Government consultation on extending mandatory pay gap reporting to ethnicity and disability

10 June 2025

About us

The NHS Race and Health Observatory is an independent expert body, established by the NHS to identify and tackle the widespread, entrenched inequity experienced in health and healthcare by minoritised ethnic patients, communities, and the workforce in England. We work as a proactive investigator by mobilising robust evidence, enabling impactful policymaking, and facilitating long-term transformational change across health and care.

About the consultation and our response

In March 2025, the government launched a consultation on the introduction of the mandatory ethnicity and disability pay reporting for large employers (those with 250 or more employees), with the aim of shaping proposals for the upcoming Equality (Race and Disability) Bill. The stated aim of the Bill is to "create a more equal society in which people can thrive whatever their background". Our response focuses on the ethnicity-specific questions, while recognising the importance of an intersectional approach to tackling workforce inequity.

The consultation seeks views on several key proposals, including:

- Aligning the ethnicity pay gap reporting framework and enforcement regime with those currently used for mandatory gender pay gap reporting.
- Requiring employers to report on the overall ethnic breakdown of their workforce and the percentage of employees who do not disclose their ethnicity.
- Mandating employers to develop and publish action plans that address the causes of ethnicity pay gaps in their organisations.
- Disaggregating employees' ethnicity data to better understand, and inform action to address, the nature of organisations' ethnicity pay gaps.
- Making additional requirements for public bodies to report differences by pay grade, salary band, and data on recruitment, retention, and progression by ethnicity.

We welcome this opportunity to respond to the government's proposals to extend mandatory pay gap reporting to ethnicity. While an ethnic pay gap does not by itself indicate unequal pay, we believe reporting it is a critical step to identifying and addressing workforce inequity. Without reporting, we cannot address the causes of ethnic pay gaps, including inequitable and discriminatory recruitment, retention, and progression practices, as well as occupational segregation.

This is especially critical in the NHS, which despite being the largest employer of minoritised ethnic people in the country, exhibits significant ethnic workforce inequity. The knock-on impact this has on healthcare staff's health, and in turn, patient care and safety, is considerable.

We are clear throughout our response that reporting alone will not lead to substantive change. Without acknowledging and addressing the role that racism – structural, institutional, and interpersonal – plays in entrenching ethnic workforce inequity in the NHS and the healthcare system, the government risks creating a tick-box compliance exercise. We strongly recommend the mandatory publication of narratives and action plans, alongside robust enforcement and incentivisation mechanisms to encourage organisational accountability and action.

A considered, cross-government approach to the development and implementation of ethnicity pay gap reporting and action in the NHS and the healthcare system will be essential. The NHS Race and Health Observatory is undertaking an independent review of the ethnicity pay and progression gap in the NHS, highlighting not just disparity in pay grades, but also in lifetime earnings, pension accrual, and extra-clinical income. We will go beyond data analysis to create high-impact actions to close the ethnicity pay gap and address its drivers.

Significant uncertainty remains over the prioritisation of the government's ethnicity pay gap reporting proposals against the backdrop of a health system facing significant restructure and cuts at local, regional, and national levels. There is a clear need for cross-departmental action to address ethnic workforce inequity, and we strongly recommend that the government works with the NHS Race and Health Observatory to ensure the needs of minoritised ethnic staff – who make up over a quarter of the NHS workforce – are not cast aside.

Response from the NHS Race and Health Observatory

Extending mandatory pay gap reporting to ethnicity

Question 1: Do you agree or disagree that large employers should have to report their ethnicity pay gaps?

Strongly agree

The NHS Race and Health Observatory strongly agrees that large employers, including in the NHS and across the healthcare system, should be legally required to report their ethnicity pay gap (EPG). While an EPG does not by itself indicate unequal pay, we believe that transparently reporting it is a critical step to identifying and addressing ethnic workforce inequity.

This is especially critical in the NHS, which despite being the largest employer of minoritised ethnic staff in the country (NHS workforce, UK Government, 2023)[1], exhibits significant ethnic workforce inequity, which we further outline in our response to question 5.

We are clear, however, that reporting alone will not be sufficient to address the key drivers of the EPG. Without acknowledging and addressing the role that racism – structural, institutional, and interpersonal – plays in entrenching ethnic workforce inequity in the NHS and the healthcare system, the government risks creating a tick-box compliance exercise. This includes the inequitable and discriminatory recruitment, retention, and progression practices evidenced across the NHS and the health system, which we further outline in our response to question 14.

To achieve substantive change, the government's proposals must include the mandatory publication of narratives and action plans which focus on tackling discrimination in recruitment, retention, and progression, as well as robust incentivisation and enforcement regimes to enable action and accountability. We further outline our recommendations in our responses to questions 11 and question 23.

