

# Legislative Framework and Market Practice on Social Reporting in the UK

Research report by Reed Smith in partnership with the Impact Investing Institute

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# Impact Investing Institute Foreword

The transition to Net Zero is a climate and ecological imperative for the UK and global community that has profound implications for people. Many of these are positive in terms of the potential for greater growth and employment opportunities, as well as tackling wider social priorities, such as overcoming energy poverty and reducing regional inequalities. But it also creates challenges for carbon-exposed companies, sectors and geographies, raising the risk of 'stranded workers' and 'stranded communities', as well as 'stranded assets'.

Managing these opportunities and risks requires a "Just Transition" approach, defined by the United Nations as "a transition towards a sustainable economy that is well-managed and contributes to goals of decent work for all, social inclusion and the eradication of poverty". The development of practical and widely comparable social metrics is key to delivering a Just Transition. Such developments will also strengthen the social impact of private finance beyond the Just Transition, for example, to tackle forms of poverty and inequality that are not a direct result of the climate crisis.

The Impact Investing Institute has committed itself to these efforts since its foundation, including securing a commitment by the UK government to report on the social co-benefits of its inaugural green gilts; developing a Just Transition finance label to help investors integrate Just Transition considerations into their investment processes; supporting more financial institutions to adopt a place-based impact investing approach to drive positive outcomes in underinvested places around the UK; and supporting the Financial Conduct Authority's development of sustainability labels and disclosures, covering both environmental and social impact. We are also pleased to sit on the Department of Work and Pensions' Taskforce on Social Factors, supporting the development of an understanding of social factors (the 'S' in "Environmental, Social and Governance – or ESG) in the pensions industry.

Businesses increasingly recognise the importance of sustainability factors and are committed to advancing their approach, but they face serious challenges in navigating the patchwork of rules around disclosing sustainability data. Significant progress on environmental factors has been made in recent years by policymakers, the financial services industry, business and other stakeholders. This has been reflected in the development of taxonomies, including the introduction of the EU's Environmental Taxonomy at the beginning of 2022 and the UK's expected Green Taxonomy in 2023.

While understanding of social factors has lagged behind that of environmental, many social metrics already exist – in UK law, regulation, market-led initiatives and voluntary codes. The metrics and their reporting requirements vary significantly in quality and depth, but set out in their totality, provide a useful platform from which to begin to prioritise and develop social metrics that could be more widely adopted by industry and/or legislated for by policymakers. This was the ambition behind our partnership with Reed Smith and is precisely what this report seeks to deliver. We are incredibly grateful for Reed Smith's pro-bono support and expertise throughout this project.

From its thorough review of a wide range of existing social disclosures, the report indicates that three stand out as sufficiently developed as to provide a strong starting point for a social metrics framework by policymakers: 'non-discrimination' (in relation to employment (i.e. workforce equality)), the National Living Wage (as determined by the Living Wage Foundation) and 'education'. 'Non-discrimination' contains a series of well-developed metrics, including gender pay gap reporting, ethnicity pay gap reporting and board diversity targets. The National Living Wage prevents existing age disparities in relation to the statutory minimum wage, while also ensuring that all workers earn enough to get by, which is crucial to delivering a sustainable economy and Just Transition for all. 'Education' is similarly advanced, with indicators ranging from the attainment gap to access to higher education.

Taken together, they articulate key indicators of a wide range of inequalities (including geographic), which we recommend are taken forward as the basis of a social metrics framework.



# Reed Smith Foreword

In recent years, following the adoption of the UN Sustainable Development Goals, sustainability has become a hugely important item on the corporate agenda. Not only is taking a proactive approach to sustainability the right thing to do but there is also a growing body of evidence to indicate that companies with strong sustainability credentials have stronger long-term business models.

The vast majority of business leaders recognise the importance of sustainability and are invested in advancing their organisation's sustainability outlook. However, they face a significant challenge in navigating the patchwork of rules around disclosing their sustainability data whether relating to the environment or social sustainability or governance.

Clear reporting of an organisation's sustainability credentials is vital to ensuring that internal and external stakeholders can understand the impact – positive and negative – an organisation is having on the wider world. However, the reporting landscape in relation to social sustainability factors is currently fragmented and has not received the same attention as other areas through, for example, the development of taxonomies. Instead, reporting is governed by a patchwork of legal requirements and voluntary initiatives, without a single framework unifying the different regimes.

We are therefore delighted to have worked with the Impact Investing Institute, on a pro bono basis, to create this guide to social sustainability reporting in the UK. We are proud to help provide some much-needed clarity on the current legislative framework and on best practices for reporting in the social sector.



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Driving progress  
through partnership

# Research Report: Legislative Framework and Market Practice on Social Reporting in the UK

## Executive Summary

Environmental, Social and Governance factors have, particularly since the adoption of the UN Sustainable Development Goals (“SDGs”), emerged as important considerations that can guide investment decisions. The legislative frameworks and voluntary disclosure schemes around social welfare are closely linked to the SDGs. The most relevant SDGs in the ‘Social’ context are:

- SDG 1 which aims to eradicate poverty;
- SDG 2 which aims to eradicate hunger;
- SDG 3 which aims to ensure healthy lives and wellbeing for all ages;
- SDG 4 which aims to ensure quality education for all;
- SDG 5 which aims to achieve gender equality;
- SDG 8 which aims to ensure decent work and economic growth;
- SDG 10 which aims to reduce inequality; and
- SDG 16 which aims to promote peaceful and inclusive societies for sustainable development, access to justice for all and effective and inclusive institutions.<sup>1</sup>

In the social context, as non-financial information, these factors provide a wider view of commercial entities and the externalities they generate both socially and environmentally, alongside how such enterprises are governed internally. In analysing corporate performance along these lines, accurate and consistent measurement, reporting standards and metrics are important. However, while there has been notable progress towards ‘environmental’ and ‘governance’ reporting, reporting on ‘social’ aspects remains underdeveloped. It is this area that this report considers.

### (i) An Introduction to the Reporting Landscape

The reporting landscape in the area of social welfare is fragmented. It is characterised by a high number of actors who undertake different roles, including (but not limited to) national governments, international organisations, non-governmental organisations, multinational corporations, financial institutions and a variety of other entities operating in the private sector more broadly. Similarly, reporting takes place through a multitude of instruments, ranging from mandatory ‘hard’ legislative requirements to ‘softer’ voluntary codes and industry best practices.

This variance in standards means that a market participant may be subject to a number of conflicting and overlapping reporting obligations at once, requiring varying levels of disclosure and leading to increased compliance costs. The lack of an overarching framework for social reporting also means that investors, faced with separate and disjointed reporting regimes, may face a challenge in drawing accurate comparisons between different reporting standards and corporate performance.

To ensure that reporting and disclosure drive meaningful progress in the area of social welfare, it is important that the data gathered is clearly communicated, publicly available and coherent to different stakeholders. As a result, there have been emerging calls for a common form of social reporting through a cohesive framework applicable across sectors and actors. This has been advanced by the EU Platform on Sustainable Finance in their report proposing an EU Social Taxonomy (the “**Platform Report**”).<sup>2</sup> While the EU has not fully embraced the proposals, the Platform Report is constructive in identifying those areas of social welfare where the development of social metrics for reporting could assist financing and progression.

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<sup>1</sup> <https://sdgs.un.org/goals>.

<sup>2</sup> [https://ec.europa.eu/info/sites/default/files/business\\_economy\\_euro/banking\\_and\\_finance/documents/280222-sustainable-finance-platform-finance-report-social-taxonomy.pdf](https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/280222-sustainable-finance-platform-finance-report-social-taxonomy.pdf).

## (ii) Scope and Structure of this Report

Informed by the approach of the Platform Report and transferring it to a UK context, this report provides a high-level mapping of the main social reporting legislative and voluntary frameworks currently in place in the following six key areas:

1. Employment;
2. Non-discrimination;
3. Social Protection and Inclusion;
4. Rights to Basic Services and Amenities (comprising healthcare, housing, education and food);
5. Corruption and Tax Evasion; and
6. Consumer and Data Protection.

This report is divided into two parts. Part 1 (Mandated and Voluntary Reporting Obligations) sets out the existing legislative measures that mandate reporting, and more commonly used voluntary frameworks in practice under which participating actors report. This covers the areas of Employment, Non-discrimination and Social Protection and Inclusion, being the key areas that the Impact Investing Institute identified as priority categories for analysis. This section presents only a selection of the laws and frameworks in place, to focus only on those with a reporting element, and outlines in each section (1) what, if any, reporting is mandatory and (2) whether, in practice, any voluntary standards or frameworks have emerged in response to mandatory disclosure requirements, or a lack thereof. Where data is available, qualitative comments are made as to the uptake and actual reporting practice under mandatory and voluntary regimes.

Part 2 (Mapping Exercise of Legal and Voluntary Framework) comprises a table that maps out the main legislative provisions and voluntary frameworks across the six different categories considered. The scope of this table is wider than the content of Part 1 (Mandated and Voluntary Reporting Obligations) in that it outlines the relevant voluntary measures, and existing and proposed legislation in each area generally, without a focus on the relevant reporting obligations.

## (iii) An Overview of the Report's Findings

Social reporting in practice is institutionalised to varying degrees across different sectors and between different actors.

Reporting is more developed for actors within the public sector than the private sector, attributable in large part to the Public Sector Equality Duty (“PSED”) to which public authorities are tied. The PSED obliges public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those who possess protected characteristics<sup>3</sup> and those who do not.<sup>4</sup> This duty applies when carrying out all their day-to-day activities, and public bodies must also document this process.<sup>5</sup> Within the private sector, where there is less mandated disclosure, there is an opportunity for corporate actors to differentiate themselves on the basis of ascribing to various voluntary reporting standards, where they exist. Indeed, there are a number of reasons why private actors may choose to report voluntarily, for example, as a differentiating factor for visibility, to enhance their reputation, to meet shareholder pressures or to get ahead of the curve where it is expected that disclosure not currently mandated may become formally required.

In certain sectors, such as health and safety and gender pay gap reporting, legally mandated disclosure is dominant. Here, corporate actors disclose pre-defined information in a prescribed format that encourages uniformity and consistency of the data released. Here, a ‘top-down’ regulatory approach to reporting means that this information can be made widely available for investor and public scrutiny, with a wide participant base.

In areas where reporting is not mandated through legal frameworks, there is a high variance in the uptake and institutionalisation of voluntary reporting regimes in practice. Some areas that are currently voluntary, such as disability reporting, are highly codified and may be on their way to becoming legally mandated. By contrast, within other areas (including certain identified sub-sectors within social protection and inclusion), voluntary reporting frameworks remain sparse despite also a lack of centrally mandated disclosure. Here, reporting has not yet emerged as a common practice, with reports being generated in a piecemeal approach by different actors in the area, rather than through a specific framework. Where their reporting is legally mandated, there may be less pressure for ‘bottom-up’ voluntary regimes and,

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<sup>3</sup> Characteristics that are protected by the Equality Act 2010 and therefore cannot be used for decision-making in the workplace unless those decisions are to make accommodations – examples are race, sex and disability, see the Non-discrimination: Existing Legislation – National subsection in the appended table for a full list.

<sup>4</sup> This is part of the Equality Act, see the Non-discrimination: Existing Legislation – National subsection in the appended table for more details.

<sup>5</sup> This is part of the Equality Act, see the Non-discrimination: Existing Legislation – National subsection in the appended table for more details.

as such, these frameworks may remain less widely utilised, while in certain specific areas, such as non-discrimination within education, voluntary reporting regimes have provided an opportunity for private sector actors to invest in improving educational equality, alongside mandated disclosure.

Given the sprawling, fragmented and multi-polar nature of this area, this report is not intended to provide a comprehensive and exhaustive summary of all forms of social metrics and reporting. Rather, it highlights – from sources that were correct on 24 January 2023 – the key legal and voluntary regimes that have emerged in this area and have been adopted by various actors in practice.



Reed Smith is guiding clients around the world in all kinds of socially responsible projects and investments. Projects include social impact investing (such as bonds for immunisation, girls' education, and maternal care) and funds for women's health, school lunches and small businesses. We advise on human rights – including employee relations and human trafficking – fair trade, stakeholder engagement, data security, cyber risk and more.

# Part 1 – Mandated and Voluntary Reporting Obligations

## 1. Employment

For the purposes of this report, given the broad scope of the social aspects of employment, we have narrowed the scope to a few key areas where there has been some legislative focus and to other hot-topic issues. There is, of course, also significant overlap between non-discrimination in the workforce and employment – we have covered this in the Non-discrimination section of the report below.

Accordingly, employment has been broken down into the following key areas:

- (a) Reporting obligations to the Pensions Regulator;
- (b) Right to Organise;
- (c) Health and Safety;
- (d) Modern Slavery; and
- (e) General Voluntary Schemes.

Reporting obligations in the areas identified above can be characterised by a predominantly ‘top-down’ regulatory approach. There are relatively heavily mandated disclosure obligations, particularly in the health and safety area, with a lack of additional voluntary/market standards. The mandated disclosure requirements have naturally evolved as a result of a more tightly regulated environment given the clear public interest aspect. Legislative requirements applicable to certain regulators and competent authorities to publish data mean that those regulators and competent authorities mandate disclosure from companies in a uniform manner, primarily through mandating reporting in prescribed formats, in order to aggregate data in a more easily reportable fashion.

### (a) Employers’ Reporting Obligations in Respect of Pensions

Mandatory reporting obligations on employers stem from the Pensions Act 2004 (“**PA 2004**”) as amended by subsequent Pension Acts, notably the Pensions Act 2008 and Pensions Act 2014.<sup>6</sup>

Employers and trustees have statutory duties to provide certain information to the Pensions Regulator about their pension schemes. These details include registration of each scheme, submission of a scheme return (including a breakdown of the number of participants in the scheme and age ranges), reporting breaches of the law and, in relation to defined benefit schemes, reporting notifiable events (s. 64, 69 and 70 of the PA 2004, respectively).

Notifiable events are designed to provide the Pensions Regulator with an early warning of a possible call on the Pension Protection Fund. The Pension Protection Fund is a statutory corporation set up by the PA 2004 to protect members of eligible defined benefit pension schemes where, broadly speaking, an employer becomes insolvent and its scheme is underfunded. Generally, the Pensions Regulator does not require public disclosure of events notified to it.<sup>7</sup>

As well as reporting to the Pensions Regulator, employers are also legally obliged to inform employees about enrolment and auto-enrol them into a workplace pension scheme (s.10 of the Pensions Act 2008 as amended by s. 38 of the Pensions Act 2014). Employers are legally obliged to offer such schemes, which are designed to complement the state pension (currently accessible from the age of 66). Information given to employees must include the effect of automatic enrolment into a scheme, including the date at which employees are added, the type of pension it is, the employer and employee contributions and how to opt out of the scheme. Employers must ensure, under the Pension Schemes Act 2021, that there are adequate ongoing systems and processes in place to provide information relating to the scheme to members or prospective members. However, employers are usually not permitted to seek to promote, encourage or advise on the merits of entering into particular pension schemes (for example, a group personal pension scheme or occupational pension), as these activities are restricted by the Financial Conduct Authority (“**FCA**”).<sup>8</sup> Certain exemptions apply, and such promotions can be permitted if the employer arranges for an authorised firm to approve any such communications. In this area, mandated disclosure is supplemented by employers’ voluntary measures, such as contributing to the cost of pensions advice for their employees or incorporating the recommendations and tools offered by Money and Pensions Service (“**MaPS**”), a government-sponsored service offering financial guidance.

<sup>6</sup> <https://www.thepensionsregulator.gov.uk/en/employers/managing-a-scheme/reporting-duties>.

<sup>7</sup> <https://www.thepensionsregulator.gov.uk/en/document-library/codes-of-practice/code-2-notifiable-events>.

<sup>8</sup> <https://www.fca.org.uk/publications/guidance-consultations/gc20-1-advising-pension-transfers>.

## **(b) Right to Organise**

### Mandated Disclosure

The Certification Officer maintains a public list of trade unions and employers' associations in accordance with sections 2 to 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("**TULRCA 1992**").<sup>9</sup>

Sections 24ZA to 24ZK, section 24A and section 24B of TULRCA were introduced by Part 3 of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014<sup>10</sup> and impose reporting requirements on trade unions relating to registers of members and providing annual assurances in relation thereto.

There is also a requirement to publish certain data for public sector employers under the Trade Union (Facility Time Publication Requirements) Regulations 2017.<sup>11</sup> This only relates to public sector organisations that employ more than 49 full-time employees.

While there is no positive legal right to strike found in domestic UK legislation (beyond the rights included in the various international covenants further detailed in Part 2 of this report), TULRCA 1992 does provide for strike action organised by trade unions to be legal provided certain conditions are met. Trade union members have the right to vote before the union asks the member to take industrial action. However, the individual member is not mandated to join the industrial action, and there is no recourse to discipline by the union should they refuse. Should the member be excluded or expelled from the union in light of a decision not to participate in industrial action, the recourse is to complain to an employment tribunal. Further, non-union members who partake in legal, official industrial action have the same rights as union members not to be dismissed as a result of taking action.<sup>12</sup> Any industrial action taken during a return period must be reported in the annual return sent to the Certification Officer. This includes the nature of the trade dispute to which the action related, the nature of the industrial action and when it occurred. The trade union must also report where expenditure paid out of its political fund exceeds £2,000 in a calendar year. There are further reporting requirements in relation to elections held by the trade union.

### Voluntary Schemes

As a representative body made up of member unions, the Trade Union Congress ("**TUC**") has a number of ongoing campaigns to progress the legislation governing the right to organise in the workplace, including protecting the right to strike and banning zero-hours contracts and 'firing and rehiring' schemes.<sup>13</sup> An ongoing legal challenge brought by 11 trade unions, coordinated by the TUC, to the existing legislation allowing employers to use agency workers in the place of employees on strike during industrial action demonstrates the potential power that such voluntary schemes may have in this area.<sup>14</sup> Similarly, the subject of a TUC campaign seeking to enhance the legal right to flexible working will be carried forward into forthcoming legislation. Voluntary mobilisation in this area may have a role in influencing and shaping the content of forthcoming legislation. Trade unions such as Prospect are also highlighting the risk of digital intrusion and surveillance on employees 'working from home', which has grown since the COVID-19 pandemic.

