicity pay reporting.

Most employers and business organisations (73%) agreed that mandatory ethnicity reporting should apply to large employers (i.e. those with 250 or more employees). This aligns with the threshold for gender pay gap reporting and includes over 10,000 employers in Great Britain.

Over 50% of individual respondents said that all employers or employers with 50+ employees should be in scope, mostly citing that all employees from ethnic minority groups are affected by societal trends regardless of the size of their employer. This view was reinforced by an interest group, who highlighted that in Scotland, public sector bodies with over 20 staff are required to publish gender pay gap information and a statement on equality pay, as part of the Scottish specific duties regulations under the Public Sector Equality Duty. There was limited support for a threshold of 50+ from employers and business organisations.

Only 3% of respondents favoured a threshold of 500 or more employees with many of this view arguing that it would be the best way to protect employee anonymity.

### Support measures for employers

The consultation sought views on which support measures would be useful for employers.

Nearly all respondents agreed that best practice tools and guidance would be helpful for employers. Examples include:

- Clear guidance on methodology, including help preparing the calculations
- Best practice on increasing self-reporting and disclosure rates
- Best practice on writing a narrative and action plan
- Guidance on how to address pay disparities
- GDPR rules and regulations

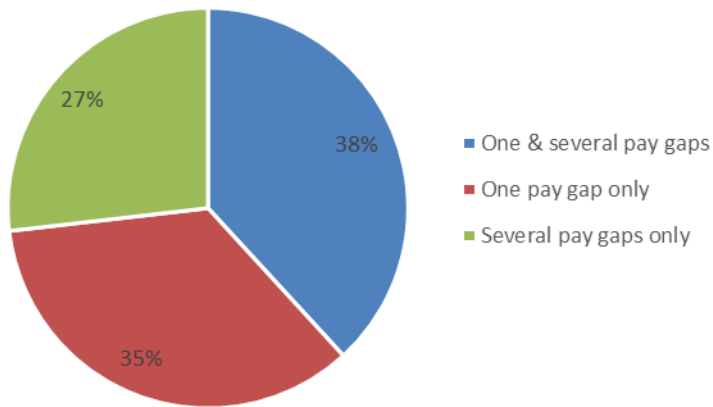
## Annex - Statistical analysis of consultation questions

In total, we received 321 consultation responses.

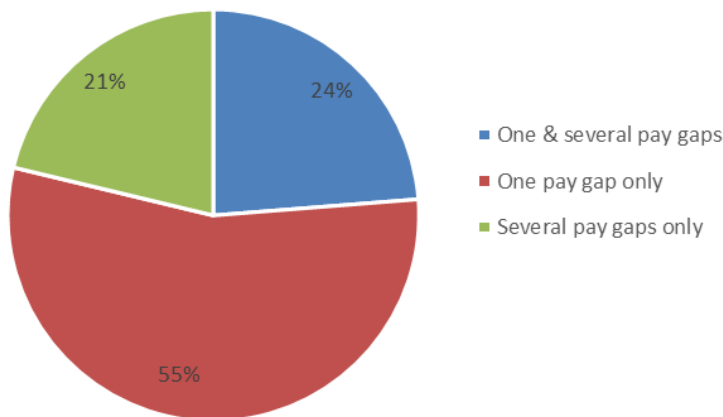
119 were from individuals, 93 were from private sector employers, 42 were from public sector employers/not for profit organisations and 67 were from representative bodies/interest groups.

**What type of ethnicity pay information should be reported that would not place undue burdens on business but allow for meaningful action to be taken?**