[1] UK Government, 2023. NHS workforce. Ethnicity Facts and Figures. Available at: https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/workforce-diversity/nhs-workforce/latest/ [Accessed 20 May 2025].

While we recognise NHS England's (NHSE) EPG efforts in their 2023 equality, diversity, and inclusion improvement plan, we reiterate that the asks they make of NHS organisations to report and act on EPG data are not a legal requirement (EDI improvement plan, NHSE, 2023)[2]. They also do not extend to independent providers delivering NHS contracts, including the significant numbers of staff working in, for example, GP practices, dental practices, and independent hospices.

As it is not a legal requirement, we are concerned that NHSE's EPG activity will be destabilised and deprioritised in the context of the national restructuring of the health system, for which no equality impact assessments have been published. This includes the abolition of NHSE and the 50% cuts facing the Department of Health and Social Care (DHSC), Integrated Care Boards (ICBs) and NHS providers, i.e. trusts and foundation trusts (2025/26 reform, NHSE, 2025)[3].

The reduction of tens of thousands of staff that this restructuring will entail (HC 639, Public Accounts Committee, 2025)[4] raises critical questions over where resource and responsibilities would lie for collecting, developing, and publishing EPG data and action at local, regional, and national levels. For example, the recently published model ICB blueprint (Model Integrated Care Board – Blueprint v1.0., 2025)[5] proposes a reduction in the contractual oversight function of ICBs, which could weaken mechanisms for holding NHS providers accountable for safe staffing, recruitment, retention, and working conditions. The proposed shift of these responsibilities to NHS providers, when they are also facing corporate budget cuts, is concerning in this context.

Making EPG reporting and action a legal requirement in this context would help allay these concerns and would signal to the NHS and the healthcare system that EPG reporting and action is strategically, economically, and ethically essential. There is a clear need for cross-departmental action to address ethnic workforce inequity, and we strongly recommend that the government works with the NHS Race and Health Observatory to ensure the needs of minoritised ethnic staff – who make up over a quarter of the NHS workforce – are not cast aside.

The NHS Race and Health Observatory is also undertaking an independent review of the ethnicity pay and progression gap in the NHS, highlighting not just disparity in pay grades, but also in lifetime earnings, pension accrual, and extra-clinical income. We will go beyond data analysis to create high-impact actions to close the ethnicity pay gap and address its drivers. We strongly recommend that the government works with us to ensure the findings inform government proposals to make EPG reporting and action mandatory.

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[2] NHS England, 2023. *NHS equality, diversity, and inclusion improvement plan*. Available at: https://www.england.nhs.uk/wp-content/uploads/2023/06/B2044_NHS_EDI_WorkforcePlan.pdf [Accessed 18 May 2025]

[3] NHS England, 2025. *Working together in 2025-26 to lay the foundations for reform*. Available at: https://www.england.nhs.uk/long-read/working-together-in-2025-26-to-lay-the-foundations-for-reform/ [Accessed 22 May 2025].

[4] HC Public Accounts Select Committee, 2025. *DHSC Annual Report and Accounts 2023-24*. Available at: https://committees.parliament.uk/publications/47801/documents/249699/default/ [Accessed 15 May 2025].

[5] Health Service Journal, 2025. *ICB functions radically reduced in national blueprint*. Available at: https://www.hsj.co.uk/integrated-care/icb-functions-radically-reduced-in-national-blueprint/7039235.article [Accessed 20 May 2025].

Left unchecked, we risk, at significant cost, exacerbating the already high attrition rates and turnover rates in the healthcare workforce, and encouraging minoritised ethnic staff to work elsewhere. The knock-on, detrimental impact this has on workforce health and wellbeing, as well as patient care and safety, would be considerable.

Geographical scope

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

Strongly agree

We strongly agree that EPG reporting should have the same geographical scope as gender pay gap reporting (GPG). This would enable a more consistent approach to pay gap reporting for groups with different protected characteristics, as well as analysis between different pay gap datasets.

The most recent NHS Workforce Race Equality Standard (WRES) data reports significant minoritised ethnic representation in the NHS workforce across the 7 NHS geographical regions in England (NHS WRES, 2024)[6]. London reports the highest percentage of minoritised ethnic staff at 52.1%, representing a third of all minoritised ethnic NHS staff. Over a quarter of NHS staff are minoritised ethnic in the East of England (27.3%), the Midlands (25.7%), and the South East (26.4%). The South West had the lowest percentage of minoritised ethnic staff at 15.0%.