## **(c) Health and Safety**

### Mandated Disclosure

A health and safety report is a report detailing the measures and procedures a company takes to maintain health and safety standards. There are several different health and safety reports required by UK law. Some are used to ensure businesses in dangerous industries take necessary precautions. Whereas other data is collected by enforcing authorities to produce statistics on workplace injury trends.<sup>15</sup>

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 ("**RIDDOR 2013**") imposes duties on employers, the self-employed and people in control of work premises ("**Responsible Persons**") to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses).<sup>16</sup>

<sup>9</sup> <https://www.gov.uk/guidance/apply-to-enter-a-trade-union-on-the-certification-officers-list>.

<sup>10</sup> <https://www.gov.uk/government/publications/trade-union-register-of-members-new-requirements>.

<sup>11</sup> <https://www.gov.uk/guidance/report-trade-union-facility-time-data>.

<sup>12</sup> <https://www.gov.uk/industrial-action-strikes/your-employment-rights-during-industrial-action>.

<sup>13</sup> <https://www.tuc.org.uk/>.

<sup>14</sup> <https://www.tuc.org.uk/news/high-court-green-lights-union-legal-challenge-against-strike-breaking-agency-worker>.

<sup>15</sup> <https://www.peninsulagrouplimited.com/topic/health-and-safety/reporting/#:~:text=You%20must%20make%20a%20report%20within%2010%20days%20of%20the,such%20as%20a%20site%20manager>.

<sup>16</sup> <https://www.hse.gov.uk/riddor/>.

The competent authority in relation to reporting under RIDDOR 2013 is the Health and Safety Executive (“HSE”). The HSE has prescribed that incidents resulting in death or a ‘specified injury’ can be reported on the phone. All other accidents can be reported with the relevant form on the HSE website.<sup>17</sup>

RIDDOR 2013 requires that, if a self-employed person is working in someone else's work premises and suffers either a specified injury or an over-seven-day injury, then the person in control of the premises is responsible for reporting the injury to the HSE.<sup>18</sup> If there is a reportable accident while working on their own premises or in domestic premises, or if a doctor advises that they have a work-related disease or condition, then the relevant self-employed person needs to report it.

The following must be reported under RIDDOR 2013:

1. Deaths and injuries caused by workplace accidents;
2. Occupational diseases;
3. Carcinogens, mutagens and biological agents;
4. Specified injuries to workers;
5. Dangerous occurrences; and
6. Gas incidents.

Although RIDDOR 2013 does not contain any offences, contravention of any of its provisions – or any requirement or prohibition imposed under it – is an offence under the Health and Safety at Work Act 1974 and carries the penalties set out in the Sentencing Council's Definitive Guideline for Health and Safety Offences (the “**Definitive Guideline**”).

Fines imposed under the Definitive Guideline are increasingly hefty, as the focus has shifted to sending a clear message to those who ignore or adopt a cavalier attitude to their health and safety obligations, regardless of the actual harm caused.

Separately, the Control of Major Accident Hazards Regulations 2015 (“**COMAH 2015**”)<sup>19</sup> is the UK's implementation of Council Directive 2012/18/EU (“**Seveso III Directive**”). COMAH 2015 aims to prevent and mitigate the effects of major accidents involving dangerous substances that can cause serious damage or harm to people and/or the environment. COMAH 2015 treats risks to the environment as seriously as those to people.

A key feature of COMAH 2015 is that they are enforced by a competent authority. The competent authority is the HSE, or the Office for Nuclear Regulation (“**ONR**”) for nuclear establishments, together with the appropriate agency. In England, the competent authority is HSE or ONR and the Environment Agency; in Scotland, it is HSE or ONR and the Scottish Environment Protection Agency; and in Wales, it is the HSE or ONR and the Natural Resources Body for Wales.

The regulations place duties on the relevant competent authority to inspect activities subject to COMAH 2015 and prohibit the operation of an establishment if there is evidence that measures taken for the prevention and mitigation of major accidents are seriously deficient. The competent authority also has to examine safety reports from upper-tier establishments and inform operators about the conclusions of its examinations in a reasonable time period.

Operators of all establishments subject to COMAH 2015 must notify certain basic details to the relevant competent authority using the prescribed COMAH 2015 notification form, available on the HSE website.<sup>20</sup> The key points that must be included in the notification are set out below, and full details are contained in COMAH 2015, Regulation 6:

1. The name and address of the operator;
2. The address of the establishment;
3. The name or position of the person in charge;
4. Details of dangerous substances on site (a breakdown is required for petroleum products);
5. Site activities; and
6. Environmental details.

COMAH 2015, Regulation 17 requires that the relevant competent authority make information available to the public in relation to every COMAH establishment. In order to facilitate this, the HSE hosts a web-based system on its website, aggregating all the information required to be made available to the public by the relevant competent authority.<sup>21</sup> Using this

<sup>17</sup> <https://www.hse.gov.uk/riddor/report.htm>.

<sup>18</sup> <https://www.hse.gov.uk/riddor/who-should-report.htm#self-employed>.

<sup>19</sup> <https://www.hse.gov.uk/comah/background/comah15.htm>.

<sup>20</sup> <https://www.hse.gov.uk/comah/notification/comah-notification-form.xlsx>.

<sup>21</sup> <https://notifications.hse.gov.uk/COMAH2015/Search.aspx>.

web-based system, operators must provide the information listed in COMAH 2015, Regulation 17(1) for all establishments. In addition, upper-tier establishments must also provide the information listed in COMAH 2015, Regulation 17(2).

#### Disclosure in Practice

Despite notification of deaths and serious injuries to the HSE being a statutory requirement under RIDDOR 2013, the Royal Society for the Prevention of Accidents (“**RoSPA**”) warned in its response to the Department of Health’s White Paper (Healthy Lives, Healthy People: Our strategy for public health in England), that only 40% of all major occupational accidents are reported each year. However, it should be noted that this response was submitted in 2011 under the preceding RIDDOR 1995 regime, and it is unclear whether this trend has continued.<sup>22</sup>

#### **(d) Modern Slavery**

##### Mandated Disclosure

The Modern Slavery Act 2015 requires certain businesses to produce a statement demonstrating steps they have taken to ensure there is no modern slavery in their business or supply chains.

A commercial organisation is required to publish an annual statement if all of the following criteria apply:

1. It is a ‘body corporate’ or a partnership, wherever incorporated or formed;
2. It carries on a business, or part of a business, in the UK;
3. It supplies goods or services; and
4. It has an annual turnover of £36 million or more.

The Modern Slavery Act 2015, s. 54(7) requires that the statement be reported on the company’s website (if they have one) and a link provided in a prominent place on the website (for example, the homepage)<sup>23</sup> or available within 30 days of written request if they do not have a website (s. 54(8)).

Additionally, section 54(11) delegates power to the Secretary of State to bring civil proceedings in the High Court for an injunction if these duties are not met by a body corporate or partnership that carries out business in the UK.

##### Disclosure in Practice and Voluntary Schemes

Section 172 of the Companies Act 2006 outlines the general duty of a director to promote the success of the company for the benefit of its members but having regard to (among other things) (a) the long-term consequences of any decision, (b) the interests of the employees, (c) fostering relationships with suppliers, customers and others, (d) the impact of the company’s operations on the community and environment, (e) the desire to maintain a reputation for high standards of business conduct, and (f) treating members of the company fairly. However, the **FRC report on Modern Slavery Reporting Practices in the UK** found that most companies do not consider modern slavery to be as important for the consideration of stakeholder interests in section 172 statements (only 13% of the companies studied directly referred to slavery issues, and only 2% discussed the long-term impact on the company).<sup>24</sup>

There is also a Modern Slavery Statement Registry that allows companies (who are required to publish a statement or voluntarily publish a modern slavery statement) to register their modern slavery statements.<sup>25</sup> It is not yet mandatory to publish statements in this register. The register shows that the following number of statements were registered:

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<sup>22</sup> <https://www.rosipa.com/rospaweb/docs/advice-services/public-health/rospa-public-health-response.pdf>.

<sup>23</sup> Transparency in Supply Chains etc.: A Practical Guide, see [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040283/Transparency\\_in\\_Supply\\_Chains\\_A\\_Practical\\_Guide\\_2017\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040283/Transparency_in_Supply_Chains_A_Practical_Guide_2017_final.pdf), 7.3.

<sup>24</sup> <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>, p. 19.

<sup>25</sup> <https://modern-slavery-statement-registry.service.gov.uk/>.

Year	Total Number of Mandatory and Voluntary Statements Published	Of Which Voluntary
2020	8,233	443
2021	14,936	989
2022	7,226	357

The 2021 ‘**Modern Slavery Act: Five Years of Reporting**’ report by the Business and Human Rights Resource Centre (“**BHRRC**”) and the Modern Slavery Registry criticises how companies report their modern slavery statements: “Of the companies which do report, most are not transparent about their risks and how they are addressed. Companies are required to describe the steps it has taken to address modern slavery, yet the reporting criteria are not mandatory and any disclosure is done voluntarily. In practice, many companies have been reluctant to disclose information beyond the bare minimum.”<sup>26</sup> Further, it states that despite persistent non-compliance by 40% of companies, no injunctions or administrative penalties have been issued to companies failing to report.

### Proposed Legislation

The government has announced its commitment to making the following amendments:

1. Implementing a single reporting deadline;
2. Requiring public sector organisations with a budget of £36 million or more to report under section 54;
3. Imposing mandatory reporting criteria; and
4. Establishing a single enforcement body to consider sanctions for non-compliance.<sup>27</sup>

However, BHRRC has said these amendments are not enough to change the abuse of human rights involved and has petitioned for a new and wide-ranging Business, Human Rights and Environment law.<sup>28</sup> The petition, jointly powered by the Corporate Justice Coalition and partner organisations including SumOfUs, Freedom United and Traidcraft Exchange, call for “a new law to hold business, finance and the public sector to account when they fail to prevent supply chain human rights abuses and environmental harms”.<sup>29</sup>

A **Modern Slavery Bill** was outlined on 10 May 2022 in the Queen’s speech. The bill called for mandatory topics to be covered in modern slavery statements, for statements to be published on the government-run registry and the introduction of civil penalties for non-compliance.<sup>30</sup> This bill will not now progress as the 2021-2022 Parliamentary session has ended. It remains to be seen whether a similar bill will be introduced in the current Parliamentary session given the current economic and political climate.

Separately, the **Modern Slavery (Amendment) Bill** was introduced as a private member’s bill on 15 June 2021. Despite incorporating many recommendations from various reviews and consultations, the bill stalled in its first reading at the House of Lords and ceased to progress when the 2021-2022 parliamentary session came to an end.<sup>31</sup>

### **(e) General Voluntary Schemes**

#### B Corporation

B Lab is a global non-profit network created in 2006 to enable people to use business as a force for good. B Lab UK is the UK branch of the B Global Network and was set up as a charity in 2015. Certified B Corporations, or B Corps, are companies verified by B Lab to meet high standards of social and environmental performance, transparency and accountability.<sup>32</sup>

<sup>26</sup> <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>, p. 6.

<sup>27</sup> <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>, p. 8.

<sup>28</sup> <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>, p. 9.

<sup>29</sup> <https://www.business-humanrights.org/en/blog/momentum-for-change-uk-public-joins-business-and-civil-society-to-demand-new-business-rights-and-environment-law/>.

<sup>30</sup> <https://uk.practicallaw.thomsonreuters.com/6-606-9165>.

<sup>31</sup> <https://bills.parliament.uk/bills/2892>.

<sup>32</sup> <https://bcorporation.uk/b-corp-certification/what-is-a-b-corp/>.

There are now over 5,000 B Corps in 84 countries and covering 157 industries. Following an initial 'B Impact Assessment', B Corps recertify every three years by reviewing their B Impact Assessment and ensuring all the information is accurate and up to date.

During the period between certifications, all B Corps are required to publish an annual report. The annual report should include details of anything performance or operations-related that may significantly affect their social and environmental impact now and in the future. The finished report should be circulated to key stakeholders and investors and published on the relevant organisation's website. A company may also choose to publish the report with Companies House.<sup>33</sup>

### National Living Wage Employer

The Living Wage Foundation is a campaigning organisation encouraging organisations to pay their employees the 'real Living Wage'. This is a voluntary hourly wage that is independently calculated based on what people need to get by and is above the statutory minimum wage and National Living Wage.<sup>34</sup> The real Living Wage is the only UK wage rate that is voluntarily paid by over 11,000 UK businesses. It is currently set at £10.90 across the UK and £11.95 in London, and it was last reviewed on 22 September 2022.

The Living Wage Foundation does not carry out annual compliance audits of Living Wage Employers as the accreditation is a signed legal agreement of their commitment to the real Living Wage. In line with the Living Wage licence agreement, if the Living Wage Foundation has reason to believe that a Living Wage Employer is breaking the terms of their licence agreement, the Living Wage Foundation will ask the employer to rectify the situation and may ask for evidence of this, such as anonymised pay slips or contract samples. There are currently 11,522 Accredited Employers, including numerous large employers across a variety of industries (professional service firms, retail stores, healthcare providers, charities, and universities).<sup>35</sup>

## 2. Non-discrimination

The Human Rights Act 1998 ("HRA 1998") incorporates the **International Bill of Human Rights (the Universal Declaration of Human Rights and the UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights)** and the **European Convention of Human Rights** into UK law. By enacting the HRA 1998, the UK pledged to ensure that its laws aligned with UN Covenants that aim to dismantle discrimination in all its myriad forms, such as the UN Conventions aimed at eliminating racial and sex-based discrimination and discrimination in education.<sup>36</sup> The Equality and Human Rights Commission ("EHRC") reports to the UN Committees, who decide whether the UK is meeting its obligations under these treaties.

The **Office for National Statistics ("ONS")** collects data on persons possessing protected characteristics<sup>37</sup> and their life outcomes to ensure the UK complies with its duties under international treaties such as the UN Conventions mentioned above and the SDGs. The UK therefore has a responsibility to ensure it protects everyone's fundamental freedoms and eliminates non-discrimination under the Human Rights Act 1998 ("HRA 1998") and the Equality Act 2010 ("EA 2010").<sup>38</sup>

Under the EA 2010, public bodies in the UK have a statutory duty (the "PSED") to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their day-to-day activities and shaping policy. Public bodies must report their equality information and objectives to the EHRC, which then monitors compliance.<sup>39</sup> This duty runs through the following sections on education and healthcare. Reporting is therefore better established in these areas – opportunities for investors to make a difference are especially clear in education.

In the private sector, reporting obligations regarding non-discrimination measures are less well established and remain voluntary for the large part. However, there have been trends in recent years towards voluntary disclosure of metrics that go above and beyond legal requirements. For example, as well as the legally mandated gender pay gap, some market leaders in the professional services industries have also disclosed their ethnicity, sexuality and disability pay gaps. Coupled with the expectation of customers and clients that companies will have internal diversity and inclusion policies and a diverse workforce, this area of social reporting is becoming richer. However, there is much room for improvement in the corporate sector with many companies only disclosing the bare minimum of the information that is legally mandated (i.e. their gender pay gap).

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<sup>33</sup> <https://bcorporation.uk/b-corp-certification/how-to-certify-as-a-b-corp/after-you-certify/>.

<sup>34</sup> <https://www.livingwage.org.uk/what-real-living-wage>.

<sup>35</sup> <https://www.livingwage.org.uk/accredited-living-wage-employers>.

<sup>36</sup> See the Non-discrimination 'Existing Legislation – International' section in the appended table.

<sup>37</sup> Protected characteristics include race, sex and disability, see the Non-discrimination 'Existing Legislation – National' section in the appended table for a full list.

<sup>38</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/improvingdisabilitydataintheuk/2019>.

<sup>39</sup> Equality information refers to data concerning pay gaps of employees with protected characteristics and records how the public body has had due regard in making workforce decisions. Equality objectives should be specific, measurable and timely, see [https://www.equalityhumanrights.com/sites/default/files/technical-guidance-on-the-psed-in-england\\_final\\_1.docx](https://www.equalityhumanrights.com/sites/default/files/technical-guidance-on-the-psed-in-england_final_1.docx).

## (a) Gender Pay Gap Reporting

### Mandated Disclosure

The gender pay gap is the difference between the average (mean or median) earnings of men and women across a workforce. Gender pay gap calculations are based on employer payroll data drawn on a specific date each year. The gender pay gap can be calculated across a whole workforce, but also across subgroups, for example, based on age or work patterns such as part-time work. This helps to make clear whether certain subgroups are affected more than others.

From 2017, any employer with a headcount of 250 or more on their snapshot date (5 April for private and voluntary organisations, the “**Snapshot Date**”) is a Relevant Employer and must comply with regulations on gender pay gap reporting.<sup>40</sup> This requires Relevant Employers to annually report and publish specific figures about their gender pay gap within 12 months of the Snapshot Date.<sup>41</sup>

There are two sets of regulations, one covering most public authorities and the other covering private, voluntary and all other public authority employers. These regulations are nearly identical; however, private and voluntary employers must also include a written statement that confirms the information is accurate.<sup>42</sup>

Relevant Employers must calculate, report and publish the following gender pay gap figures using the government’s gender pay gap service:<sup>43</sup>

1. Percentage of men and women in each hourly pay quarter;
2. Mean (average) gender pay gap using hourly pay;
3. Median gender pay gap using hourly pay;
4. Percentage of men and women receiving bonus pay;
5. Mean (average) gender pay gap using bonus pay; and
6. Median gender pay gap using bonus pay.