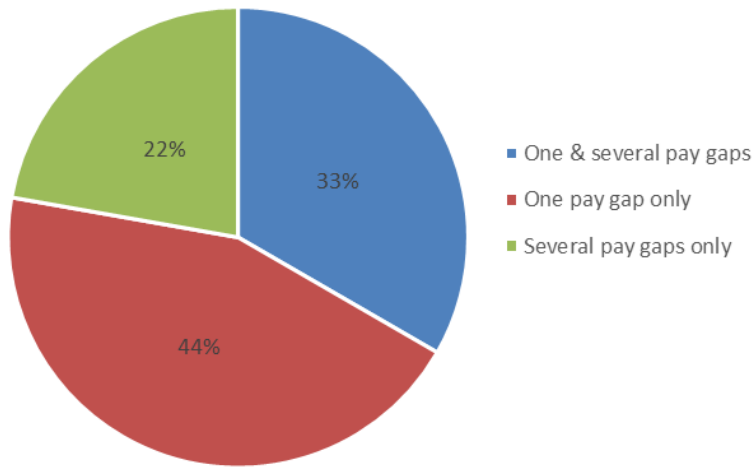
All respondents



Employers

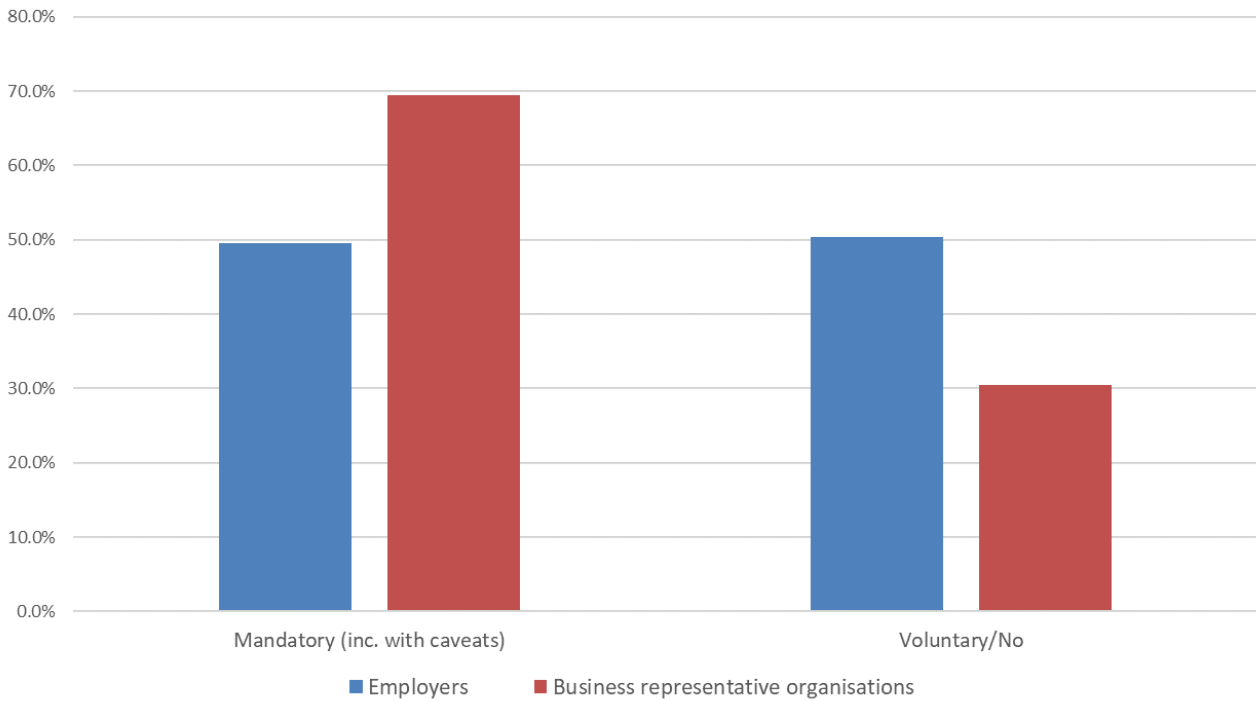


### Business representative organisations



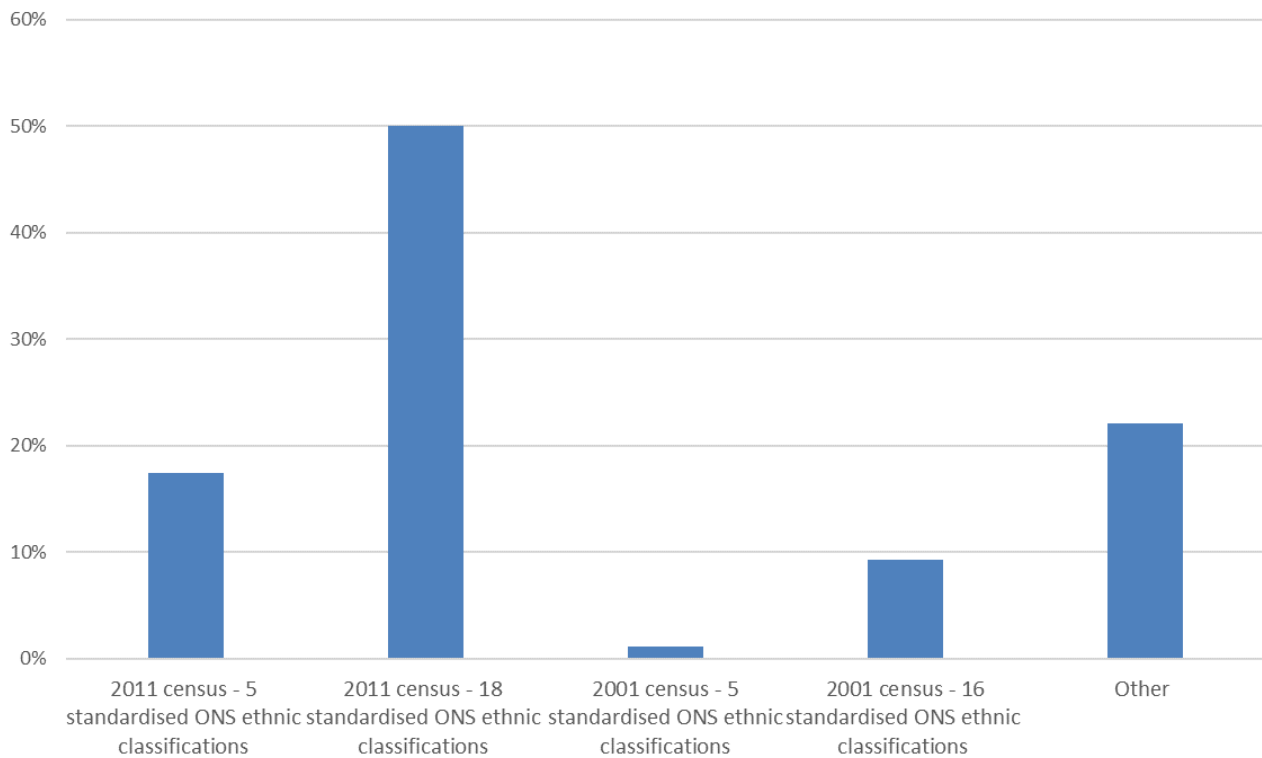
**Should an employer that identifies disparities in their ethnicity pay in their workforce be required to publish an action plan for addressing these disparities?**