We strongly recommend that the national reporting of the EPG in the NHS and the healthcare system should have the capability to be analysed by geographic region. Research indicates that negative pay gaps, in this instance where the average pay of minoritised ethnic people is higher than that of White people, most commonly occur when a high number of minoritised ethnic staff are located in London (Change the Race Ratio, 2024)[7]. This is partly due to the London pay premium, in this context the High Cost Area Supplement (HCAS) (NHS Employers, 2024)[8], which increases pay above the equivalent elsewhere in the country to account for the higher cost of living in London. Minoritised ethnic NHS and healthcare staff may be in the lowest London pay bands but can appear higher in the overall pay structure nationwide due to the HCAS. This raises average pay and can cause the EPG to become negative; this could leave reporting open to misinterpretation, and ensuing action to be misinformed and ineffective.

These considerations underscore the importance making EPG narratives and action plans mandatory, which we further outline in our response to question 11.

Pay gap calculations

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[6] NHS England, 2024. *Workforce Race Equality Standard 2023: Data Analysis Report for NHS Trusts*. Available at: https://www.england.nhs.uk/long-read/workforce-race-equality-standard-2023-data-analysis-report-for-nhs-trusts/ [Accessed 15 May 2025].

[7] Change the Race Ratio, 2024. *Policy briefing: Ethnicity pay gap reporting*. Available at: https://changetheraceratio.com/media/q5knt1de/ethnicitiy-pay-gap-policy-briefing.pdf [Accessed 26 May 2025].

[8] NHS Employers, 2024. *Pay scales for 2024/25*. Available at: https://www.nhsemployers.org/articles/pay-scales-202425 [Accessed 21 May 2025].

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

Somewhat disagree

While we agree that the government's proposals should allow for consistency across pay gap reporting practices to enable interoperability and comparability of datasets, we are concerned by the significant limitations and potential risks of this approach in the NHS and healthcare system context.

As previously mentioned, the drivers of the EPG in the NHS and healthcare system are multifactorial, and by not accounting for them in their approach to calculations, the government would risk masking the scale and variation of EPGs across the NHS and healthcare system.

The findings of previous NHS EPG analyses, while providing valuable evidence, do not give us a complete picture of what the EPG look like across all the diverse occupations and ethnic groups in the NHS workforce (NHS basic pay, UK Government, 2021; Nuffield Trust, 2021)[9][10]. They also do not account for the impact of slower career progression on pensions and lifetime earnings, or earnings that exist beyond basic pay – for example, Clinical Impact Awards (previously Clinical Excellence Awards) and professorships.

We strongly recommend the government works with us, as well as the DHSC, to agree measures that report meaningful data. As previously mentioned, the NHS Race and Health Observatory is undertaking an independent review of the ethnicity pay and progression gap in the NHS. We are using, and strongly recommend the government considers, the following measures disaggregated by ethnic and occupational group for EPG reporting in the NHS:

(1) Salary entry point (mean, median and mode)
(2) Recent monthly basic pay (mean, median and mode)
(3) Recent average earnings per hour (mean, median and mode)
(4) Recent bonus pay (both mean and median)
(5) Promotion/career progression (per year and per 10 years)
(6) Salary exit point (mean, median and mode)
(7) Total pension (cumulative and average per year worked/contributed)

The government should account for the lessons that can be learned from the 2020 independent review into GPGs in medicine in England (Mend the Gap, DHSC, 2020)[11], by considering length of service at each grade, full-time versus part-time employment, and bank, agency, and locum workers.

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[9] UK Government, 2021. *NHS basic pay*. Available at: https://www.ethnicity-facts-figures.service.gov.uk/workforce-and-business/public-sector-pay/nhs-basic-pay/latest/ [Accessed 21 May 2025].

[10] Nuffield Trust, 2021. Appleby J, Schlepper L, & Keeble E. *The ethnicity pay gap in the English NHS*. Available at: https://www.nuffieldtrust.org.uk/research/the-ethnicity-pay-gap-in-the-english-nhs [Accessed 20 April 2025].

[11] Department of Health and Social Care, 2020. Dacre J, Woodhams C, Atkinson C, Laliotis I, Williams M, Blanden J, Wild S, & Brown D. *Mend the gap: the independent review in gender pay gaps in medicine in England*. Available at: https://www.gov.uk/government/publications/independent-review-into-gender-pay-gaps-in-medicine-in-england [Accessed 20 April 2025]

We also strongly recommend that reporting and action on pay gaps is required to be intersectional between different protected characteristics including gender, ethnicity, disability, and age, as evidence indicates stark pay gaps when an intersectional lens is adopted. For example, a study of ethnicity-gender pay gaps among hospital and community health service doctors in England (Woodhams C et al., 2021)[12] revealed that compared to White, male doctors:

(1) Bangladeshi, Pakistani, Black, mixed ethnic, and Chinese/SEA female doctors experienced on average between 25%-40% lower pay;
(2) White and Indian female doctors and Chinese/SEA, Pakistani, Bangladeshi, and Black male doctors experienced around on average 10-20% lower pay;
(3) And only Indian male doctors earned similarly to White male doctors on average.