### Disclosure in Practice and Voluntary Schemes

The UK government introduced mandatory gender pay gap reporting, hoping to permanently reduce, and one day eradicate, the discrepancy in earnings between men and women. In summary, mandatory gender pay gap reporting has made good, albeit limited, progress in achieving this aim. A KPMG report on the success of this reporting regime (the “**KPMG Report**”) stated that “the gender pay gap among full-time employees dropp[ed] from 9.1 percent in 2017 to 7.9 percent in 2021, and from 18.4 percent to 15.4 percent for all employees over the same period.”<sup>44</sup> These trends are supported by ONS statistics that show the gender pay gap fell by almost a quarter for full-time employees between 2011 and 2021, but the KPMG Report stated that, upon review of ONS figures for the past decade, the gender pay gap was declining and that the regulations themselves had therefore made a limited impact.<sup>45</sup>

Around 10,000 employers have been publishing their gender pay gaps each year. Previously, the EHRC has proudly stated 100% compliance rates (including in 2021).<sup>46</sup> As of July 2022, 28 organisations hadn’t complied with their mandatory reporting requirements by the 4 April deadline.<sup>47</sup> Many employers (but far from all) are also publishing detailed narratives explaining their gaps and setting out their diversity agenda. The Equality Act 2006 puts a duty on the EHRC to enforce the EA 2010 and protect human rights. It provides them with a range of enforcement and litigation powers (see also EHRC litigation and enforcement policy).<sup>48</sup>

More employers are also voluntarily reporting their gaps. In 2017, just 285 small employers (with fewer than 250 employees) reported their gaps. In 2021, there were 517 small employers. Even in 2019, when no employers were legally required to report any gaps, nearly 7,000 employers voluntarily provided them.

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<sup>40</sup> <https://www.gov.uk/government/collections/gender-pay-gap-reporting>.

<sup>41</sup> Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (“GPG Regulations”), s. (2)(2).

<sup>42</sup> GPG Regulations, s. 14(1).

<sup>43</sup> <https://www.gov.uk/guidance/the-gender-pay-gap-information-employers-must-report>.

<sup>44</sup> <https://home.kpmg/uk/en/blogs/home/posts/2022/02/gender-pay-gap-reporting-its-impact-and-possible-future.html>.

<sup>45</sup> As above.

<sup>46</sup> <https://www.equalityhumanrights.com/en/our-work/news/formal-investigations-lead-100-compliance-gender-pay-gap-reporting>.

<sup>47</sup> <https://www.equalityhumanrights.com/en/our-work/news/28-organisations-yet-report-gender-pay-gap-data>.

<sup>48</sup> <https://www.equalityhumanrights.com/en/publication-download/our-litigation-and-enforcement-policy-2019-2022>.

There have been criticisms of its success due to the parameters of the information that is excluded – part-time roles (which many women occupy) and other exclusions result in the lowest-paid women being excluded from the category of ‘relevant employee’ and therefore excluded from the pay gap reporting, artificially narrowing the gender pay gap. Critics of mandatory gender pay gap reporting in the UK note that while it provides a degree of transparency and comparability, it does not tackle the wider issue of gender equality in the workplace. There are also calls for there to be a shift from acknowledging the gap to addressing the gap.

The KPMG report took the view that the most progressive businesses take a couple of steps further than the gender pay gap regulations require.<sup>49</sup>

These most progressive companies utilise gender pay gap reporting as a mechanism by which they can analyse their data and inform their decision-making concerning diversity and inclusion matters, including pay.<sup>50</sup> These companies achieve this by conducting deeper analysis and reporting of their gender pay gaps to produce more meaningful data and therefore more impactful action plans.<sup>51</sup> As discussed later in this report, some companies voluntarily publish data concerning pay gaps for ethnicity, disability, social mobility and sexuality.

In publishing a gender pay gap action plan, these companies demonstrate that they are serious about addressing the gender pay gap, and this helps to protect their reputation as an ethical employer.<sup>52</sup> Another sign of a company that is committed to addressing the gender pay gap is an evolving narrative because this usually shows that the company integrates this data into their wider diversity and inclusion policies.<sup>53</sup> For example, the most effective sign of genuine intent to tackle the gender pay gap is deep data analysis and consistent monitoring.<sup>54</sup> If businesses have senior leaders that support their commitment to tackling the gender pay gap, they push for a systemic approach to addressing the underlying cause of the gender pay gap, often resulting in a plan with specific actions.<sup>55</sup> The government has issued guidance on formulating supporting narratives and action plans on the gender pay gap, but these additional measures remain voluntary.<sup>56</sup>

On the other hand, some employers do not comply at all with gender pay gap reporting or do the bare minimum because consequences for non-compliance rarely materialise.<sup>57</sup> The gender pay gap regulations do not contain provisions for enforcement or penalties for non-compliance with the reporting obligations or for publishing inaccurate or misleading reports.<sup>58</sup>

In the face of hundreds of companies failing to file their gender pay gap reports on time, the KPMG Report highlighted the lack of enforcement from the responsible body, the EHRC, despite their threats of “unlimited fines and convictions.”<sup>59</sup> Furthermore, gender pay gap reports do not seem to be assessed for validity as long as they are merely published.<sup>60</sup>

This regulation was due for review in April 2022, but the report is yet to be published. It is expected that the review will focus on the effectiveness of this regulation (i.e. whether it meets the government objective of reducing the gender pay gap or just imposes an unnecessary burden on employers).

The Women and Equalities Committee recommended that reporting thresholds are lowered to, for example, the median employer size (used as a threshold in other countries); action plans are made mandatory; and pay gap reporting is extended to include ethnicity pay gap reporting.<sup>61</sup>

Any employer that has a headcount of less than 250 can report and publish their gender pay gap information voluntarily, but they are not obliged to do so. Employers that want to voluntarily report on gender pay gaps must follow the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017.<sup>62</sup>

The **Hampton-Alexander review** (an independent, voluntary and business-led initiative supported by the government, aimed at increasing the representation of women on FTSE 350 boards and in their leadership teams) set a target of 33%

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<sup>49</sup> <https://home.kpmg/uk/en/blogs/home/posts/2022/02/gender-pay-gap-reporting-its-impact-and-possible-future.html>.

<sup>50</sup> As above.

<sup>51</sup> As above.

<sup>52</sup> As above.

<sup>53</sup> As above.

<sup>54</sup> As above.

<sup>55</sup> As above.

<sup>56</sup> <https://gender-pay-gap.service.gov.uk/>.

<sup>57</sup> <https://home.kpmg/uk/en/blogs/home/posts/2022/02/gender-pay-gap-reporting-its-impact-and-possible-future.html>.

<sup>58</sup> As above.

<sup>59</sup> As above.

<sup>60</sup> As above.

<sup>61</sup> <https://committees.parliament.uk/work/319/unequal-impact-coronavirus-and-the-gendered-economic-impact/>.

<sup>62</sup> <https://www.gov.uk/guidance/who-needs-to-report-their-gender-pay-gap>.

representation of women on FTSE 350 company boards by 2020.<sup>63</sup> This was widely taken up and therefore successful – the target has now been increased to minimum 40% representation of women by the end of 2025.<sup>64</sup> This data-driven approach encouraged accountability and focused attention on the pipeline of talent further down in corporate bodies.<sup>65</sup> An area that has not seen as much success, however, is increasing the number of women financial directors and chief executives.<sup>66</sup> As well as trying to increase the representation of women in FTSE 350 companies, the next phase of the review aims to focus on improving gender parity in the UK’s largest non-listed companies.<sup>67</sup>

There have been calls for the government to introduce other forms of mandatory pay gap reporting that currently remain voluntary, including ethnicity, disability, sexuality and social mobility.<sup>68</sup>

## **(b) Other Forms of Voluntary Pay Gap Reporting**

### Ethnicity Pay Gap Reporting

There is building pressure on the UK government to introduce measures obliging organisations to disclose their ethnicity pay gaps next year.<sup>69</sup> The largest companies have action plans targeted at improving their ethnicity pay gaps. Take-up remains low, however, and only 13% of FTSE 100 employers voluntarily published their ethnicity pay gaps in 2021, so it appears most are waiting for mandatory ethnicity pay gap reporting to be introduced.<sup>70</sup>

In their March 2022 Policy Paper, the government committed to ensuring more responsible and accurate reporting on race and ethnicity, and following this, in July 2022, the Race Disparity Unit published a consultation on new standards for ethnicity data; however, the government was reluctant to introduce mandatory ethnicity pay gap reporting due to fear of imposing too much of a burden on businesses.<sup>71</sup>

The Commission on Race and Ethnic Disparities 2021 Report highlighted difficulties concerning ethnicity pay gap reporting – it stated that as ethnicity is not binary, it is more difficult to report.<sup>72</sup> Also, employees’ disclosure of this information is voluntary. The Commission on Race and Ethnic Disparities argued that this would lead to unreliable findings and “make it impossible to look at the workforce stratified by the 18 ONS ethnicity classifications”.<sup>73</sup> The commission recommended instead that employers should publish their ethnicity pay figures alongside a diagnosis and action plan regarding disparities in pay among ethnicities and ways to improve it.<sup>74</sup>

The Department for Business, Energy and Industrial Strategy (“**BEIS**”) is due to issue guidance concerning the improvement of organisations’ ethnicity pay gaps. This will detail case studies that exemplify what a good action plan to address disparities may look like.<sup>75</sup> BEIS hopes this will be a good substitute for mandatory reporting of ethnicity pay gaps and will create an expectation for companies “to take meaningful action to identify and then tackle the causes of disparate pay”.<sup>76</sup>

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<sup>63</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/814080/GEO\\_GEEE\\_Strategy\\_Gender\\_Equality\\_Monitor\\_tagged.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/814080/GEO_GEEE_Strategy_Gender_Equality_Monitor_tagged.pdf), pp. 13-14; <https://ftsewomenleaders.com/wp-content/uploads/2022/02/2021-FTSE-Women-Leaders-Review-Final-Report.pdf>, p. 8.

<sup>64</sup> All eligible companies participated in the review, <https://ftsewomenleaders.com/wp-content/uploads/2022/02/2021-FTSE-Women-Leaders-Review-Final-Report.pdf>, pp. 10, 15.

<sup>65</sup> <https://ftsewomenleaders.com/wp-content/uploads/2022/02/2021-FTSE-Women-Leaders-Review-Final-Report.pdf>, p. 10.

<sup>66</sup> As above.

<sup>67</sup> As above.

<sup>68</sup> <https://committees.parliament.uk/work/319/unequal-impact-coronavirus-and-the-gendered-economic-impact/>, p. 38.

<sup>69</sup> The Women and Equalities Commission and CIPD are among those bodies pushing for reform in this area.

<sup>70</sup> Some market leaders in professional services, for example, voluntarily publish their ethnicity pay gap data, see <https://home.kpmg/uk/en/blogs/home/posts/2022/02/gender-pay-gap-reporting-its-impact-and-possible-future.html>.

<sup>71</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, section 3.7.

<sup>72</sup> <https://committees.parliament.uk/publications/8779/documents/88923/default/>.

<sup>73</sup> As above.

<sup>74</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/974507/20210331\\_-\\_CRED\\_Report\\_-\\_FINAL\\_-\\_Web\\_Accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/974507/20210331_-_CRED_Report_-_FINAL_-_Web_Accessible.pdf), p. 117.

<sup>75</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>.

<sup>76</sup> As above.

## Social Mobility Pay Gap Reporting

The Chartered Institute of Accountants of England and Wales states that reporting the social mobility pay gap “is essential if you’re serious about ensuring socioeconomic diversity at all levels”.<sup>77</sup> The Social Mobility Foundation’s index encourages companies to report on the social mobility pay gap as they will receive a rating as a top employer for social mobility, which could attract serious talent.<sup>78</sup> The foundation also offers ‘toolkits’ to support collection and reporting of such pay gap data.<sup>79</sup>

Some market leaders in the professional services sector voluntarily report on their social mobility pay gap.<sup>80</sup> This reporting compares the pay bands between those employees who are categorised as either working class, intermediate class or professional class.<sup>81</sup>

“What was the occupation of your main household earner when you were about aged 14?” is the best determinant of social economic standing. The Social Mobility Commission (“**SMC**”, which was established by the Child Poverty Act 2010), has issued a toolkit for businesses to help them gather and measure data in order to take steps towards being more inclusive from a socioeconomic standpoint.<sup>82</sup>

SMC currently has an employer consultation open, and it plans to publish a “What Works” report later this year and establish an Employer Advisory Group to support the commission’s employer-focused programme of work.<sup>83</sup> Businesses can take the Social Mobility Pledge (including BP, Compass Group, Sodexo and Persimmon).<sup>84</sup> The Social Mobility Pledge involves outreach to schools and colleges via the Sutton Trust, the Big Issue, Speakers for Schools, Inspiring the Future, the Careers and Enterprise Company and the Prince’s Trust to allow work experience opportunities to people from disadvantaged backgrounds or circumstances. Some employers use recruitment strategies to help achieve more social mobility parity in hiring processes – techniques such as replacing names with numbers or using contextualising systems that place applicants’ achievements in the context of the average at their place of study (an example is RARE).<sup>85</sup>

Work Ready is KPMG’s education programme to reduce geographical disadvantage by increasing skills, confidence and general career aspirations in social mobility cold spots.<sup>86</sup>

Bridge Group is a non-profit consultancy that supports organisations with socioeconomic diversity – for example, Bridge Group produced a report on diversity at KPMG that provided evidence about the barriers to progression within the business.<sup>87</sup> Bridge Group has initiated task forces on socioeconomic diversity in a variety of sectors, including the arts, financial services and law.<sup>88</sup>

The TUC claims that reporting of social mobility pay gaps will, for example, highlight the issue of class discrimination, promote monitoring of the workforce and address the issues presented to people of lower socioeconomic backgrounds entering and remaining in work.<sup>89</sup>

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<sup>77</sup> <https://www.icaew.com/insights/viewpoints-on-the-news/2022/feb-2022/social-mobility-do-we-need-a-class-pay-gap>.

<sup>78</sup> <https://www.socialmobility.org.uk/index/>.

<sup>79</sup> <https://socialmobilityworks.org/toolkit/measurement/>.

<sup>80</sup> Such as PwC and KPMG.

<sup>81</sup> These classifications are grouped by respondent’s answer to the occupation their parents undertook when they were aged 14, for a detailed breakdown, see

<https://www.ons.gov.uk/methodology/classificationsandstandards/otherclassifications/thenationalstatistics socioeconomicclassificationsssecrebasedonsoc2010>.

<sup>82</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1106370/The-building-blocks-an-employers-guide-to-improving-social-mobility-in-the-workplace.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1106370/The-building-blocks-an-employers-guide-to-improving-social-mobility-in-the-workplace.pdf);

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1112611/Social\\_Mobility\\_Commission\\_Business\\_Plan\\_2022\\_to\\_2023.docx.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1112611/Social_Mobility_Commission_Business_Plan_2022_to_2023.docx.pdf).

<sup>83</sup> <https://socialmobilityworks.org/news/employer-consultation/>;

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1112611/Social\\_Mobility\\_Commission\\_Business\\_Plan\\_2022\\_to\\_2023.docx.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1112611/Social_Mobility_Commission_Business_Plan_2022_to_2023.docx.pdf).

<sup>84</sup> <https://www.socialmobilitypledge.org/>.

<sup>85</sup> <https://www.socialmobilitypledge.org/about>; <https://www.rarerecruitment.co.uk/>.

<sup>86</sup> <https://socialmobilityworks.org/success-stories/kpmg/>.

<sup>87</sup> <https://www.thebridgegroup.org.uk/>; <https://www.thebridgegroup.org.uk/case-study-3>.

<sup>88</sup> <https://www.thebridgegroup.org.uk/research>.

<sup>89</sup> <https://www.tuc.org.uk/sites/default/files/2019-09/190904%20class%20report.pdf>, p. 20.

## Sexuality Pay Gap Reporting

Again, market leaders in the professional services industries have voluntarily published this information.<sup>90</sup>

Stonewall has a UK Workplace Equality Index that allows participating employers to receive a score for how well they are achieving equality for LGBTQ+ individuals. This is judged on nine categories: policies and benefits, employee lifecycle, network groups, empowering individuals, leadership, monitoring, supply chains, external engagement and service delivery, and staff feedback questionnaire.<sup>91</sup> Stonewall provides a list of the top 100 employers in 2022 based on their score.

## Disability Pay Gap Reporting

As discussed in the Social Protection and Inclusion section, the Voluntary Reporting Framework encourages employers to have greater transparency around the progression and pay of disabled people.<sup>92</sup> Take-up of disability pay gap reporting has been low.<sup>93</sup> Again, a problem employers face is that disclosure of this information is voluntary by employees, so organisations such as Deloitte have focused their efforts on increasing awareness of what constitutes disability so that more employees feel comfortable making disclosures and disclosure levels among staff become more reflective of levels of disability in wider society.<sup>94</sup>

### **(c) Other Voluntary Codes**

The 50:50 Project aims to achieve equal representation of men and women across BBC content. As a consequence, the BBC's content with fair representation has increased from just 35% to 61%.<sup>95</sup> The BBC published its progress in terms of achieving 50:20:12 (50% representation of women, 20% Black and minority ethnic representation and 12% disabled representation).<sup>96</sup> Over 70 external organisations have taken part in the 50:50 challenge and of those below 50% representation when they joined the project, 73% have seen an improvement.<sup>97</sup>

The Investing in Women Code ("**Code**") aims to increase the transparency of funding allocated to female entrepreneurs and expose the gender gap in investment.<sup>98</sup> This will be achieved by committing financial institutions to collecting and reporting gender disaggregated data and taking further action to improve female entrepreneurs' access to the tools and finance needed to grow successful businesses.<sup>99</sup> BEIS plans to work with Code signatories to pilot data collection on the ethnicity of entrepreneurs applying for finance – an Inclusion at Work Panel designed to help employers drive fairness across their operations by using a robust evidence base.<sup>100</sup>

## Proposed Legislation

### **Changes to the Listing Rules – Diversity and Inclusion**

The Financial Conduct Authority is introducing requirements that issuers include a statement in their annual financial report confirming whether they have met board diversity targets. These targets are:

- 40% representation of women (including those self-identifying as women);
- At least one of the senior board positions (chair, chief executive officer, senior independent director or chief financial officer) is a woman (or self-identifies as a woman);
- At least one member of the board is from a non-White minority ethnic background.<sup>101</sup>

These targets will operate on a comply or explain basis.

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<sup>90</sup> Such as PWC and KPMG.

<sup>91</sup> <https://www.stonewall.org.uk/what-workplace-equality-index-and-how-it-scored>.