### Breakdown of requirement to publish and action plan



## Do you currently collect data on ethnicity at your workplace

Breakdown of ethnicity classifications collected by employers \*

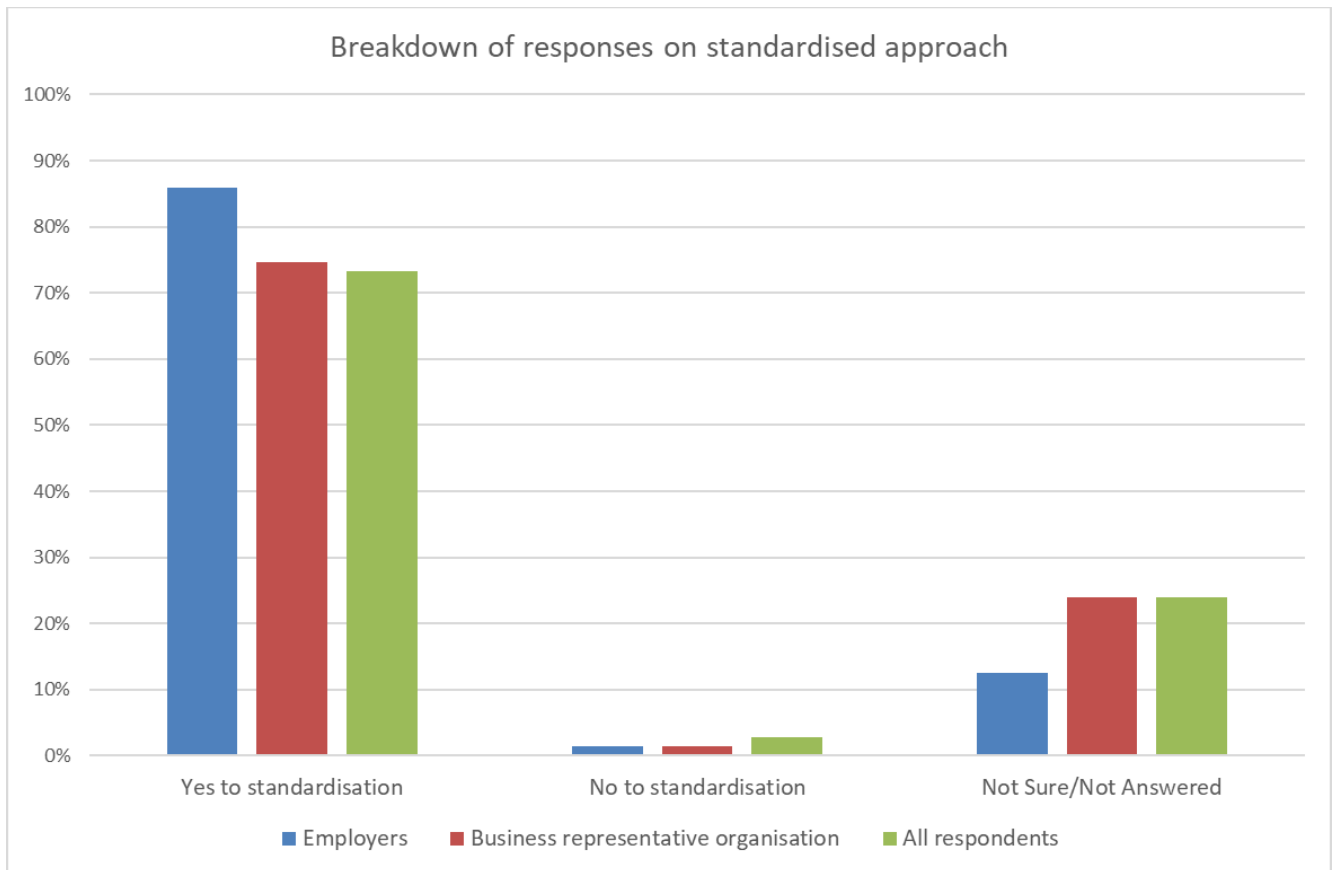


\* Information is only presented for employers that answered the question and that collect information of ethnicity

## How should self-reporting or non-disclosure rates be reflected in the information reported by employers?

	Employers should report declaration rate	Employers shouldn't report declaration rate
All respondents	84.8%	3.4%
Employers	89.3%	1.7%
Business Organisations	91.3%	4.3%