A considered, cross-government approach to the development and implementation of GPG, EPG, and other pay gap reporting and action processes in the NHS will be essential.

Question 7: Do you agree or disagree that large employers (with 250 or more employees) should have to report on the ethnic breakdown of their workforce?

Strongly agree

We strongly agree that legally requiring reporting on the ethnic breakdown of the NHS and healthcare workforce is key for meaningful EPG reporting and action, providing crucial context for other mandatory reported data.

It would enable the NHS and healthcare employers and the workforce to identify, and tailor action to address, the impact of inequitable recruitment, retention, and progression practices on different ethnic groups across different occupational groups.

We strongly recommend that this reporting is required to be intersectional, combining gender, ethnicity, disability, and age paired with narratives and action plans outlining how NHS and healthcare employers will address the driving factors behind their pay gaps.

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

Strongly agree

We strongly agree that legally requiring NHS and healthcare employers to report on the percentage of employees who did not state their ethnicity is key for meaningful EPG reporting and action; there is a material risk that EPG data would otherwise be distorted, impacting the success of ensuing interventions.

[12] Woodhams C, Williams M, Dacre J, Parnerkar I, & Sharma M, 2021. *Retrospective observational study of ethnicity-gender pay gaps among hospital and community health service doctors in England*. *BMJ Open*, 11(12), e051043. Available at: https://bmjopen.bmj.com/content/11/12/e051043 [Accessed 26 May 2025].

We strongly recommend that the government account for the factors that drive employees' non-disclosure of protected characteristics, including fears of discrimination, confidentiality, and data storage and protection (McGregor-Smith review, DBT/BEIS, 2017)[13].

Accounting for the NHS WRES data will be essential. The latest data reports that 27.7% of minoritised ethnic NHS staff experienced harassment, bullying, or abuse from other staff in the preceding year. Figures are especially acute for minoritised ethnic women, who were most likely to have experienced harassment, bullying, or abuse from other NHS staff in the same period, a trend that has been evident since at least 2015. This trend was especially evident for minoritised ethnic women in general management (30.5%), medical and dental (32.6%), and registered nursing and midwifery (30.7%). A significantly higher percentage of minoritised ethnic staff (16.6%) experienced discrimination from a manager, team leader, or other colleagues than White staff (6.7%) a pattern that has also been evident since at least 2015, and which was repeated in all regions.

The government must consider the impact of these findings on disclosure of ethnicity, especially given that the same NHS WRES data reports that of the 9 in 10 NHS staff paid under Agenda for Change (AfC), 4.4% did not disclose their ethnicity. At very senior manager (VSM) level, given that just 11.2% of staff identify as being from a minoritised ethnic background at VSM level, a non-disclosure rate of 6% adds a large margin of uncertainty regarding the actual level of minoritised ethnic representation in the most senior roles (NHS WRES, 2024).[14]

This underscores the importance of a considered approach to collecting and calculating ethnicity and EPG data, which we will further outline in our responses to questions 26-28.

Action plans

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

Strongly agree

We strongly believe that legally requiring NHS and healthcare employers to develop and publish narratives and action plans will enable them to focus on tackling the driving factors behind the EPGs in their organisations and across the healthcare system. We are clear, however, that unless these narratives and action plans are monitored as part of enforcement and incentivisation regimes to ensure employers accountability and action, they will not lead to substantive change for the minoritised ethnic workforce. Without this, there is a significant risk that NHS and healthcare employers will not be compelled to tackle the EPG, despite reporting its existence, ultimately reducing activity to a compliance exercise.

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[13] Department for Business & Trade and Department for Business, Energy & Industrial Strategy, 2017. *Race in the workplace: The McGregor-Smith Review*. Available at: https://www.gov.uk/government/publications/race-in-the-workplace-the-mcgregor-smith-review/race-in-the-workplace-the-mcgregor-smith-review-report#its-time-to-unlock-talent [Accessed 20 April 2025]

[14] NHS England, 2024. *Workforce Race Equality Standard 2023: Data Analysis Report for NHS Trusts*. Available at: https://www.england.nhs.uk/long-read/workforce-race-equality-standard-2023-data-analysis-report-for-nhs-trusts/ [Accessed 15 May 2025].