<sup>92</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/758000/voluntary-reporting-on-disability-mental-health-and-wellbeing.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/758000/voluntary-reporting-on-disability-mental-health-and-wellbeing.pdf).

<sup>93</sup> A CIPD poll found that 21% of employers knew about the framework and 54% of employers were in no hurry to implement it.

<sup>94</sup> <https://www2.deloitte.com/content/dam/Deloitte/uk/Documents/about-deloitte/deloitte-uk-annual-review-2022-pay-report.pdf>.

<sup>95</sup> <https://www.bbc.co.uk/5050/documents/5050-impact-report-2022.pdf>, p. 4.

<sup>96</sup> As above.

<sup>97</sup> As above.

<sup>98</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/821889/GEO\\_GEEE\\_Strategy\\_Gender\\_Equality\\_Roadmap\\_Rev\\_1\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821889/GEO_GEEE_Strategy_Gender_Equality_Roadmap_Rev_1__1_.pdf), p. 22.

<sup>99</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 55.

<sup>100</sup> As above.

<sup>101</sup> 'Non-White ethnic minority background' as defined by the Office for National Statistics, see <https://www.fca.org.uk/publication/policy/ps22-3.pdf>, pp. 1, 4.

Listed companies must also disclose a standardised numerical table on the diversity of their board and executive management by gender and ethnicity.<sup>102</sup>

These rules will apply to accounting periods starting on or after April 2022 meaning that these new disclosures will start to be published in organisations' annual reports from quarter two this year.<sup>103</sup>

### **Inclusive Britain – Proposed Measures from the Government**

An Inclusion at Work Panel, designed to help employers tackle bias across their operations using a robust evidence base, will be run by the Equality Hub and is due in spring 2023.<sup>104</sup> The UK Civil Service and public sector employers will lead by example in adopting evidence-based practices and trialling new approaches.<sup>105</sup>

To address ethnic minority underrepresentation at top tiers of professions, the Government Equalities Office has committed to creating new, updated guidance on positive action by December 2022, though this updated guidance is yet to be published at the time of publication of this report.<sup>106</sup>

A new voluntary scheme for employers for improving race equality and progression in the workplace is due to go live in autumn 2023.<sup>107</sup>

#### **(d) Education**

##### Mandatory

##### **'The Attainment Gap'**

In the UK education system, the disparity between attainment of advantaged versus disadvantaged children is pronounced from the early years. This disparity is exacerbated among children who are in poverty, have special educational needs or are from certain ethnic groups.<sup>108</sup> The Department for Education collects data from schools and stores it in the National Pupil Database. Information gathered includes students' gender, ethnicity, socioeconomic background and attainment levels.<sup>109</sup> For example, in Westminster, there is virtually no gap in GCSE attainment between the most and least advantaged pupils but in Blackpool and Plymouth, the gap is 25%.<sup>110</sup> The pandemic worsened the attainment gap with the most disadvantaged students suffering the most from loss of learning – many students from deprived backgrounds had limited, if any, access to digital equipment or quiet study spaces.<sup>111</sup>

In a similar vein, the EA 2010 makes it illegal for schools to discriminate against pupils or potential pupils, regarding the admissions and learning process, when pupils require access to facilities or benefits, and also in terms of exclusions.<sup>112</sup> Schools have a duty to make reasonable adjustments for pupils, in the form of auxiliary aids and services, so that disabled pupils are not at a disadvantage.<sup>113</sup> Also, although no longer legally required, schools still request ethnicity data from pupils and their parents to monitor their compliance with the PSED (i.e. their duty to eliminate discrimination, advance equality of opportunity and promote good relations for all when undertaking all activities).<sup>114</sup> Schools are encouraged to collect data on pupils' other protected characteristics, such as disability and socioeconomic background, to encourage diversity.<sup>115</sup>

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<sup>102</sup> <https://www.fca.org.uk/publication/policy/ps22-3.pdf>, p. 4.

<sup>103</sup> As above.

<sup>104</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 69.

<sup>105</sup> As above.

<sup>106</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 70.

<sup>107</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 71.

<sup>108</sup> <https://www.officeforstudents.org.uk/publications/schools-attainment-and-the-role-of-higher-education/>.

<sup>109</sup> <https://find-npd-data.education.gov.uk/>.

<sup>110</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>111</sup> <https://www.officeforstudents.org.uk/publications/schools-attainment-and-the-role-of-higher-education/>.

<sup>112</sup> <https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools>.

<sup>113</sup> As above.

<sup>114</sup> In 2018 the Department of Education ceased requiring schools to request ethnicity data, see <https://www.officeforstudents.org.uk/publications/a-matter-of-principles-regulating-in-the-student-interest/>; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/821069/Education\\_inspection\\_framework\\_-\\_equality\\_diversity\\_and\\_inclusion\\_statement.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821069/Education_inspection_framework_-_equality_diversity_and_inclusion_statement.pdf).

<sup>115</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/594363/Progress\\_at\\_Secondary\\_School\\_report\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594363/Progress_at_Secondary_School_report_final.pdf), p. 45; <https://www.sec-ed.co.uk/best-practice/diversity-across-the-school-steps-we-can-take-equality-inclusion/>.

## Higher Education

Higher education institutions must report diversity data to the Higher Education Statistics Agency, the Office for Students (the “OfS”) and research funding bodies.<sup>116</sup> The OfS aims to ensure that all students from all backgrounds have equal opportunity to access, succeed in and progress from higher education. The primary way that the OfS achieves this is through regulating access and participation plans.<sup>117</sup> Access and participation plans set out how higher education providers will each improve equality of opportunity in higher education and they must be approved by the OfS if the provider wants to charge higher tuition fees.<sup>118</sup> The OfS then monitors higher education providers to make sure that they honour the commitments made to students in these plans and takes action if they do not.<sup>119</sup>

Although publicly funded universities are subject to the PSED and therefore must carry out equality impact assessments in respect of race, disability and gender, and pay due regard to the need to eliminate non-discrimination, the EHRC notes the lack of a positive duty placed on universities to take all reasonable steps to prevent racial harassment.<sup>120</sup> In the absence of this positive duty, the onus falls on individuals to challenge by pursuing legal cases, which can be a daunting and expensive prospect.<sup>121</sup> In this vein, the EHRC has criticised universities for not having processes for collecting data on informal complaints.<sup>122</sup> The EHRC has argued that universities should implement centralised reporting, case management systems and periodic surveys of staff and students so that they can analyse the prevalence of racial harassment and conduct continual improvement in this area.<sup>123</sup> In terms of racial disparity in higher education, the OfS has noted the lack of Black students in STEM subjects and also the problem of high levels of participation of Black and minority ethnic students in higher education but lower success rates of these students once they get to university.<sup>124</sup>

Measures of educational disadvantage include Participation of Local Areas (“POLAR”) and Tracking Underrepresentation by Area (“TUNDRA”) to identify places to target for intervention and funding based on the proportion of young people who enter higher education aged 18 or 19.<sup>125</sup> OfS has also developed an Associations between Characteristics of Students (“ABCS”) measure to combine place-based measures with ethnicity and free school meals, drilling down even further into the students who are particularly underrepresented in higher education.<sup>126</sup> This allows the OfS to identify those students who are underrepresented and need more support to progress to higher education – young people who were eligible for free school meals were 70% less likely to progress to higher education than their peers who were not eligible.<sup>127</sup>

The overall gap between students in higher education from the most and least represented neighbourhoods has steadily reduced in recent years but during 2019–2020, students from the most represented areas were still almost twice as likely to access higher education as those from the least represented areas – this gap widened in the highest tariff universities.<sup>128</sup> As OfS continues with its goal to even the playing field in higher education, their next focus is to improve participation in higher education of those from post-industrial towns, parts of cities across the North, the Midlands and coastal towns.<sup>129</sup>

### Voluntary Measures

We did not find any voluntary measures in the education sector relevant to reporting.

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<sup>116</sup> The OfS regulates higher education providers, see <https://www.officeforstudents.org.uk/publications/a-matter-of-principles-regulating-in-the-student-interest/>.

<sup>117</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>118</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/the-register/search-for-access-and-participation-plans/#/AccessPlans/>.

<sup>119</sup> As above.

<sup>120</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/providing-education-and-access-any-benefit-service-or-facility-and-exclusions>.

<sup>121</sup> As above.

<sup>122</sup> As above.

<sup>123</sup> <https://www.equalityhumanrights.com/en/advice-and-guidance/providing-education-and-access-any-benefit-service-or-facility-and-exclusions>, p. 16.

<sup>124</sup> <https://www.officeforstudents.org.uk/news-blog-and-events/blog/race-and-ethnic-disparities-in-higher-education-diagnosis-demands-prescription-of-a-cure/>.

<sup>125</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>126</sup> As above.

<sup>127</sup> <https://www.officeforstudents.org.uk/publications/schools-attainment-and-the-role-of-higher-education/>.

<sup>128</sup> High tariff universities means those universities requiring the strongest A level grades and highest UCAS points for entry, see <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>129</sup> <https://www.officeforstudents.org.uk/news-blog-and-events/blog/race-and-ethnic-disparities-in-higher-education-diagnosis-demands-prescription-of-a-cure/>.

## Proposed Legislation

### **Inclusive Britain**

The government announced measures to help England's education system be more inclusive from a racial standpoint, embracing a more inclusive history curriculum and school uniform and hair policy.<sup>130</sup> Measures that focus on higher education include obliging higher education providers to revise their access and participation plans with a new focus on delivering social mobility.<sup>131</sup> Measures that focus on primary and secondary education include Department for Education ("DfE") plans to analyse pupil attainment and investigate how to address ethnic disparities in achievement as well as working with the Race Disparity Unit to publish the most successful strategies for bridging achievement gaps for different ethnic groups.<sup>132</sup> The DfE will also investigate the publication of additional data on the academic performance of ethnic groups alongside other critical factors relating to social mobility and progress at school level in post-18 education and employment after education.<sup>133</sup> As part of this wider strategy, from September 2021, the DfE has required all schools to publish their strategies for spending money allocated for disadvantaged pupils through the pupil premium and recovery premium government initiatives.<sup>134</sup>

### **Schools White Paper**

This document outlines the government's ambitious plans to 'level up' the UK's education system. From a reporting standpoint, the government has proposed to make more effective use of data (including an annual behaviour survey and a national data system) to drive up attendance and make it easier for agencies to protect vulnerable children.<sup>135</sup> Also, schools will provide evidence-based support if children fall behind in English or maths and inform parents about their progress (called the 'Parent Pledge').<sup>136</sup> The government also aims to prioritise generation and mobilisation of data at the heart of the UK's education system. The government also intends to identify Education Investment Areas so that the areas most in need can receive increased funding and support.<sup>137</sup>

### **Green Paper on Special Educational Needs and Disabilities ("SEND") and Alternative Provision ("AP")**

From a reporting standpoint, as part of their green paper on SEND and AP, the government proposed to develop a bespoke performance framework for AP which sets robust standards focused on progress, re-integration into mainstream education or sustainable post-16 destinations.<sup>138</sup> The government also suggested introducing an inclusion dashboard to give a current and transparent picture of how the system is performing at a local and national level across education, health and care.<sup>139</sup>

## **(e) Healthcare**

### Mandatory

As a public body, the National Health Service ("NHS") must comply with the PSED and therefore always have due regard for the need to eliminate discrimination. Other laws such as the **Public Services (Social Value) Act 2012**, the **Autism Act 2009**, and the **Children's Act 2004** also place duties of equality on the NHS. Furthermore, under the **National Health Service Act 2006** (as amended by the **Health and Social Care Act 2012**), the NHS is actually under a legal duty to reduce health inequalities and must report in this sense. The NHS must have due regard for the need to reduce inequalities between patients in terms of their access to healthcare and outcomes achieved, and must include in an annual business plan an explanation of how it proposes to discharge this duty.<sup>140</sup> The NHS must also include in its annual report an assessment of how effectively it discharged its duty to have regard for this need to reduce inequalities and how well each Clinical Commissioning Group ("CCG") has discharged this same duty, and a summary of the result.<sup>141</sup> Similar reporting

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<sup>130</sup> Education is a devolved matter, so Wales, Scotland and Northern Ireland implement their own policies regarding education, see <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities#inclusion>.

<sup>131</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 46.

<sup>132</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Actions 29 and 30.

<sup>133</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 31.

<sup>134</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 33.

<sup>135</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063601/Opportunity\\_for\\_all\\_strong\\_schools\\_with\\_great\\_teachers\\_for\\_your\\_child\\_web\\_-\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063601/Opportunity_for_all_strong_schools_with_great_teachers_for_your_child_web_-_accessible.pdf).

<sup>136</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063601/Opportunity\\_for\\_all\\_strong\\_schools\\_with\\_great\\_teachers\\_for\\_your\\_child\\_web\\_-\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063601/Opportunity_for_all_strong_schools_with_great_teachers_for_your_child_web_-_accessible.pdf), chapter 3.

<sup>137</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063601/Opportunity\\_for\\_all\\_strong\\_schools\\_with\\_great\\_teachers\\_for\\_your\\_child\\_web\\_-\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063601/Opportunity_for_all_strong_schools_with_great_teachers_for_your_child_web_-_accessible.pdf), chapter 4.

<sup>138</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064655/SEND\\_Review\\_Right\\_support\\_right\\_place\\_right\\_time\\_summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064655/SEND_Review_Right_support_right_place_right_time_summary.pdf).

<sup>139</sup> As above.

<sup>140</sup> The Health and Social Care Act 2012, ss. 13G; 13T.

<sup>141</sup> As above, ss. 13U; 14Z16.

obligations are placed on CCGs (see Rights to Basic Services and Amenities, subsection (b) Healthcare in Part 2 for full details.)

There is clear evidence that reducing health inequalities improves life expectancy and reduces disability across the social gradient. Tackling health inequalities is therefore core to improving access to services, health outcomes, the quality of services and the experiences of people. It is also core to the NHS Constitution and the values and purpose of the NHS. The NHS Constitution<sup>142</sup> states that the NHS has a duty to “pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population”. As part of their compliance with their duties to eliminate discrimination in healthcare, the NHS produces research and policy papers based on the equality implications of their work ,and any conclusions arising from an equality analysis should influence the service going forward. For example, the NHS’ ‘Five Year Forward View’<sup>143</sup> articulates the need to address the health and wellbeing gap to prevent widening of health inequalities through investment in healthcare where deprivation is higher.

The Care Quality Commission (“**CQC**”) is the regulator of all health and adult social care services, and it monitors and publishes its findings. Where the standard is poor, the CQC takes action.<sup>144</sup> Regulations enforced by the CQC include the need for care providers to treat patients with dignity and respect and as equals, and also to maintain a zero tolerance approach to discrimination.<sup>145</sup> The CQC also held a consultation on and then published statutory guidance about principles of good care and support for people with a learning disability and autistic people.<sup>146</sup>

In addition, NHS Digital reports to parliament every year and one of the datasets it collects breaks down patient experience survey responses by ethnic background. However, the response rate tends to be low at 30–35%.<sup>147</sup>

Integrated care systems (partnerships between the NHS and local authorities) came into place in July 2022 to deliver joined up health and care services, and to improve the lives of people who live and work within their area.<sup>148</sup> These systems aim to improve the health of local populations and tackle inequalities in outcomes, experience and access to healthcare.<sup>149</sup>

### Voluntary Measures

#### **Health & Care Professions Council Standards of Conduct, Performance and Ethics**<sup>150</sup>

Health & Care Professions Council is an industry regulator regulating health and care professionals. Its Standards of Conduct, Performance and Ethics (the “**Standards**”) provide an ethical framework within which the registrants must operate and include provisions as to non-discrimination against service users, carers and colleagues, and a duty to challenge colleagues if registrants think they have discriminated against any of these three groups.<sup>151</sup>

As an example of good reporting practice, the NHS reports on equality of opportunity of employees of ethnic minority origin and those who are disabled – both systems are mandated through the NHS Standard Contract. Both the Race and Disability Equality Standards are listed on the reporting requirements (Schedule 6 of the Standard Contract)<sup>152</sup>, as an annual reporting requirement:

1. The NHS Workforce Race Equality Standard was devised to ensure Black and minority ethnic employees have equal access to career opportunities and receive fair treatment in the workplace<sup>153</sup>; and
2. The NHS England and NHS Improvement (“**NHSEI**”) Workforce Disability Equality Standard ensures Trusts are able to record the experience of disabled and non-disabled staff to create a more inclusive environment.<sup>154</sup>

In light of the above measures, it is worth noting that there are strong correlations between the experiences of Black, Asian and minority ethnic staff at work and patient satisfaction and safety.<sup>155</sup> However, in reality, the EHRC found that ethnic minority health and social workers were subjected to bullying, racism and harassment at work and that poor data collection of the lower paid roles could be masking the extent of discrimination against them.<sup>156</sup> The Francis Report on speaking up

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<sup>142</sup> <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>.

<sup>143</sup> <https://www.england.nhs.uk/five-year-forward-view/>.

<sup>144</sup> <https://www.cqc.org.uk/about-us>.

<sup>145</sup> <https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-10-dignity-respect>;

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-13-safeguarding-service-users-abuse-improper>.

<sup>146</sup> <https://www.cqc.org.uk/guidance/strengthening-regulation-services-people-learning-disability-autism>.

<sup>147</sup> <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-outcomes-framework/march-2022/domain-4---ensuring-that-people-have-a-positive-experience-of-care-nof/4a.i-patient-experience-of-gp-services>.

<sup>148</sup> <https://www.england.nhs.uk/integratedcare/what-is-integrated-care/>.

<sup>149</sup> As above.

<sup>150</sup> <https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/>.

<sup>151</sup> As above, standards 1.5 and 1.6.

<sup>152</sup> <https://www.england.nhs.uk/publication/full-length-nhs-standard-contract-2022-23-particulars-service-conditions-general-conditions/>.

<sup>153</sup> As above.

<sup>154</sup> As above.

<sup>155</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf), p. 3.