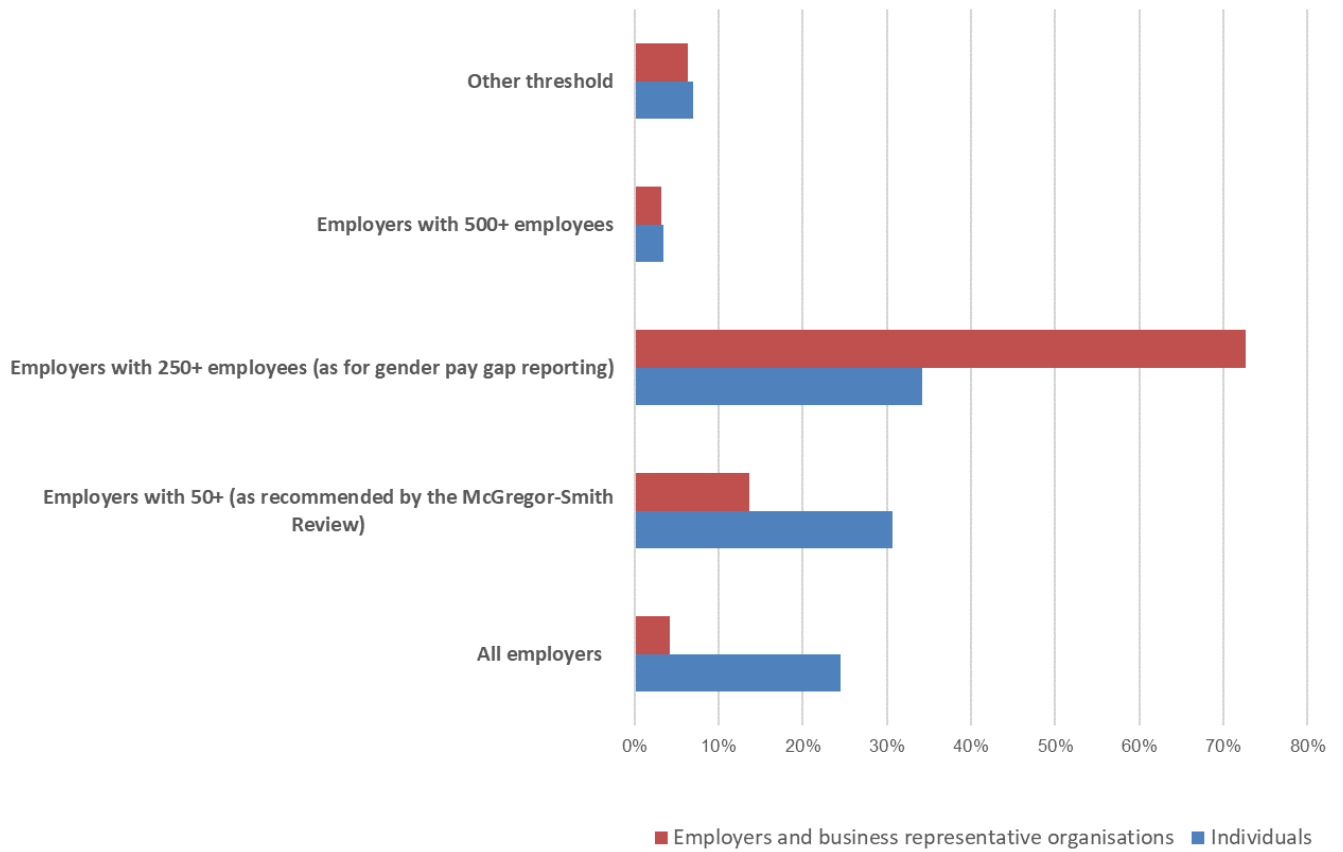
**For a consistent approach to ethnicity pay reporting across companies, should a standardised approach to classifications of ethnicity be used?**



	<b>Yes to standardisation</b>	<b>No to standardisation</b>
All respondents	73%	3%
Employers	86%	1%
Business Organisations	75%	1%

## What size of employer (or employee threshold) should be within scope for mandatory ethnicity pay reporting?

Breakdown of size of employer (or employee threshold that should be within scope for mandatory ethnicity pay reporting





---

**Legal disclaimer**

Whereas every effort has been made to ensure that the information in this document is accurate, the Department for Business and Trade does not accept liability for any errors, omissions or misleading statements, and no warranty is given or responsibility accepted as to the standing of any individual, firm, company or other organisation mentioned.

**Copyright**

© Crown Copyright 202X

You may re-use this publication (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence.

To view this licence visit:

[www.nationalarchives.gov.uk/doc/open-government-licence](http://www.nationalarchives.gov.uk/doc/open-government-licence) or email: [psi@nationalarchives.gov.uk](mailto:psi@nationalarchives.gov.uk).

Where we have identified any third party copyright information in the material that you wish to use, you will need to obtain permission from the copyright holder(s) concerned.

This document is also available on our website at [gov.uk/government/organisations/department-for-business-and-trade](http://gov.uk/government/organisations/department-for-business-and-trade)

Any enquiries regarding this publication should be sent to us at

[enquiries@trade.gov.uk](mailto:enquiries@trade.gov.uk).