We strongly recommend that the government incorporates the lessons learned since the introduction of mandatory gender pay gap (GPG) reporting in 2017, for example that:

(1) Reporting alone is not sufficient: the national GPG has only decreased by roughly 2% in a decade (Gender pay gap in the UK, ONS, 2020)[15].
(2) Mandatory narratives and action plans that tackle the root causes of pay gaps are essential for substantive change – as reflected in the GPG action plans to be introduced under Clause 31 of the new Employment Rights Bill going through parliament (Employment Rights Bill 2024-25, HL Bill 81, 2025)[16].

Making the development and publication of EPG action plans a mandatory requirement from the outset, rather than more than 8 years down the line as is the case for the GPG, will prevent employer confusion and delayed improvements for the workforce. We strongly recommend that EPG action plans should adopt an intersectional approach, and that they are aligned with GPG action plans to be introduced under the Employment Rights Bill.

We strongly recommend that action plans should be evidence-based and include a narrative explaining the factors driving the EPG, such as inequitable recruitment, retention, and progression practices, as well outlining the actions they are taking to address these driving factors. This should include the government learning from, and encouraging the spread of, the good practice we have seen in the healthcare system.

For example, North East London NHS Foundation Trust (NELFT) has undertaken significant work to address ethnic workforce inequity in their organisation, including the drivers of the EPG. By developing a robust trust-wide strategy which centres leadership, accountability, and data-driven targets, NELFT has seen sustained improvements across all NHS WRES indicators since 2016 (NELFT case study, NHSE, 2019)[17]. For example, they have seen an increase in minoritised ethnic staff at all bands, including at senior levels. In 2019, minoritised ethnic representation at band 8d increased from 17.6% to 37.5%, and very senior managers from 7.7% to 23.5%. The relative likelihood of white staff being appointed compared to minoritised ethnic staff is currently 0.9. Any score less than 1 is seen as a positive outcome for minoritised ethnic groups (NELFT case study, NHS Employers, 2021)[18].

As previously stated, the NHS Race and Health Observatory is undertaking an independent review of the ethnicity pay and progression gap in the NHS in which we will go beyond data analysis to create high-impact actions to close the EPG and address its drivers. We strongly recommend that the government works with us to ensure the findings inform their proposals to make EPG reporting mandatory.

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[15] Office for National Statistics, 2020. *Gender pay gap in the UK: 2020*. Available at: https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/genderpaygapintheuk/2020 [Accessed 26 May 2025].
[16] HL Employment Rights Bill 2024-25, 2025. Available at: https://bills.parliament.uk/bills/3737 [Accessed 15 May 2025].
[17] NHS England, 2019. *Workforce Race Equality Standard: Exemplar for embedding and sustaining continuous improvements: North East London NHS Foundation*. Available at: https://www.england.nhs.uk/wp-content/uploads/2019/11/nelft-case-study.pdf [Accessed 26 May 2025].
[18] NHS Employers, 2021. *Inclusive culture: North East London NHS Foundation Trust Case study*. Available at: https://www.nhsemployers.org/case-studies/inclusive-culture [Accessed 26 May 2025].

Additional reporting requirements for public bodies

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

Strongly agree

While we strongly agree that the NHS, and those delivering NHS contracts, should be legally required to report on pay differences between ethnic groups by grade and salary bands, it is critical that this reporting is disaggregated by occupational group for findings and ensuing action to be meaningful.

Reporting by occupational group is especially important in the NHS and healthcare context, to account for the wide variation in pay that exists between the diverse professions they occupy.

As previously mentioned, Agenda for Change (AfC) pay bands apply to 9 in 10 NHS staff; they also band pay across a wide range of occupations. For example, band 2 includes healthcare assistants and security officers, band 6 includes experienced paramedics and clinical psychology trainees, and band 8c includes heads of human resources and consultant clinical scientists. The previously cited 2021 Nuffield Trust study indicates that across 9 in 10 NHS staff paid under AfC, there was no significant pay gap between the median basic pay of White staff versus all other minoritised ethnic groups together. But when comparing specific minoritised ethnic groups to their White counterparts and within occupational groups, a different picture emerges, where White nursing staff earned 9% more than Black nursing staff, White managers earned 11% more than Asian managers, and White consultant doctors earned 6% more than consultants from mixed ethnic backgrounds. The authors found that the pay of doctors, consultants, and senior managers has a disproportionate impact on aggregate pay differences across all NHS staff. Their pay is usually higher than other staff groups, and they also have a very different ethnic composition. To get a true understanding of pay differences, occupational disaggregation will be critical (Nuffield Trust, 2021)[19].

Disaggregation by occupational group will enable NHS and healthcare employers and the workforce to accurately report their EPGs and to determine the nature of their recruitment, retention, and progression issues. This will enable employers' ensuing action to redress inequity more targeted and effective, and those responsible for enforcement to identify where career pipeline processes are operating inequitably.