<sup>156</sup> <https://www.equalityhumanrights.com/en/our-work/news/report-finds-evidence-inequality-treatment-ethnic-minority-covid-heroes-working-health-social-care>.

in the NHS found that staff from Black and minority ethnic backgrounds were less likely to raise concerns due to fear of referral to professional regulators and harsher sanctions.<sup>157</sup>

### **The Equality Delivery System**

Described as “the foundation of equality improvement within the NHS,” this system allows NHS organisations to improve the services they provide for local communities and improve working environments in line with the EA 2010.<sup>158</sup> The system was intended to act as an improvement tool for NHS organisations to review and improve their services from an equality standpoint.<sup>159</sup>

### **Sexual Orientation Monitoring Information Standard**

This was formulated with key stakeholders such as NHS Digital and the LGBT Foundation so that there is a consistent mechanism for recording the sexual orientation of all patients aged 16 years across all health services in England.<sup>160</sup> This allows policy makers, commissioners and providers to better identify health risks and helps to support targeted preventative and early intervention work to address the health inequalities for LGBT people.<sup>161</sup>

### **Institute of Health Equity**

This institute reviews health equity across the UK by monitoring trends in health inequalities and social determinants of health at international, national and local levels and disseminates research evidence and best practice through their networks.<sup>162</sup> Their work is influenced by initiatives such as The WHO Commission on Social Determinants of Health (“**CSDH**”) and the Marmot Review.<sup>163</sup> The original Marmot Review (published in 2010) saw the then Secretary of State for Health propose evidence-based strategies for reducing health inequalities in England.<sup>164</sup> A new Marmot Review was commissioned by the Greater Manchester Health and Social Care Partnership and published last year – the Review again highlighted health inequities, this time with a focus on regional differences.<sup>165</sup>

The **NHS Race and Health Observatory** gathers and reviews evidence on health inequality and feeds this into policymaking decisions.<sup>166</sup> For example, it published the Ockenden Review on the maternity mortality gap and gave recommendations for best practice for addressing health inequalities in maternity services. This review also discussed the problem of ethnicity coding and how this causes problems for efficient reporting (see similar debate in above discussion of the ethnicity pay gap in the Non-discrimination: Employment section.)<sup>167</sup>

**Black Equity Organisation (“BEO”)** is an antiracist campaign group. The BEO commissioned a survey and found 65% of Black people said that they experienced prejudice from doctors or other health professionals in a healthcare setting.<sup>168</sup> The BEO published a report for the Joint Committee on Human Rights in which they found that the majority of Black people (over 60%) in the UK do not believe their health is as equally protected by the NHS compared to white people. Black women are four times as likely to die in childbirth than white women (this is known as the ‘maternal mortality gap’) and Black Caribbean boys are overdiagnosed with social, emotional, and mental health needs whereas Black children generally are underdiagnosed with autism.<sup>169</sup>

### Proposed Legislation

#### **Draft Mental Health Bill<sup>170</sup>**

The Bill is led by the department of Health and Social Care and the Ministry of Justice to deliver on two government manifesto commitments:

1. To reform the mental health act; and
2. To improve the way that people with a learning disability and autistic people are treated by law.

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<sup>157</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf), p. 3.

<sup>158</sup> <https://www.england.nhs.uk/wp-content/uploads/2022/06/Equality-Delivery-System-2022-Technical-Guidance.pdf>, p. 5.

<sup>159</sup> As above.

<sup>160</sup> <https://www.england.nhs.uk/about/equality/equality-hub/patient-equalities-programme/equality-frameworks-and-information-standards/sexual-orientation-monitoring-information-standard/>.

<sup>161</sup> As above.

<sup>162</sup> <https://www.instituteoftheequity.org/about-us>.

<sup>163</sup> As above.

<sup>164</sup> <https://www.instituteoftheequity.org/resources-reports/fair-society-healthy-lives-the-marmot-review>.

<sup>165</sup> <https://www.ucl.ac.uk/news/2021/jun/framework-reduce-inequities-future-generations-launched-professor-sir-michael-marmot>.

<sup>166</sup> <https://www.nhsrho.org/>.

<sup>167</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064302/Final-Ockenden-Report-web-accessible.pdf), p. 2.

<sup>168</sup> <https://blaquequityorg.com/state-of-black-britain-report/>.

<sup>169</sup> Brick Wall After Brick Wall Report, accessible via <https://blaquequityorg.com/black-voices-reports/>, p. 19.

<sup>170</sup> <https://www.gov.uk/government/publications/draft-mental-health-bill-2022>.

The Bill intends to give people greater control over their treatment, more transparency and accountability in clinical decision-making, better advocacy, more opportunities to appeal against detention and to ensure they are treated with dignity and respect. However, this draft bill has not been pursued under the current government and has not yet been introduced as a bill. As part of its wide ranging plan to 'level up' the UK, in terms of non-discrimination in healthcare, the government established the Office for Health Improvement and Disparities ("OHID") in October 2021. The OHID is leading cross-government work to address the causes of health inequalities that often disproportionately affect certain ethnic groups (such as deprivation, tobacco, alcohol, diet and physical inactivity) and on the health disparities white paper.<sup>171</sup>

The **Health Disparities White Paper** is yet to be published amid pressure from professionals in the healthcare sector.<sup>172</sup> This white paper is expected to outline key actions from the government to meaningfully and permanently reduce health inequalities – the NHS Confederation is calling for the government to commit to an approach that encapsulates health equity in all policies as well as empowering local systems to allocate resources to address health need and deprivation.<sup>173</sup>

### 3. Social Protection and Inclusion

Social protection is considered through the lens of providing care and support for vulnerable or marginalised groups within society, with a view to creating a society that is fair, inclusive and offers equal opportunities to all. As such, this section is closely linked to the Employment and Non-discrimination sections in this report.

In these contexts, generally there has been little progress towards the emergence of a dominant reporting framework or practice. Given the wide breadth of the demographics covered, many reporting obligations (both mandatory and voluntary) apply in niche and specific circumstances and may operate in a siloed manner with little connectivity or alignment between the different schemes. In particular, this can be seen in the context of reporting in relation to children's protection (which has connections with the section on Education in the annexed table) and older persons. In the areas of migrants and the maintenance of a peaceful society, there appears to be little by way of mandatory or voluntary frameworks for reporting. Protection of disabled people in employment provides the most codified form of reporting in this area, perhaps attributable to the narrower circumstance in which it operates (i.e. in contexts of employment) though even here take-up of the voluntary framework has, in practice, been limited. The paragraphs that follow consider the reporting landscape in relation to the particular demographics of old age, children, disabled people and migrants, and within the area of 'peaceful societies'.

#### (a) Applicable to All

The International Covenant on Economic, Social and Cultural Rights 1976 ("ICESCR 1976") emphasises the importance of protecting vulnerable groups in society such as the elderly, children, disabled persons and migrants in relation to socioeconomic and cultural rights (including education, employment, living standards, health and social security). This categorisation has informed the structure of the sub-categories of this section, which also considers the linked category of 'peaceful and inclusive societies'. Please note that protection from discrimination (as provided for by the HRA 1998 and the EA 2010) is addressed separately as part of the Non-discrimination section below.

As the overarching covenant in this area and ratified by the UK, the rights in ICESCR 1976 underpin much of the legislation and voluntary measures that follow. In terms of reporting, the covenant obliges state parties to submit regular reports to the Committee on Economic, Social and Cultural Rights, that addresses concerns and recommendations to the state party in the form of 'concluding observations'.<sup>174</sup> The reports must cover the measures that the state party has adopted relating to the covenant's rights. There is also a 'simplified reporting procedure' where a state party can submit written replies to the Committee's questions instead of compiling a formal report.

UK reporting under ICESCR 1976 is available through the UN Treaty Body Database, with a full list of those reports submitted by the UK available.<sup>175</sup> The most recent state report was submitted in May 2022, one year after it was due. In this most recent report, it is noted that the UK will "give further consideration to development and strengthening of effective monitoring and reporting mechanisms at all levels".<sup>176</sup> The UK has submitted seven periodic reports since the implementation of the Convention in 1976.

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<sup>171</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>, Action 21.

<sup>172</sup> <https://www.nhsconfed.org/publications/health-disparities-white-paper>.

<sup>173</sup> The NHS Confederation is a coalition of over 150 healthcare organisations, see <https://www.bmj.com/content/378/bmj.o2369>.

<sup>174</sup> <https://www.ohchr.org/en/treaty-bodies/cescr/reporting-guidelines>.

<sup>175</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&CountryID=185&DocTypeID=29](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&CountryID=185&DocTypeID=29).

<sup>176</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGBR%2f7&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGBR%2f7&Lang=en), p. 34.

## (b) Old Age

### Mandated Disclosure

The **UN Principles for Older Persons**<sup>177</sup> outline that older people should have independence, access to food, water, shelter, clothing and healthcare, and that they should remain integrated into society and participate actively in society. The Principles also outline that older people should benefit from community care and protection, have opportunities for self-fulfilment and live in dignity and security. One purpose of the UN Principles is to support at a national level better “collection, analysis, dissemination and use of age dis-aggregated data” and advocate for this data to be included in “national instruments, policies and reporting”.<sup>178</sup> This provision is advisory – it does not include an explicit or specific requirement on state parties to report on this data.

In the UK, the **Care Act 2014** sets out the responsibilities of local authorities regarding care and support, including safeguarding adults. It also sets out care standards. Each local authority must have a Safeguarding Adults Board (“**SAB**”) that aims to protect adults within its area from abuse and neglect through the collaboration of different agencies. They must annually report on what the SAB has done to achieve its objectives, and provide a review on the collaborative approach and its results. There is no mandated disclosure relevant to the private sector.

### Disclosure in Practice and Voluntary Schemes

The **Titchfield City Group on Ageing and Age-disaggregated data** (“**TCGA**”) is an international statistics-based working group in which the UK participates.<sup>179</sup> It is made up of the national statistics offices from 58 countries (including the ONS in the UK), international organisations, United Nations Security Council (“**UNSC**”) city groups, civil society organisations, academia and the private sector. It has the ongoing mandate (until 2023) of assessing evidence on ageing populations and to establish a conceptual and analytical framework of the same.

The **Global Alliance for the Rights of Older People** (“**GAROP**”) is an international network of more than 380 organisations working to strengthen and promote the rights of older persons.<sup>180</sup> While it does not release regular reports containing quantitative data, GAROP has released reports based on consultations with older people and their related research.<sup>181</sup>

The **Financial Abuse Code of Practice**, developed by UK Finance and the Building Societies Association, is a voluntary industry code aimed at protecting customers in vulnerable circumstances.<sup>182</sup> It identifies the older population as a particularly relevant demographic at risk, and subsequently aims to increase understanding and raise awareness of spotting financial abuse.

**Age UK** produces and prepares annual reports<sup>183</sup> alongside research reports and briefings on different topics.<sup>184</sup> These include health, money, equality, care and support, and community participation. It also publishes impact reports which includes quantitative data.

### Proposed Legislation

At an international level, the **Open-ended Working Group on Ageing**, established under the UN General Assembly (“**UNGA**”), is working to address the gaps in the current international framework and develop proposals for a legally binding instruments in relation to the rights and protections of older persons.<sup>185</sup> Its most recent report and ancillary documents from the Twelfth Session in April 2022 are available online.<sup>186</sup>

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<sup>177</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons#:~:text=1.,to%20other%20income%2Dgenerating%20opportunities>.

<sup>178</sup> [https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2017/07/UNDP\\_AARP\\_HelpAge\\_International\\_AgeingOlderpersons-and-2030-Agenda-2.pdf](https://www.un.org/development/desa/ageing/wp-content/uploads/sites/24/2017/07/UNDP_AARP_HelpAge_International_AgeingOlderpersons-and-2030-Agenda-2.pdf).

<sup>179</sup> <https://unstats.un.org/unsd/methodology/citygroups/Titchfield.cshhtml>.

<sup>180</sup> <https://rightsofolderpeople.org/>.

<sup>181</sup> <https://rightsofolderpeople.org/garop-consultations-and-reports/>.

<sup>182</sup> <https://www.ukfinance.org.uk/financial-abuse-code-practice>.

<sup>183</sup> <https://www.ageuk.org.uk/about-us/what-we-do/annual-reports/>.

<sup>184</sup> <https://www.ageuk.org.uk/our-impact/policy-research/publications/reports-and-briefings/>.

<sup>185</sup> <https://social.un.org/ageing-working-group/>.

<sup>186</sup> <https://social.un.org/ageing-working-group/twelfthsession.shtml>.

## (c) Children

### Mandatory Disclosure

The **UN Convention on the Rights of the Child 1990** gives children 40 specific rights including the right to life, survival and development, the right to a name and nationality, freedom of expression and the right to have their views respected and best interests considered at all times.<sup>187</sup> State parties are obliged to submit regular reports to the Committee on the Rights of the Child to outline the steps they have taken to put the Convention into effect, and its progress.<sup>188</sup>

In relation to the role of private actors, the Committee has noted that the responsibilities to respect and protect the rights of children extend beyond the state to include private and non-state actors. They have noted that in the context of reporting obligations, state parties should “identify the amount and proportion of the State budget spent on children through public and private institutions or organisations”, including this information in its initial and periodic reports. The Committee also recommends that state parties create monitoring mechanisms to ensure that non-state providers act to uphold and protect the convention rights.<sup>189</sup>

The **Serious Crime Act 2015** placed a mandatory reporting duty on health and social care professionals to make a police report if they are informed by a child that they have undergone FGM or they observe physical signs of the same.<sup>190</sup>

The **Children Act 2004** includes provisions on child safeguarding practices undertaken within local authorities and reporting in relation to this. There is a statutory duty on certain agencies (including local authorities, NHS services and trusts, the police, and young offenders institutions) to cooperate and report to promote the welfare of children. Under the **Childcare Act 2006**, further provision is made to reduce inequalities within education and provide high quality integrated early years provision.

Related is the **Early Years Foundation Stage** statutory framework, which is mandatory for all early years providers and sets out the standards that all providers must meet to ensure that children learn and develop well, and are kept healthy and safe. These standards are subject to inspection and reporting.<sup>191</sup>

Under the **Children and Social Work Act 2017**, the Child Safeguarding Practice Review Panel was established to review and report on serious child protection cases that are complex or of national importance, and mandated that local authorities must appoint personal advisers for care leavers up to the age of 25.

The **SEND Code of Practice: 0 to 25 years**<sup>192</sup> is a statutory code containing legal requirements that local authorities, schools, health bodies and colleges must provide for those aged 0–25 with special educational needs. It condenses the requirements set out in a variety of other regulations and legislation. It does not set out specific reporting requirements but does note that practitioners working with children should monitor and review the progress and development of all children. Instead of frequent reporting to Ofsted, records must be kept by schools and be available for inspection when requested.

The **NSPCC Child Protection in Sport Unit’s Standards for Safeguarding and Protecting Children in Sport** provides a framework for safeguarding children, which includes monitoring. It aims to provide a benchmark for those involved in sport with young people to create and maintain a safe sporting environment. Standard 9 on implementation and monitoring requires organisations to have a plan to safeguard involved children. The standards do not mandate any external reporting.

### Disclosure in Practice and Voluntary Schemes

The **Child Friendly Cities Initiative** provides specific actions that businesses can take to uphold and respect children’s rights and to contribute to reporting and monitoring.<sup>193</sup> A key strategy of this network relates to collecting data and monitoring progress. Here, a ‘child-friendly city’ systematically collects statistics and information on children to develop child-centred policies, and also to highlight trends in discrimination along the lines of gender, minority ethnic groups or disabled children.

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<sup>187</sup> UN Convention on the Rights of the Child, Arts. 6, 7, 12, 18; <https://www.nidirect.gov.uk/articles/childrens-human-rights>.

<sup>188</sup> <https://www.ohchr.org/en/treaty-bodies/crc/reporting-guidelines>.

<sup>189</sup> [https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations 2002.pdf](https://www.ohchr.org/sites/default/files/Documents/HRBodies/CRC/Discussions/Recommendations/Recommendations%202002.pdf).

<sup>190</sup> <https://learning.nspcc.org.uk/child-protection-system/history-of-child-protection-in-the-uk>.

<sup>191</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/718179/Early\\_education\\_and\\_childcare-statutory\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718179/Early_education_and_childcare-statutory_guidance.pdf) ; <https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>.

<sup>192</sup> <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>.

<sup>193</sup> <https://childfriendlycities.org/cfci-framework/>.

The **Children's Rights and Business Principles** developed by UNICEF, the UN Global Compact and Save the Children are intended to guide companies on what they can do in the workplace, marketplace and community to support children's rights. The principles are built on best practices and existing standards.

The UK government publishes datasets relating to the care of children. The **National Pupil Database**<sup>194</sup> includes sections and data on children in care (children who are looked after by a local authority) and children in need (children who are referred to children's social care services or who are receiving a service from the local authorities).

#### Proposed Legislation

The **Mandatory Reporting of Child Sexual Abuse Bill**<sup>195</sup> would mandate those carrying out and providing regulated or other activities with responsibility for the care of children to report known and suspected child sexual abuse, and would create a criminal offence for failing to report prescribed concerns.

#### **(d) Disabled People**

#### Mandatory Disclosure

The **UN Convention on the Rights of Persons with Disabilities 2009 ("CRPD 2009") and optional protocol 2009**<sup>196</sup> has been ratified by the UK and hence the UK has agreed to promote, protect and ensure full realisation of all human rights for disabled people. The Convention covers a broad range of rights from the right to life, access to justice and equality before the law, to the right to education, independent living, employment and adequate standard of living. The UK has also ratified an Optional Protocol to the CRPD 2009, which enables the Committee on the Rights of Persons with Disabilities to consider complaints from disabled people who think their rights under the Convention have been breached, and gives the Committee a right to hold an inquiry when there is evidence of gross and systematic violations of disabled people's rights.<sup>197</sup>

The UK is obliged to submit regular reports to the Committee on how the rights within the Convention are being implemented. Reports must be submitted every four years and are then subject to review and recommendations from the Committee. While there is an obligation to report, the Committee has released various guidance on assisting states with the form and content of their reports.<sup>198</sup>

Under the **EA 2010** (as above), disability is a protected characteristic and therefore reporting pursuant to this Act is relevant to the area of disability.

#### Disclosure in Practice and Voluntary Schemes

The Department of Work and Pension's ("DWP's") **Voluntary Reporting Framework** is directed at employers to assist them in recording and voluntarily reporting on disability, mental health and wellbeing in the workplace.<sup>199</sup> This is closely linked with the Employment section of this report, and is aimed at supporting employers in monitoring internal progress towards a more inclusive work environment for disabled employees, connecting with their disabled customers and communities and improving employee engagement and retention. It is mandatory for any employer who holds themselves out as being Disability Confident Level 3 (see below), and applies to employers with over 250 employees (though smaller employers are also encouraged to participate). Participants are encouraged to:

1. Provide a narrative explaining the employer's policies for recruitment and retention of disabled people; and to
2. Report the percentage of individuals employed by the employer who consider themselves to be disabled or have a long term physical or mental health condition.

As a voluntary framework, these elements are not prescriptive and there is no common reporting form used by participating employers. The DWP recommends that employers state the question(s) used in obtaining their data, explain their collection methodology and consider the reliability of their data (including non-disclosure rates). It is left to the employer's discretion whether to report the collected information publicly (which could be through the company's annual report). The lack of uniformity in the suggested reporting form alongside no requirement for the collected data to be published may limit this framework's utility in terms of comparing one company's performance to another.

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<sup>194</sup> <https://find-npd-data.education.gov.uk/categories>.

<sup>195</sup> <https://bills.parliament.uk/bills/3328>.

<sup>196</sup> <https://www.ohchr.org/en/treaty-bodies/crpd>.

<sup>197</sup> <https://www.disabilityjustice.org.uk/take-action/human-rights/>.

<sup>198</sup> <https://www.ohchr.org/en/treaty-bodies/crpd/reporting-guidelines>.

<sup>199</sup> <https://www.gov.uk/government/publications/voluntary-reporting-on-disability-mental-health-and-wellbeing>.

Indeed, in practice, the Voluntary Reporting Framework has had a limited uptake. According to the Chartered Institute of Personnel and Development (“CIPD”), only 21% of employers polled were aware of the framework, and out of these only 21% had adopted the framework in full.<sup>200</sup> Of those that did collect some sort of disability data in the workforce, the vast majority polled do not publish this information externally.<sup>201</sup>

While organisations may agree that there is a moral and business case for reporting disability, mental health and wellbeing data, there remain barriers to this in practice. Of CIPD’s surveyed respondents, 64% noted that a lack of disclosure from employees was the main barrier to reporting. Other reasons included a lack of resources, systems and infrastructure, and guidance as to good practice in disability reporting.

Separate from the DWP framework, **Disability Confident** is a government run campaign (launched by the DWP in 2016) that assists employers looking to improve and monitor how they recruit, retain and develop disabled people.<sup>202</sup> The scheme has three levels (Disability Confident Committed, Disability Confident Employer and Disability Confident Leader). While the Voluntary Reporting Framework has had limited uptake, the Disability Confident Scheme remains popular, with the number of job roles advertised by Disability Confident employers increasing by over 1000% in five years and around 19,000 employers having signed up. However, there is feedback from surveyed disabled candidates that such schemes could go further to meaningfully engage with the barriers that disabled employees face.<sup>203</sup>

**Advisory, Conciliation and Arbitration Service (“ACAS”)** is an independent public body offering advice to employers and employees. It offers an online advice hub that is intended to assist disabled people in understanding their rights at work, and to offer advice to employers to help create inclusive workplaces.<sup>204</sup> Launched as part of the government’s National Disability Strategy, CIPD advise that this could offer a channel to increase awareness and uptake of the Voluntary Reporting Framework (above).<sup>205</sup>

The **UK Corporate Governance Code** sets out good practice standards for areas including board membership (which can be seen to include creating an inclusive space for disabled people) development and accountability.<sup>206</sup> It is not law so compliance is not compulsory, but it operates on a ‘comply or explain’ basis under which applicable companies are requested to either follow the code or explain why they do not.

Further data is made available by the publicly owned ONS. The ONS collects and publishes data on a number of demographics through surveys and censuses. In relation to disabled persons, this has included reports on outcomes for disabled people in the UK (in relation to employment, education, social participation, housing and wellbeing),<sup>207</sup> the links between disability and loneliness,<sup>208</sup> and disability and social participation.<sup>209</sup>

The **50:50 Project** includes reporting on disability representation in the workforce. This initiative is detailed further under the Non-discrimination section of this report.

### Proposed Legislation

Given the limited uptake of the voluntary reporting framework, the government ran a consultation on introducing **mandatory disability workforce reporting**, which ended in March 2022.<sup>210</sup> While the outcome of the consultation has not yet been published, this approach has been endorsed by the CIPD, which has urged the government to call on employers to measure and report on meaningful disability metrics and outcomes.

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<sup>200</sup> [https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL\\_tcm18-108798.pdf](https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL_tcm18-108798.pdf).

<sup>201</sup> As above.

<sup>202</sup> <https://www.gov.uk/government/collections/disability-confident-campaign>.

<sup>203</sup> <https://www.peoplemanagement.co.uk/article/1794745/number-disability-confident-job-adverts-rises-1000-per-cent-experts-say-improvement-needed>;

[https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL\\_tcm18-108798.pdf](https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL_tcm18-108798.pdf).

<sup>204</sup> <https://www.acas.org.uk/new-advice-hub-to-help-disabled-people-understand-their-rights-at-work>.

<sup>205</sup> [https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL\\_tcm18-108798.pdf](https://www.cipd.co.uk/Images/CIPD%20submission%20to%20Disability%20Workforce%20Reporting%20consultation%20FINAL_tcm18-108798.pdf).

<sup>206</sup> <https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code>.

<sup>207</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/outcomesfordisabledpeopleintheuk/2021#educatio>.

<sup>208</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilitywellbeingandlonelinessuk/2019>.

<sup>209</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandsocialparticipationengland/2018>.

<sup>210</sup> <https://www.gov.uk/government/consultations/disability-workforce-reporting>.

## (e) Migrants

### Mandatory Disclosure

The **United Nations Global Compact on Refugees** (“**Global Compact**”) was formally adopted by the UK in 2018.<sup>211</sup> The Global Compact sets the scene for the development of a new international framework with the goal of achieving a more predictable and equitable responsibility sharing solution to refugee situations. The first indicator report covering the years 2016–2021 on the Global Compact’s impact has shown that there has been mixed progress, including “good indications of progress by states, the private sector, civil society and development banks” to providing refugees access to work and education, and support for low-income countries hosting refugees.<sup>212</sup> For accountability under the Global Compact, there are high-level officials’ meetings every two years and a Global Refugee Forum every four years, as well as annual reporting to the UNGA by the United Nations High Commissioner for Refugees (“**UNHCR**”).

### Disclosure in Practice and Voluntary Schemes

The **Private Sector for Refugees** (“**PS4R**”) is an international initiative comprising actors across the development finance, humanitarian and business sectors to ‘bridge the gap’ between humanitarian and development work, and commercial businesses. It is intended to facilitate the role of businesses in providing practical solutions and empowering refugees by promoting employment of refugees, investing in companies owned by or supporting refugees and promoting refugee entrepreneurship.<sup>213</sup> The PS4R is partnered with the Confederation of Danish Industry, the EU Investment Bank, the International Chamber of Commerce, the UNHCR and the World Bank Group, who each include information about the partnership in their annual reports.

The **Social Care Institute for Excellence** has a code for Good Practice in Social Care for Refugees and Asylum Seekers, though having not been updated since May 2015 it could be queried how influential this is in practice.<sup>214</sup>

The **Housing and Migration Network** is made up of policy influencers and practitioners from across the public, private and voluntary sectors, and works towards creating solutions for housing migrants. It has produced a number of reports relating to migration trends and the private renting sector.<sup>215</sup>

## (f) Peaceful Societies

### Mandated Disclosure

There is currently no relevant legislation that mandates disclosure in this area. While there is some legislation in relation to Peaceful Societies set out in the table at Part 2 of this report, these do not mandate reporting requirements.

### Disclosure in Practice and Voluntary Schemes

Within the criminal justice system, the voluntary sector can play an important role in engaging with the needs of underserved sectors of society. There are over 1,700 voluntary organisations working within the system that undertake a huge range of work (not all relevant to reporting).<sup>216</sup> Most organisations work on an individual, localised level – **Clinks** is an organisation that seeks to support the voluntary sector working within the criminal justice system and provides an overview of the different resources available here.<sup>217</sup>

The **Institute for Economics and Peace** (“**IEP**”) has created a **UK and Global Peace Index**. IEP uses scoring and measurement metrics based on information at a local authority level to inform quantitative reports mapping ‘peace’ both in the UK and Globally.<sup>218</sup> IEP uses five indicators, measuring (per 100,000 people) the number of homicides, violent crimes, weapons crime, public disorder offences, and police officers. It also draws conclusions on wider socioeconomic circumstances and their correlation with violence. Finally, the reports outline the value of peace to the UK economy, economic benefits of improvements in peace and the total cost of violence.

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<sup>211</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-8459/>.

<sup>212</sup> <https://reliefweb.int/report/world/2021-global-compact-refugees-indicator-report>.

<sup>213</sup> <https://iccwbo.org/global-issues-trends/responsible-business/private-sector-for-refugees-ps4r/>.

<sup>214</sup> <https://www.scie.org.uk/publications/guides/guide37-good-practice-in-social-care-with-refugees-and-asylum-seekers/>.

<sup>215</sup> <https://www.jrf.org.uk/report/uk-migrants-and-private-rented-sector>.

<sup>216</sup> <https://www.clinks.org/about/sector>.

<sup>217</sup> <https://www.clinks.org/>.

<sup>218</sup> An example of a UK report can be found here: [https://www.economicsandpeace.org/wp-content/uploads/2015/06/UK\\_Peace\\_Index\\_report\\_2013\\_0.pdf](https://www.economicsandpeace.org/wp-content/uploads/2015/06/UK_Peace_Index_report_2013_0.pdf).

Law reform and human rights charity **JUSTICE** produces reports and research relating to access to justice and the treatment of individuals within the justice system. It produces targeted reports based on qualitative and quantitative data to this end.<sup>219</sup>

**CrimeRate** is an organisation that uses open data sources and data mapping to allow location-based crime information to be viewed by users.<sup>220</sup> Similarly, the **Violence Reduction Unit** in Scotland is a government funded programme comprising researchers, police officers, civilian staff and former offenders that aims to map violence and knife crime with a view to reducing it.<sup>221</sup>

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<sup>219</sup> <https://justice.org.uk/our-work/>.

<sup>220</sup> <https://crimerate.co.uk/>.

<sup>221</sup> <http://www.svru.co.uk/>.

## Part 2 – Mapping Exercise of Legal and Voluntary Framework

Informed by the approach of the Platform Report and transferring it to a UK context, the following section of the report provides a high level mapping of the main legislative provisions and voluntary frameworks across the following six categories:

1. Employment;
2. Non-discrimination;
3. Social Protection and Inclusion;
4. Rights to Basic Services and Amenities (comprising healthcare, housing, education and food);
5. Corruption and Tax Evasion; and
6. Consumer and Data Protection.

The scope of this table is wider than the content of Part 1 (*Mandated and voluntary reporting obligations*), in that it outlines the relevant voluntary measures, and existing and proposed legislation in each area generally, without a focus on the relevant reporting obligations. This is a non-exhaustive review of the relevant legislation in these areas, accurate as at 24 January 2023.

### 1. Employment

Sub-Topic	Law/Principle/Association
(a) <u>General</u>	<p><u>Existing - International</u></p> <p><b>1. International Covenant on Economic, Social and Cultural Rights 1976 (the “ICESCR 1976”)</b></p> <ul style="list-style-type: none"> <li>• An international treaty which aims to ensure the protection of economic, social and cultural rights, such as the rights to work, social security, health and education.</li> <li>• The UK has ratified, and is therefore legally bound by, the ICESCR 1976. As a party to the treaty, the UK reports on its compliance with the treaty on a five yearly basis regarding implementation of the ICESCR 1976 in the UK, in what is known as a process of periodic review. The UK will submit the state report for the purposes of its seventh periodic review by UN experts, the Committee on Economic, Social and Cultural Rights.<sup>222</sup></li> </ul>

<sup>222</sup> [https://justfair.org.uk/campaigns-2/right-to-food/#:~:text=Legal%20obligations,-The%20International%20Covenant&text=Article%2011\(1\)%20of%20the,continuous%20improvement%20of%20living%20conditions.](https://justfair.org.uk/campaigns-2/right-to-food/#:~:text=Legal%20obligations,-The%20International%20Covenant&text=Article%2011(1)%20of%20the,continuous%20improvement%20of%20living%20conditions.)

Sub-Topic	Law/Principle/Association
	<p><b>2. UN Global Compact</b></p> <ul style="list-style-type: none"> <li>• Gives guidance for the ways that businesses can meet fundamental responsibilities regarding human rights, labour, the environment and anti-corruption.<sup>223</sup></li> </ul> <p><b>3. UN Discrimination (Employment and Occupation) Convention, 1960</b></p> <ul style="list-style-type: none"> <li>• By ratifying this Convention, the UK undertakes to pursue national policy designed to promote equality of opportunity and treatment in employment and occupation with a view to eliminating discrimination in these spheres.<sup>224</sup></li> </ul> <p><b>4. International Labour Organization (the “ILO”) Tripartite Declaration of Principles concerning Multinational Enterprises (“MNEs”)<sup>225</sup></b></p> <ul style="list-style-type: none"> <li>• Provides guidance on the positive contribution that multinational enterprises can make to economic and social progress and the realisation of decent work for all.</li> </ul> <p><b>5. ILO Declaration on Fundamental Rights and Principles at Work</b></p> <ul style="list-style-type: none"> <li>• Covers freedom of association, eliminating forced and child labour, discrimination and health and safety.<sup>226</sup></li> </ul> <p><b>6. Organisation for Economic Co-Operation and Development (the “OECD”) Guidelines for MNEs</b></p> <ul style="list-style-type: none"> <li>• The UK enforces these international guidelines for responsible business conduct.<sup>227</sup></li> </ul> <p><u>Existing Legislation – National</u></p> <p><b>7. Employment Rights Act 1996 (the “ERA 1996”)</b></p> <ul style="list-style-type: none"> <li>• Protects employees from unfair dismissal and unfair deductions from their wages and also governs redundancy payments, zero-hour contracts, Sunday working, suspension from work, flexible working and termination of employment.<sup>228</sup></li> </ul> <p><b>8. Social Security Contributions and Benefits Act 1992 (“SSCBA 1992”) and the Statutory Sick Pay (General) Regulations 1982 (“SSP Regulations 1982”)</b></p> <ul style="list-style-type: none"> <li>• Set out the right to Statutory Sick Pay (“SSP”) - who is entitled to SSP, the rate at which it is paid and the periods when it is payable.<sup>229</sup></li> </ul>

<sup>223</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles>.

<sup>224</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C111, Art. 2](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C111, Art. 2).

<sup>225</sup> As a Member of the ILO since 1919, the UK has agreed to work towards attaining the ILO’s objectives.

<sup>226</sup> <https://www.ilo.org/declaration/lang--en/index.htm>.

<sup>227</sup> Enforcement is through the National Contact Point: <https://www.gov.uk/guidance/uk-national-contact-point-for-the-organisation-for-economic-co-operation-and-development-oecd-guidelines-for-multinational-enterprises>.

<sup>228</sup> ERA 1996, ss. 13, 94, 105, 135, Chapter II.

<sup>229</sup> Requirements: <https://www.gov.uk/employers-sick-pay/eligibility-and-form-ssp1>; <https://researchbriefings.files.parliament.uk/documents/CBP-9435/CBP-9435.pdf> useful ink for definitions of different categories of employment.

Sub-Topic	Law/Principle/Association
	<p><b>9. National Minimum Wage Act 1998</b></p> <ul style="list-style-type: none"> <li>The National Minimum Wage is the minimum pay per hour almost all workers are entitled to – it depends on their age and if they're an apprentice. The National Living Wage is higher than the National Minimum Wage - workers can receive this if they're over 23.<sup>230</sup></li> </ul> <p><b>10. Pensions Act 2004 (as amended)</b></p> <ul style="list-style-type: none"> <li>Statutory reporting obligations.</li> <li>Requires the Secretary of State to set out the circumstances where an employer must give information to their employees about the various pensions offered, as well as automatic enrolment, re-enrolment, postponement of automatic enrolment, giving notice to opt in and the right to opt out.</li> <li>This may include details about defined contribution pension schemes and defined benefit pension schemes, how these are arranged by the workplace and any tax benefits related to the scheme.<sup>231</sup></li> </ul> <p><b>11. The Pensions Regulator (Notifiable Events) Regulations 2005 (Statutory Instrument 2005/900) (as amended)</b></p> <ul style="list-style-type: none"> <li>Prescribed notifiable events to the Pensions Regulator</li> </ul> <p><b>12. Pension Schemes Act 2021</b></p> <ul style="list-style-type: none"> <li>Includes communication requirements specifying that the Pensions Regulator must be satisfied that an employer has adequate systems and processes in place for providing information in relation to the scheme to a member, prospective member or a survivor of a member who is entitled to the benefits.<sup>232</sup></li> </ul> <p><b>13. Transfer of Undertakings (Protection of Employment) Regulations 2006</b></p> <ul style="list-style-type: none"> <li>Protects employees' job security in the event of a business sale.<sup>233</sup></li> </ul> <p><b>14. Maternity and Parental Leave etc. Regulations 1999</b></p> <ul style="list-style-type: none"> <li>Rights of employees for time off due to parental obligations including statutory maternity pay.</li> </ul> <p><b>15. Public Interest Disclosure Act 1998</b></p> <ul style="list-style-type: none"> <li>Came into force on 2 July 1999, providing protection for workers reporting malpractices by their employers or third parties against victimisation or dismissal.</li> </ul> <p><b>16. Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000</b></p> <ul style="list-style-type: none"> <li>Requires employees on part time contracts to receive comparable treatment to people on full-time contracts doing the same jobs.</li> </ul>

<sup>230</sup> <https://www.gov.uk/national-minimum-wage>.

<sup>231</sup> <https://www.gov.uk/pension-types>; <https://www.gov.uk/workplace-pensions>.

<sup>232</sup> <https://www.legislation.gov.uk/ukpga/2021/1/section/66/enacted>.