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

Strongly agree

We strongly agree that public bodies, including the NHS and those delivering NHS contracts, should be legally required to report on recruitment, retention, and progression across

[19] Nuffield Trust, 2021. Appleby J, Schlepper L, & Keeble E. *The ethnicity pay gap in the English NHS*. Available at: https://www.nuffieldtrust.org.uk/research/the-ethnicity-pay-gap-in-the-english-nhs [Accessed 20 April 2025].

occupational groups by ethnicity. As we have outlined throughout our response, these are key driving factors of the EPG and ethnic workforce inequity more broadly. Without reporting and action, substantive change will not be possible.

Successive years of data from the NHS WRES have shown that minoritised ethnic NHS staff are disproportionally less likely to be in senior positions and less likely to be appointed from shortlisting. Minoritised ethnic staff are less likely to occupy senior AfC positions and that large proportions of minoritised ethnic staff are located within the lower AfC bands. For example, minoritised ethnic nurses and midwives carry out 53.7% of band 5 roles, 20.4% of band 7, and only 9.7% of band 8D. We also know that this disparity is widening, the gap between minoritised ethnic staff's overall workforce representation and their representation in very senior management positions has increased from 12.6% in 2014 to 21.6% in 2024 (NHS WRES, 2024)[20].

Collecting data and reporting on recruitment, retention, and progression across occupational groups by ethnicity will enable NHS and healthcare employers, as well as the workforce, to identify where career pipeline processes are operating inequitably. This will enable employers' ensuing action to redress inequity more targeted and effective, and those responsible for enforcement to identify where career pipeline processes are operating inequitably. As stated throughout our response, we strongly recommend that this reporting is intersectional, combining gender, ethnicity, disability, and age paired with narratives and action plans outlining how NHS and healthcare employers will address the driving factors behind inequitable recruitment, retention, and progression practices.

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

Strongly agree

We strongly believe that the NHS and those delivering NHS contracts should be legally required to report data across ethnicity and occupational groups on the percentage of people across ethnic and occupation groups who are recruited, retained, promoted, leaving employment within the reporting period, as well the ethnic breakdown of their workforce. We strongly recommend using the same approach that we have outlined in our response to question 5.

Dates and deadlines

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

Strongly agree
We strongly agree that aligning the EPG, GPG, and other protected characteristic pay gap reporting processes would ensure consistency in the resulting pay gap datasets, enabling NHS and healthcare employers to better plan their resources to ensure the delivery of this activity.

[20] NHS England, 2024. *Workforce Race Equality Standard 2023: Data Analysis Report for NHS Trusts*. Available at: https://www.england.nhs.uk/long-read/workforce-race-equality-standard-2023-data-analysis-report-for-nhs-trusts/ [Accessed 15 May 2025].

Critically, it would also enable the timely intersectional consideration and comparability of the datasets, making it easier for NHS and healthcare employers, as well as the workforce, to produce intersectional action plans and narratives that truly address the driving factors behind inequitable recruitment, retention, and progression practices.

Question 21: Do you agree or disagree that ethnicity pay gap data should be reported online in a similar way to the gender pay gap service?

Strongly agree

As previously stated in our response to question 19, we strongly agree that aligning the EPG, GPG, and other protected characteristic pay gap reporting processes would ensure consistency in the resulting pay gap datasets, enabling NHS and healthcare employers to better plan their resources to ensure the delivery of this activity.

Critically, it would also enable the timely intersectional consideration and comparability of the datasets, making it easier for NHS and healthcare employers and the workforce to produce intersectional action plans and narratives that truly address the driving factors behind inequitable recruitment, retention, and progression practices.

We strongly agree that reporting EPG data online in a similar way to the GPG service would widen access, transparency, and accountability. It would better enable the workforce, patients, and the wider public to assess the commitment of NHS and healthcare providers to ethnic equity and improve trust.

Enforcement

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

Somewhat disagree

We understand that alignment across the enforcement policies across pay gap reporting could enable consistency and compliance.

However, if the government decides that the Equality and Human Rights Commission (EHRC) should serve as the regulator responsible for enforcing compliance with EPG regulations in the NHS, as it does for GPG regulations, we have concerns that the existing mechanisms at their disposal are not sufficiently robust to ensure true accountability (Gender pay gap enforcement, EHRC, 2024)[21].

We believe that the powers available to the EHRC are too burdensome to provide swift, effective enforcement. Enforcement activity must extend beyond merely checking that data, narratives, and action plans have been published. It must also examine the accuracy and implementation, rather than merely confirming compliance.