<sup>233</sup> TUPE 2006, s. 4.

Sub-Topic	Law/Principle/Association
	<p><b>17. Agency Workers Regulations 2010</b></p> <ul style="list-style-type: none"> <li>Prevents discrimination of people who work for employment agencies, to be treated equally in pay and working time as compared to full-time counterparts doing the same work.</li> </ul> <p><b>18. Judicial Review and Courts Act 2022</b></p> <p><b>19. The Exclusivity Terms for Zero Hours Workers (Unenforceability and Redress) Regulations 2022</b></p> <p><u>Proposed Legislation</u></p> <p><b>1. Employment Relations (Flexible Working) Bill</b></p> <ul style="list-style-type: none"> <li>To make provision in relation to the right of employees and other workers to request variations to particular terms and conditions of employment, including working hours, times and locations.<sup>234</sup> The Bill was reported without any amendments by the Public Bill Committee stage and third reading is scheduled in the House of Commons for late February 2023.</li> </ul> <p><b>2. Fertility Treatment (Employment Rights) Bill</b></p> <ul style="list-style-type: none"> <li>To require employers to allow employees to take time off from work for appointments for fertility treatment.<sup>235</sup> The second reading in the House of Commons commenced on 25 November 2022 but has been interrupted, and is set to resume in March 2023.</li> </ul> <p><b>3. Employment (Application Requirements) Bill</b></p> <ul style="list-style-type: none"> <li>To regulate the use of minimum qualification or experience requirements in job applications.<sup>236</sup> The second reading in the House of Commons is scheduled for late January 2023.</li> </ul> <p><b>4. Devolution (Employment) (Scotland) Bill</b></p> <ul style="list-style-type: none"> <li>Second reading in the House of Commons is scheduled for early February 2023.<sup>237</sup></li> </ul> <p><b>5. Strikes (Minimum Service Levels) Bill</b></p> <ul style="list-style-type: none"> <li>If passed, this Bill would provide and require minimum service levels in connection with strike action taken by trade unions relating to certain services. Unions and workers would have to comply these minimum service requirements or would face losing protections against being sued for dismissal for participating in strike action. The relevant sectors are health, fire and rescue, education, transport, broader security services and action related to decommissioning nuclear installations and managing radioactive waste.<sup>238</sup> This government bill is currently awaiting Committee stage in the House of Commons.<sup>239</sup></li> </ul>

<sup>234</sup> <https://bills.parliament.uk/bills/3198>.

<sup>235</sup> <https://bills.parliament.uk/bills/3235>.

<sup>236</sup> <https://bills.parliament.uk/bills/3298>.

<sup>237</sup> <https://bills.parliament.uk/bills/3255>.

<sup>238</sup> [https://commonslibrary.parliament.uk/research-briefings/cbp-9703/#:~:text=The%20Strikes%20\(Minimum%20Service%20Levels\)%20Bill%2C%20if%20passed%2C,against%20being%20sued%20or%20dismissed.](https://commonslibrary.parliament.uk/research-briefings/cbp-9703/#:~:text=The%20Strikes%20(Minimum%20Service%20Levels)%20Bill%2C%20if%20passed%2C,against%20being%20sued%20or%20dismissed.)

<sup>239</sup> <https://bills.parliament.uk/bills/3396>.

Sub-Topic	Law/Principle/Association
	<p data-bbox="533 185 741 212"><u>Voluntary/ Market</u></p> <ol style="list-style-type: none"> <li data-bbox="533 245 757 272"><b>1. B Corporation</b> <ul style="list-style-type: none"> <li data-bbox="584 288 2112 341">• Their mission is to redefine the role of business in the economic system so that every business is a force for good – creating an inclusive, equitable and regenerative economic system.<sup>240</sup></li> <li data-bbox="584 347 2112 400">• They offer accreditation to organisations that shows that the business meets high standards of performance, accountability and transparency on factors from employee benefits to supply chain practices.<sup>241</sup></li> <li data-bbox="584 406 2112 459">• An objective of theirs is for the government to pass the Better Business Act to amend the Companies Act 2006 in line with these principles to afford workers more support especially those on low incomes.<sup>242</sup></li> <li data-bbox="584 466 2112 518">• In a more general sense, the Better Business Act would mandate the alignment of interests of wider society (and the environment with shareholders as well as reporting measures that show how businesses are balancing “people, planet and profit” .<sup>243</sup></li> </ul> </li> <li data-bbox="533 557 965 584"><b>2. National Living Wage Employer</b> <ul style="list-style-type: none"> <li data-bbox="584 600 1435 627">• A higher rate of pay that organisations can elect to pay their employees.</li> <li data-bbox="584 633 1480 660">• Calculation is made based on a basket of household goods and services.<sup>244</sup></li> </ul> </li> <li data-bbox="533 691 869 718"><b>3. Good Business Charter</b> <ul style="list-style-type: none"> <li data-bbox="584 732 2112 785">• This accreditation measures behaviour such as paying employees the real Living Wage, fairer hours and contracts, employee wellbeing, employee representation, diversity and inclusion and ethical sourcing.<sup>245</sup></li> </ul> </li> <li data-bbox="533 823 936 850"><b>4. Money and Pensions Service</b> <ul style="list-style-type: none"> <li data-bbox="584 865 2112 917">• Replaces the three existing providers of government-sponsored financial guidance (the Money Advice Service, Pensions Advisory Service and Pension Wise). Sponsored by the Department for Work and Pensions.</li> <li data-bbox="584 924 2112 976">• Offers resources that employers may incorporate, including toolkits materials and signposting, relating to the guidance that can (and should) be provided to employees.<sup>246</sup></li> </ul> </li> <li data-bbox="533 1015 981 1042"><b>5. Bureau of International Standard</b> <ul style="list-style-type: none"> <li data-bbox="584 1056 1697 1083">• Certifies that companies operate at the highest level of ethical, legal and technical standards.<sup>247</sup></li> </ul> </li> </ol>

<sup>240</sup> <https://bcorporation.uk/>.

<sup>241</sup> <https://www.bcorporation.net/en-us/certification>.

<sup>242</sup> <https://bcorporation.uk/act-and-learn/campaigns/#bba>.

<sup>243</sup> <https://betterbusinessact.org/about/#theact>.

<sup>244</sup> <https://www.livingwage.org.uk/what-real-living-wage>.

<sup>245</sup> <https://www.goodbusinesscharter.com/>.

<sup>246</sup> <https://maps.org.uk/moneyhelper/>.

<sup>247</sup> <http://bis-accreditation.co.uk/>.

Sub-Topic	Law/Principle/Association
	<p><b>6. Chartered Institute of Personnel and Development</b></p> <ul style="list-style-type: none"> <li>• Focuses on standards for HR and L&amp;D.<sup>248</sup></li> </ul> <p><b>7. Advisory, Conciliation and Arbitration Service</b></p> <ul style="list-style-type: none"> <li>• Offers advice on best practice in a general sense.</li> </ul> <p><i>Voluntary codes tend to be sector-specific such as Chartered Financial Analyst for investment professionals, Royal Institute of Chartered Surveyors for real estate and construction etc.</i></p>
(b) <u>Right to Organise</u>	<p><u>Existing Legislation – International</u></p> <ol style="list-style-type: none"> <li><b>1. ICESCR 1976 and ILO Convention on the Freedom of Association and Protection of the Right to Organise 1948</b> <ul style="list-style-type: none"> <li>• Protect the right to organise and the freedom of association.<sup>249</sup></li> </ul> </li> <li><b>2. ILO Right to Organise and Collective Bargaining Convention, 1949</b> <ul style="list-style-type: none"> <li>• Protects workers from anti-union discrimination.<sup>250</sup></li> </ul> </li> </ol> <p><u>Existing Legislation – National</u></p> <ol style="list-style-type: none"> <li><b>3. Trade Union and Labour Relations (Consolidation) Act 1992 (“TULRCA 1992”)</b> <ul style="list-style-type: none"> <li>• Provides for the legal instances in which strike action organised by trade unions to be legal.</li> <li>• Any industrial action taken during a return period must be reported in the annual return sent to the Certification Officer. This includes the nature of the trade dispute to which the action related, the nature of the industrial action and when this occurred. The trade union must also report where its expenditure paid out of its political fund exceeds £2,000 in a calendar year. There are further reporting requirements in relation to elections held by the trade union.</li> <li>• Trade union members have the right to vote before the union asks members to take industrial action, and there is no recourse to discipline by the union should a member elect not to participate. Calling industrial action must occur with the support of a ballot, which has been voted on by members. The trade union must provide notice to the relevant employer in advance of the action providing details of the action and employees affected.</li> <li>• Dismissal for participating in industrial action is not permitted if the proper procedural steps set out by the legislation are followed. This requires a properly organised ballot; that the strike be the result of a trade dispute between the workers and their employer; the legally required notice has been given to the employer (requiring at least seven days).</li> <li>• During industrial action, trade union members cannot be legally required to stay at or return to work. While participating in industrial action may constitute a breach of the employment contract and employers may withhold pay for this period, claims against employees for participating in strike action are rare in practice.</li> </ul> </li> </ol>

<sup>248</sup> <https://www.cipd.co.uk/>.

<sup>249</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, Art. 8.

<sup>250</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312243:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312243:NO).

Sub-Topic	Law/Principle/Association
	<p data-bbox="533 201 1742 228"><b>4. Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022</b></p> <ul data-bbox="584 240 2018 432" style="list-style-type: none"> <li>• These regulations have amended existing agency regulations to allow agency workers to work in the place of employees who are on strike during periods of industrial action.<sup>251</sup></li> <li>• This was previously disallowed under Regulation 7 of the Conduct of Employment Agencies and Employment Businesses Regulations 2003. for agency workers to perform the duties of workers taking part in industrial action.</li> <li>• However, the new regulations have been criticised as placing restrictions on the right to strike. The High Court has recently granted permission for a legal challenge to the regulations.<sup>252</sup></li> </ul> <p data-bbox="533 467 1563 494"><b>5. Employment Relations Act 1999 amended by the Employment Relations Act 2004</b></p> <ul data-bbox="584 507 2069 534" style="list-style-type: none"> <li>• Protects employees' trade union membership and prevents employers discriminating on the grounds of trade union membership.</li> </ul> <p data-bbox="533 569 981 596"><b>6. Employment Protection Act 1975</b></p> <ul data-bbox="584 609 1787 636" style="list-style-type: none"> <li>• This Act promotes improving industrial relations among other general amendments to workers' rights.<sup>253</sup></li> </ul> <p data-bbox="533 676 775 703"><u>Proposed Legislation</u></p> <p data-bbox="533 738 1469 766"><b>1. Employment and Trade Union Rights (Dismissal and Re-engagement) Bill</b></p> <ul data-bbox="584 778 2018 834" style="list-style-type: none"> <li>• To provide safeguards for workers against dismissal and re-engagement on inferior terms and conditions.<sup>254</sup> The Bill has passed first reading in the House of Lords.</li> </ul> <p data-bbox="533 869 1267 896"><b>2. Worker Protection (Amendment of Equality Act 2010) Bill</b></p> <ul data-bbox="584 909 2018 991" style="list-style-type: none"> <li>• Could re-introduce employers' liability for the harassment of their staff by third parties and require employers to proactively prevent sexual harassment of their staff in the course of their work. The bill scheduled to have its report stage and third reading in early February 2023.<sup>255</sup></li> </ul> <p data-bbox="533 1026 2114 1134"><b>3.</b> The Government has confirmed that incoming legislation will make <b>flexible working requests</b> a day one right for employees; allow employees to make two (rather than one) requests a year; require a consultation between the employer and employee before a request is rejected; shorten the time for employers to reply to the request; and remove the requirement on employees to set out the likely effects on the business of flexible working.<sup>256</sup></p>

<sup>251</sup> <https://www.gov.uk/government/news/new-law-in-place-to-allow-businesses-to-hire-agency-workers-to-plug-staffing-gaps-caused-by-strike-action>.

<sup>252</sup> <https://www.tuc.org.uk/news/high-court-green-lights-union-legal-challenge-against-strike-breaking-agency-worker>.

<sup>253</sup> [https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23\\_T601481286&format=GNBFULL&startDocNo=0&resultsUrlKey=0\\_T601481288&backKey=20\\_T601481289&csi=274768&docNo=1&scrollToPosition=0](https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23_T601481286&format=GNBFULL&startDocNo=0&resultsUrlKey=0_T601481288&backKey=20_T601481289&csi=274768&docNo=1&scrollToPosition=0).

<sup>254</sup> <https://bills.parliament.uk/bills/3189>.

<sup>255</sup> <https://bills.parliament.uk/bills/3205>.

<sup>256</sup> <https://www.gov.uk/government/news/millions-of-britons-to-be-able-to-request-flexible-working-on-day-one-of-employment>.

Sub-Topic	Law/Principle/Association
	<p data-bbox="533 185 730 212"><u>Voluntary/Market</u></p> <ol style="list-style-type: none"> <li data-bbox="533 244 981 271"><b>1. Trade Union Congress (“TUC”)<sup>257</sup></b> <ul style="list-style-type: none"> <li data-bbox="584 288 1637 316">• A representative body of 48 member unions, representing over 5.5 million working people.</li> <li data-bbox="584 320 1727 347">• The TUC have a number of ongoing campaigns to progress legislation in this area. These include:               <ul style="list-style-type: none"> <li data-bbox="678 352 1666 379">○ A real pay rise for workers, including a £15 minimum wage and assistance with bills;</li> <li data-bbox="678 384 1749 411">○ Protecting the right to strike, banning zero hours contracts and ‘firing and rehiring’ schemes;</li> <li data-bbox="678 416 2112 464">○ Enhancing legal rights to flexible working by creating duties on employers to include possible flexible working options in job advertisements (a government announcement has indicated that this will be reflected in forthcoming legislation).</li> </ul> </li> <li data-bbox="584 469 2112 517">• The TUC Anti-Racism Taskforce is leading a renewed campaign against racism at work, including producing recommendations on tackling structural racism across workplaces and unions.<sup>258</sup></li> </ul> </li> <li data-bbox="533 555 1256 582"><b>2. Advisory, Conciliation and Arbitration Service (“ACAS”)</b> <ul style="list-style-type: none"> <li data-bbox="584 592 1435 619">• Guidelines for employment best practice including trade union issues.<sup>259</sup></li> </ul> </li> </ol>
(c) <u>Health and Safety</u>	<p data-bbox="533 711 920 738"><u>Existing Legislation - International</u></p> <ol style="list-style-type: none"> <li data-bbox="533 770 1630 798"><b>1. Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)</b> <ul style="list-style-type: none"> <li data-bbox="584 810 1330 837">• The ILO has 40 standards for Occupational Safety and Health.</li> <li data-bbox="584 842 1995 869">• This Convention encourages governments to promote a coherent national health and safety culture that is preventative.<sup>260</sup></li> </ul> </li> </ol> <p data-bbox="533 887 869 914"><u>Existing Legislation - National</u></p> <ol style="list-style-type: none"> <li data-bbox="533 946 1010 973"><b>2. Health and Safety at Work Act 1974</b> <ul style="list-style-type: none"> <li data-bbox="584 986 2112 1043">• Employers have a legal responsibility to make sure that they provide a safe working environment. This may include carrying out risk assessments, offering staff training, and providing adequate safety equipment.</li> </ul> </li> <li data-bbox="533 1075 1525 1102"><b>3. Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013</b> <ul style="list-style-type: none"> <li data-bbox="584 1115 2112 1173">• Puts duties on employers, the self-employed and people in control of work premises (a “<b>Responsible Person</b>”) to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses).</li> </ul> </li> </ol>

<sup>257</sup> <https://www.tuc.org.uk/>.

<sup>258</sup> <https://www.tuc.org.uk/campaigns>.

<sup>259</sup> <https://www.acas.org.uk/>.

<sup>260</sup> <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/lang--en/index.htm>.