[21] Equality and Human Rights Commission, 2023. *Gender pay gap: our enforcement action*. Available at: https://www.equalityhumanrights.com/our-work/gender-pay-gap-our-enforcement-action [Accessed 26 May 2025].

We strongly recommend that the government explores stronger enforcement mechanisms, such as automatic fixed financial civil penalties, with an increasing financial penalty imposed for every month delay in reporting the data to encourage accountability. Automatic fixed financial penalties would also reduce administrative burdens on the EHRC and send a strong signal to employers about the importance of reporting and addressing pay gaps.

The government should ensure its legislation includes reviews of an organisation's performance on EPG reporting and action, as well as consequences for negligence. An option could include a regulator conducting a two-year-on review to assess progress made by employers.

Additionally, we strongly believe that government legislation includes enforcement and incentivisation mechanisms from its introduction, to ensure NHS and healthcare providers are fully informed of their reporting and action requirements. We encourage the government to adopt a policy of naming the employers that fail to submit their EPG reports, narratives, and action plans, in alignment with the GPG reporting regime.

In the case of the NHS and the healthcare system, it is worth reiterating that providers and a significant portion of the workforce are subject to existing regulatory regimes with enforcement mechanisms. We strongly recommend that the government works with the DHSC, the healthcare regulatory system, and other relevant bodies to ensure alignment across enforcement activity, and to reduce complexity and potential confusion. We also strongly recommend that incentivisation mechanisms are implemented, which are tied to, for example, providers' Care Quality Commission (CQC) ratings.

Ethnicity: data collection and calculations

Question 25: Do you agree or disagree that large employers (250 or more employees) should collect ethnicity data using the GSS harmonised standards for ethnicity?

Strongly agree

We strongly agree that NHS and healthcare providers should be legally required to use GSS harmonised standards for ethnicity to collect ethnicity data. More specifically, we strongly recommend that the government mandate the use of the Office for National Statistics' (ONS) Census 2021 ethnic group classifications (Ethnic group classifications, ONS, 2023)[22].

As outlined in our response to question 9, the government must account for the factors that drive non-disclosure of ethnicity data from staff.

Calculating and reporting ethnicity pay gaps

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

[22] Office for National Statistics, 2023. *Ethnic group classifications: Census 2021*. Available at: https://www.ons.gov.uk/census/census2021dictionary/variablesbytopic/ethnicgroupnationalidentitylanguageandreligionvariablescensus2021/ethnicgroup/classifications [Accessed 26 May 2025].

Strongly disagree

We strongly disagree that binary classifications should be presented as a minimum option for NHS and healthcare employers. As outlined in our response to question 13, EPGs can be significantly obscured and distorted when lumping all minoritised ethnic groups together and comparing their average pay to White staff.

By calling for the disaggregation of ethnicity data, NHS and healthcare employers can account for the wide variation of pay that exists between different ethnic groups and the diverse professions they occupy. This will indicate where they need to focus efforts to address inequitable recruitment, retention, and progression practices. As outlined in our response to question 25, we strongly recommend that the government mandate the use of the Office for National Statistics' (ONS) Census 2021 ethnic group classifications (ONS, 2023)[23].

If disaggregating ethnicity data to the 19 ethnicity categories outlined by the ONS significantly risks employees' identifiable data, we strongly recommend that the government's proposals outline the aggregation options outlined in the ONS' guidance on ethnicity data (ONS, 2024)[24].

We strongly believe that when reporting into the regional and national NHS and healthcare system EPG reporting, employers should be required to collect fully disaggregate ethnicity data across occupational groups. This would overcome issues regarding individual employees' confidentiality while enabling fully disaggregated regional and national reporting. If, at reporting at an individual organisational level, the only option is binary classification, this should be stressed as a last resort rather than 'as a minimum', and there should be a requirement that employers' narratives and action plans outline the reasons and rationale behind their approach, as well as the steps they are taking to enable further disaggregation in the future.

Question 27: Do you agree or disagree that there should be at least 10 employees in each ethnic group being reported on? This would avoid disclosing information about individual employees.

Strongly disagree

We strongly disagree that there should be at least 10 employees in each ethnic group being reported on. As we have stated throughout our response, disaggregating EPG data by ethnic and occupational group is critical to identify the wide range of variation in pay gaps and to ensure the ensuing action taken by the NHS and the healthcare system is meaningful. We outline in our response to question 14 that minoritised ethnic NHS staff are less likely to occupy senior positions, including management and board positions.

For these senior positions in particular, it is unlikely that there would be 10 employees in each ethnic group in individual organisations, even if a binary approach was adopted. This is especially true in the case of boards within NHS organisations, which typically comprise of 10-

[23] Office for National Statistics, 2023. *Ethnic group classifications: Census 2021*. Available at: https://www.ons.gov.uk/census/census2021dictionary/variablesbytopic/ethnicgroupnationalidentitylanguageandreligionvariablescensus2021/ethnicgroup/classifications [Accessed 26 May 2025].

[24] Office for National Statistics, 2024. *Analytical learning points for ethnicity data in health administrative data sources*. Available at: https://analysisfunction.civilservice.gov.uk/policy-store/analytical-learning-points-for-ethnicity-data/ [Accessed 26 May 2025].

20 members. We strongly believe, however, that EPG reporting for these occupational groups is critical to identify and tackle inequitable recruitment and progression practices, and we strongly recommend that EPG reporting is mandatory even if there are fewer than 10 employees in each ethnic group. We refer to the provisions set out in the Data Protect Act 2018, specifically Schedule 1, Part 2, paragraph 8: Equality of opportunity or treatment and, paragraph 9: Racial and ethnic diversity at senior levels of organisations[25]

As we have outlined in our response to question 26, we strongly believe that when reporting into the regional and national NHS and healthcare system EPG reporting, individual employers should be required to collect fully disaggregated EPG data across ethnic and occupational groups. This would overcome issues regarding individual employees' confidentiality while enabling fully disaggregated regional and national reporting. If binary reporting is the only option at an individual organisational level, this should be stressed as a last resort rather than 'as a minimum', and there should be a requirement that employers' narratives and action plans outline the reasons and rationale behind their approach, as well as the steps they are taking to enable further disaggregation in the future.

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

Strongly agree

We strongly agree with this approach, as outlined in our response to question 26.

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

The NHS Race and Health Observatory (NHS RHO) is an independent expert body established to identify and tackle the widespread, entrenched inequity experienced in health and healthcare by minoritised ethnic people, including the minoritised ethnic healthcare workforce. We welcome the opportunity to respond to this consultation, and firmly support the proposals to increase EPG transparency in the NHS and the healthcare system.

We are clear throughout our response that reporting alone will not lead to substantive change. Without acknowledging and addressing the role that racism – structural, institutional, and interpersonal – plays in entrenching ethnic workforce inequity in the NHS and the healthcare system, the government risks creating a tick-box compliance exercise. We strongly recommend the mandatory publication of narratives and action plans, alongside robust enforcement and incentivisation mechanisms to encourage organisational accountability and action.

We reiterate that while NHS England's (NHSE) has undertaken significant activity to encourage EPG reporting and action, the asks they make of NHS organisations are not a legal requirement

[25] UK Government, 2018. *Data Protection Act 2018*, Schedule 1, Part 2, Paragraphs 8-9. Available at: https://www.legislation.gov.uk/ukpga/2018/12/schedule/1/part/2 [Accessed 15 May 2025].

(EDI improvement plan, NHSE, 2023)[26]. In the context of the national restructuring of the health system, we are concerned that NHSE's activity will be destabilised and deprioritised. The abolition of NHSE and the 50% cuts facing the Department of Health and Social Care (DHSC), Integrated Care Boards (ICBs) and NHS providers, i.e. trusts and foundation trusts (2025/26 reform, NHSE, 2025)[27] will entail the reduction of tens of thousands of staff (HC 639, Public Accounts Committee, 2025)[28]. We are concerned that the healthcare system will not have the resource and capacity to fulfil its EPG obligations under these proposals. Shifting responsibilities raises critical questions over who will be responsible for collecting, developing, and publishing EPG data and action at local, regional, and national levels.

As outlined throughout our response to this consultation, the NHS Race and Health Observatory would welcome the opportunity to work closely with the government to enable the effective development and implementation of these proposals. We are currently undertaking an independent review of the ethnicity pay and progression gap in the NHS, highlighting not just disparity in pay grades, but also in lifetime earnings, pension accrual, and extra-clinical income. We will go beyond data analysis to create high-impact actions to close the EPG and address its drivers, and we strongly recommend that the government work with us to ensure the findings inform proposals to make EPG reporting and action mandatory.

[26] NHS England, 2023. *NHS equality, diversity, and inclusion improvement plan*. Available at: https://www.england.nhs.uk/wp-content/uploads/2023/06/B2044_NHS_EDI_WorkforcePlan.pdf [Accessed 18 May 2025]

[27] NHS England, 2025. *Working together in 2025-26 to lay the foundations for reform*. Available at: https://www.england.nhs.uk/long-read/working-together-in-2025-26-to-lay-the-foundations-for-reform/ [Accessed 22 May 2025].

[28] HC Public Accounts Select Committee, 2025. *DHSC Annual Report and Accounts 2023-24*. Available at: https://committees.parliament.uk/publications/47801/documents/249699/default/ [Accessed 15 May 2025].