Sub-Topic	Law/Principle/Association
	<p><b>4. Control of Major Accident Hazards Regulations 2015</b></p> <ul style="list-style-type: none"> <li>• Aims to prevent and mitigate the effects of major accidents involving dangerous substances which can cause serious damage or harm to people and/or the environment.</li> <li>• A swathe of additional acts and secondary legislation impose legal obligations on employers, including in some instances self-employed persons, to establish safe working environments for their employees and the general public. A limited overview of applicable law across a range of sectors is provided below:</li> </ul> <p><b>5. Dangerous Substances and Explosive Atmospheres Regulations 2002</b></p> <ul style="list-style-type: none"> <li>• Requires employers to control the risks to safety from fire, explosions and substances corrosive to metals.</li> <li>• Puts duties on employers and the self-employed to protect people from these risks to their safety in the workplace, and to members of the public who may be put at risk by work activity.</li> </ul> <p><b>6. Ionising Radiation Regulations 2017</b></p> <ul style="list-style-type: none"> <li>• Requires employers to keep exposure to ionising radiations as low as reasonably practicable. Exposures must not exceed specified dose limits.</li> </ul> <p><b>7. Management of Health and Safety at Work Regulations</b></p> <ul style="list-style-type: none"> <li>• All employers must undertake a risk assessment and this should consider the risks from radiation in the workplace</li> </ul> <p><b>8. Radioactive Substances Act 1993</b></p> <ul style="list-style-type: none"> <li>• Mainly concerned with the control of radioactive waste</li> </ul> <p><b>9. Enterprise and Regulatory Reform Act 2013</b></p> <p><b>10. The Personal Protective Equipment at Work (Amendment) Regulations 2022</b></p> <p><b>11. Factories Act 1961</b></p> <p><b>12. Offshore Safety Act 1992</b></p> <p><b>13. The Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Electromagnetic Fields) Regulations 2016</b></p> <p><b>14. Fire Safety Act 2014</b></p> <p><b>15. The Control of Asbestos Regulations 2012</b></p> <p><b>16. Health and Safety (Offences) Act 2008</b></p> <p><b>17. Compensation Act 2006</b></p> <p><b>18. Control of Noise at Work Regulations 2005</b></p>

Sub-Topic	Law/Principle/Association
	<p data-bbox="533 185 775 212"><u>Proposed Legislation</u></p> <ol data-bbox="533 245 2112 501" style="list-style-type: none"> <li data-bbox="533 245 2112 341"><b>1. Health and Safety at Work Bill</b> <ul data-bbox="584 285 2112 341" style="list-style-type: none"> <li data-bbox="584 285 2112 341">• To make provision about civil liability for breaches of health and safety duties.<sup>261</sup> The second reading in the House of Commons is scheduled for early February 2023.</li> </ul> </li> <li data-bbox="533 373 2112 501"><b>2. Independent Review of Building Regulations and Fire Safety<sup>262</sup></b> <ul data-bbox="584 413 2112 501" style="list-style-type: none"> <li data-bbox="584 413 2112 501">• Following the Grenfell Tower fire, work has been undertaken to remedy buildings with unsafe cladding and an Independent Review of Building Regulations and Fire Safety has been established. The Review's findings are being taken forward to ensure residents of high-rise buildings are safe and feel safe.</li> </ul> </li> </ol> <p data-bbox="533 544 730 571"><u>Voluntary/Market</u></p> <p data-bbox="533 592 1021 619">Health and safety standards/accreditations:</p> <ol data-bbox="533 651 1151 799" style="list-style-type: none"> <li data-bbox="533 651 1151 678"><b>1. British Standards Institution<sup>263</sup></b></li> <li data-bbox="533 710 1151 737"><b>2. Institution of Occupational Safety and Health<sup>264</sup></b></li> <li data-bbox="533 769 1151 796"><b>3. NQA<sup>265</sup></b></li> </ol>
(d) <u>Modern Slavery</u>	<p data-bbox="533 906 922 933"><u>Existing Legislation – International</u></p> <ol data-bbox="533 965 1525 1134" style="list-style-type: none"> <li data-bbox="533 965 1525 1034"><b>1. UN Slavery Convention 1927</b> <ul data-bbox="584 1002 1525 1034" style="list-style-type: none"> <li data-bbox="584 1002 1525 1034">• Commits ratifying countries to abolish slavery in all forms.<sup>266</sup></li> </ul> </li> <li data-bbox="533 1066 1525 1134"><b>2. ILO's Forced Labour Convention, 1930 (No. 29)</b> <ul data-bbox="584 1106 1525 1134" style="list-style-type: none"> <li data-bbox="584 1106 1525 1134">• Commits ratifying countries to suppressing forced labour as soon as possible.<sup>267</sup></li> </ul> </li> </ol>

<sup>261</sup> <https://bills.parliament.uk/bills/3256>.

<sup>262</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/707785/Building\\_a\\_Safer\\_Future\\_-\\_web.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/707785/Building_a_Safer_Future_-_web.pdf).

<sup>263</sup> <https://www.bsigroup.com/en-GB/Occupational-Health-and-Safety-ISO-45001/health-and-safety-standards/>.

<sup>264</sup> <https://iosh.com/businesses/health-and-safety-standards-legislation-and-compliance/>.

<sup>265</sup> <https://www.nqa.com/en-gb/certification/standards/iso-45001>.

<sup>266</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/slavery-convention, Art. 2>.

<sup>267</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029, Art. 1](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029, Art. 1).

Sub-Topic	Law/Principle/Association
	<p data-bbox="533 169 875 196"><u>Existing Legislation – National</u></p> <p data-bbox="533 229 869 256"><b>3. Human Rights Act 1998</b></p> <ul data-bbox="577 268 1335 295" style="list-style-type: none"> <li data-bbox="577 268 1335 295">• Includes the right to freedom from slavery and forced labour.<sup>268</sup></li> </ul> <p data-bbox="533 306 1554 333"><i>[For a fuller description of the HRA 1998, please see the Non-discrimination section below].</i></p> <p data-bbox="533 367 887 394"><b>4. Modern Slavery Act 2015</b></p> <ul data-bbox="577 405 2112 523" style="list-style-type: none"> <li data-bbox="577 405 2112 461">• Made provisions for sentencing perpetrators, protecting and identifying victims and streamlined the country’s approach to tackling modern slavery in all its forms.</li> <li data-bbox="577 467 2112 523">• Section 54 requires businesses with a global turnover of £36 m or more to publish a Modern Slavery and Human Trafficking Statement each year detailing what action they have taken to ensure there is no modern slavery in their business or supply chains.</li> </ul> <p data-bbox="533 564 775 592"><u>Proposed Legislation</u></p> <p data-bbox="533 611 2112 671">The <b>Modern Slavery Bill</b> was outlined on 10 May 2022 in the Queen’s speech. The bill will mandate areas to be covered in modern slavery statements, require them to be published on the government-run registry, and introduce civil penalties for non-compliance.</p> <p data-bbox="533 687 2112 743">In recent years, several reviews and consultations have been conducted regarding ways in which the Modern Slavery Act 2015 could be reformed and the obligations on businesses strengthened. These include:</p> <ul data-bbox="577 762 2112 914" style="list-style-type: none"> <li data-bbox="577 762 1543 790">• the UK Home Office’s independent review of the 2015 Act commissioned in 2018;</li> <li data-bbox="577 796 1225 823">• the 2019 public consultation that followed as a result;</li> <li data-bbox="577 829 1491 857">• the UK Government’s publication of its response on 22 September 2020; and</li> <li data-bbox="577 863 2112 914">• the introduction of the Modern Slavery (Amendment) Bill in the House of Lords as a private member’s bill on 15 June 2021 (though that Bill will not now progress).</li> </ul> <p data-bbox="533 930 2112 1018">The most recent Modern Slavery (Amendment) Bill was proposed in the 2021 – 2022 parliamentary sessions (though this Bill has not been reintroduced in the 2022 – 2023 parliamentary session). It incorporated many of the recommendations and conclusions of the above reviews and consultations including:</p> <ul data-bbox="577 1037 2112 1214" style="list-style-type: none"> <li data-bbox="577 1037 2112 1093">• strengthen the requirements on in-scope businesses to set out the steps they have taken to prevent modern slavery in their operations and supply chains;</li> <li data-bbox="577 1099 1592 1126">• provide for certain areas of content to be mandatory in any modern slavery statement;</li> <li data-bbox="577 1133 1700 1160">• introduce civil penalties for organisations that fail to comply with the statutory requirements; and</li> <li data-bbox="577 1166 2112 1214">• mandate that modern slavery statements be published on the UK Government-run reporting service, in addition to an organisation’s own website.</li> </ul>

<sup>268</sup> HRA 1998, Art. 4.

Sub-Topic	Law/Principle/Association
	<p><b>The Business &amp; Human Rights Resource Centre (the “BHRRC”) is pressuring the government to introduce a <b>Business, Human Rights and Environment Act</b></b></p> <ul style="list-style-type: none"> <li>• This Act aims to go further than the Modern Slavery Act 2015 and prevent companies avoiding liability for human right breaches by imposing requirements on companies to take action and carry out due diligence – the BHRRC argues that this would be more in line with the UN Guiding Principles on Business &amp; Human Rights.<sup>269</sup></li> <li>• This law has the backing pressure groups such as ShareAction, Global Witness, Client Earth and CORE as well as 47 businesses and investors (including John Lewis, Tesco, Microsoft)<sup>270</sup> and support from 4 out of 5 people in Britain (according to a poll in August 2022).<sup>271</sup></li> <li>• Germany, France and Norway have adopted similar laws as well as the EU (if approved by the relevant EU institutions).<sup>272</sup></li> </ul>
	<p><u>Voluntary/Market</u></p> <p><b>1. Government Guidance:</b></p> <ul style="list-style-type: none"> <li>• <b>The Transparency in Supply Chains: a Practical Guide</b> encourages companies that do not meet the requirements of section 54 for mandatory reporting to voluntarily report. They suggest that publishing a statement will assist with potential requests regarding their approach to tackling modern slavery and assure customers that they take tackling modern slavery seriously.<sup>273</sup></li> <li>• No set form for the modern slavery statement provided it details all the steps the company has taken to prevent modern slavery in its business and supply chains.<sup>274</sup> The government has proposed to amend this to implement mandatory reporting criteria but is yet effect it.<sup>275</sup></li> </ul> <p><b>2. Financial Reporting Council (“FRC”) Report on UK Modern Slavery Reporting via KPMG</b></p> <ul style="list-style-type: none"> <li>• The FRC identified significant shortcoming in companies’ modern slavery reporting – modern slavery statements are mostly descriptive and superficial with little attempt to critique performance and highlight areas of concern.<sup>276</sup></li> <li>• For example, 1 in 10 companies (of 100 surveyed) did not provide a modern slavery statement despite it being a legal requirement. Of those that did comply, only 1/3 of these statements were clear and easy to read.<sup>277</sup></li> </ul>

<sup>269</sup> [https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/the-case-for-human-rights-due-diligence-laws-in-the-united-kingdom/#\\_problem](https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/the-case-for-human-rights-due-diligence-laws-in-the-united-kingdom/#_problem).

<sup>270</sup> [https://media.business-humanrights.org/media/documents/UK\\_BUSINESS\\_STATEMENT\\_MHREDD\\_Sept22.pdf](https://media.business-humanrights.org/media/documents/UK_BUSINESS_STATEMENT_MHREDD_Sept22.pdf).

<sup>271</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040283/Transparency\\_in\\_Supply\\_Chains\\_A\\_Practical\\_Guide\\_2017\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040283/Transparency_in_Supply_Chains_A_Practical_Guide_2017_final.pdf).

<sup>272</sup> <https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/the-case-for-human-rights-due-diligence-laws-in-the-united-kingdom/>.

<sup>273</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1040283/Transparency\\_in\\_Supply\\_Chains\\_A\\_Practical\\_Guide\\_2017\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1040283/Transparency_in_Supply_Chains_A_Practical_Guide_2017_final.pdf).

<sup>274</sup> As above.

<sup>275</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/815410/Government\\_Response\\_to\\_Independent\\_Review\\_of\\_MS\\_Act.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/815410/Government_Response_to_Independent_Review_of_MS_Act.pdf), p. 8.

<sup>276</sup> <https://home.kpmg/uk/en/home/services/audit/accounting-advisory/key-takeaways-from-the-frc-report.html>.

<sup>277</sup> As above.

Sub-Topic	Law/Principle/Association
	<ul style="list-style-type: none"> <li>The report noted that “disclosures on key performance indicators (“KPIs”) which measure the effectiveness of steps taken to minimise modern slavery risks were particularly poor”.<sup>278</sup></li> <li>The report also found that companies reporting on modern slavery in their annual reports when considering s. 172 was inadequate with only 13% of companies referring directly to forced labour and slavery issues in their s. 172 statement.<sup>279</sup></li> </ul> <p><b>3. ‘Modern Slavery Act: Five Years of Reporting’ report by BHRRC and the Modern Slavery Registry</b></p> <ul style="list-style-type: none"> <li>Criticises how companies report their modern slavery statements – lack of transparency and there is a reluctance to disclose above the bare minimum.<sup>280</sup></li> </ul> <p><b>4. Independent Anti-Slavery Commission ‘Linking to the Modern Slavery Statement Registry’ Study</b></p> <ul style="list-style-type: none"> <li>The Commission recommended to the Government that new legislation is needed to require mandatory reporting to the register (it is currently voluntary to publish on the register), active links to a company’s latest modern slavery statement should be linked to the entry as well as sanctions for non-compliance such as requiring companies who claim not to have websites but actually do to produce a statement within 30 days.<sup>281</sup></li> </ul>
(e) <u>Unemployment</u>	<p><u>Existing Legislation – International</u></p> <p><b>1. ILO: Social Security (Minimum Standards) Convention, 1952 (No. 102)</b></p> <ul style="list-style-type: none"> <li>The UK to provide healthcare services, sickness benefit, unemployment benefit, old-age benefit, benefit for the maintenance of children, survivors’ benefit.<sup>282</sup></li> </ul> <p><b>2. ILO Unemployment Convention, 1919</b></p> <ul style="list-style-type: none"> <li>The UK has to communicate on unemployment statistics and measures taken to combat unemployment. UK has to have system of free public employment agencies.</li> </ul> <p><u>Existing Legislation - National</u></p> <p><b>1. “Jobcentre Plus”</b></p> <ul style="list-style-type: none"> <li>System of free employment agencies.</li> </ul>

<sup>278</sup> As above.

<sup>279</sup> As above.

<sup>280</sup> <https://www.frc.org.uk/getattachment/77c053d9-fe30-42c6-8236-d9821c8a1e2b/FRC-Modern-Slavery-Reporting-Practices-in-the-UK-2022.pdf>, p. 6.

<sup>281</sup> <https://www.antislaverycommissioner.co.uk/media/1738/linking-to-the-modern-slavery-statement-registry-an-exploratory-study-of-corporate-behaviour-january-2022.pdf>.

<sup>282</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100\\_INSTRUMENT\\_ID:312247:NO](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312247:NO).

Sub-Topic	Law/Principle/Association
	<p><b>2. Welfare Reform Act 2012 (“WRA 2012”)</b></p> <ul style="list-style-type: none"> <li>• Job Seekers’ Allowance is available to people who are unemployed/working less than 16 hours a week and actively seeking work.<sup>283</sup></li> </ul> <p><i>[NB. There is also Universal Credit available to those who live in the UK, are 18 or over, under State Pension age, have £16,000 or less in money, savings and investments.<sup>284</sup>]</i></p> <p><u>Proposed Legislation:</u></p> <p><b>1. Full Employment Bill</b></p> <ul style="list-style-type: none"> <li>• A Private Members’ Bill to place a duty on the Chancellor of the Exchequer to pursue a policy of full employment, make associated provision for an employment guarantee scheme for benefit claimants who have been unemployed and looking for work for longer than six months, and for connected purposes. Second reading in the House of Commons is scheduled to take place in early February 2023.<sup>285</sup></li> </ul>
(f) <u>Self-employment</u>	<p><u>Existing Legislation – National</u></p> <ul style="list-style-type: none"> <li>• Those that are self-employed have the right to a state pension and may be entitled to Employment and Support Allowance from DWP (as governed by the <b>WRA 2012</b>).<sup>286</sup></li> </ul>

<sup>283</sup> See also: <https://www.gov.uk/jobseekers-allowance/eligibility>.

<sup>284</sup> <https://www.gov.uk/universal-credit/eligibility>. Universal Credit governed by Welfare Reform Act.

<sup>285</sup> <https://bills.parliament.uk/bills/3254>.

<sup>286</sup> <https://www.gov.uk/self-employment-and-universal-credit>.

## 2. Non-discrimination

### Law/Principle/Association

#### Existing Legislation – International

##### 1. UN International Convention on the Elimination of All Forms of Racial Discrimination 1969

- By ratifying this Convention, the UK agreed to pursue policy of eliminating racial discrimination in all its forms.<sup>287</sup>

##### 2. Convention on the Elimination of All Forms of Discrimination against Women 1986 and optional protocol 2004

- UK obliged to pursue policy designed to eliminate discrimination against women.<sup>288</sup>
- The protocol allows individuals to make complaints to the Committee on the Elimination of Discrimination against Women for violations of the Convention.<sup>289</sup>

##### 3. ILO Equal Remuneration Convention 1951 (No. 100)

- To provide for male and female workers doing work of equal value to be paid equally.<sup>290</sup>

##### 4. UN Convention against Discrimination in Education 1962

#### Existing Legislation – National

##### 5. HRA 1998

- UK pledged to make sure its domestic laws align with other UN Covenants mentioned.
- Equality and Human Rights Commission submits reports to UN Committees who decide whether UK is adequately complying with requirements.
- Incorporates International Bill of Human Rights (the Universal Declaration of Human Rights and the UN Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights) and ECHR into UK law.
- Protects fundamental freedoms such as the right to life, the right to a fair trial, the right to liberty and security and the right to freedom of thought, belief and religion.<sup>291</sup>
- Includes the right to protection from discrimination in respect of fundamental rights and freedoms.<sup>292</sup>

<sup>287</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>, Art. 2.

<sup>288</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>, Art. 2.

<sup>289</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-elimination-all-forms>, Arts. 1 and 2.

<sup>290</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C100#:~:text=Each%20Member%20shall%2C%20by%20means,for%20work%20of%20equal%20value](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100#:~:text=Each%20Member%20shall%2C%20by%20means,for%20work%20of%20equal%20value), Art. 2.

<sup>291</sup> HRA 1998, Arts. 2, 5, 6, 9.

<sup>292</sup> HRA 1998, Art. 14.

## 6. Equality Act 2010 (“EA 2010”)

- Prevents discrimination in the workplace and wider society.
- Protected characteristics (listed below) that cannot be used as a reason for workplace decisions unless those decisions involve accommodating people in the workplace.
- Also protects people from discrimination in education and when dealing with the police.
- Protected characteristics include:
  - o Age;
  - o Disability;
  - o Gender reassignment;
  - o Marriage and civil partnership;
  - o Pregnancy and maternity;
  - o Race;
  - o Religion or belief;
  - o Sex; and
  - o Sexual orientation.

## 7. Equality Act in the workplace

- Allows claims for direct gender pay discrimination where there is no actual comparator – large employers (with at least 250 employees) subject to mandatory gender pay gap reporting under **Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 (SI 2017/172)**.
- Makes pay secrecy clauses unenforceable.

## 8. Public Sector Equality Duty (part of Equality Act)

- Public bodies have to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.
- It also requires that public bodies have due regard to the need to:
  - o eliminate discrimination;
  - o advance equality of opportunity; and
  - o foster good relations between different people when carrying out their activities.

## 9. The EHRC Employment Statutory Code of Practice

- Helps tribunals take the Equality Act 2010 into account when making decisions.<sup>293</sup>

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<sup>293</sup> <http://www.equalityhumanrights.com/publication/employment-statutory-code-practice>.

## Proposed Legislation

### **1. Scottish Human Rights Bill**

- In December 2018, the Scottish National Taskforce for Human Rights Leadership was set up and on 12 March 2021 it published its final report. In total, 30 recommendations were accepted by the Scottish government. The Human Rights Bill will incorporate four UN human rights treaties into Scots law:
  - ICESCR 1976;
  - the Convention on the Elimination of All Forms of Discrimination against Women (“CEDAW”);
  - the Convention on the Elimination of All Forms of Racial Discrimination (“CERD”); and
  - CRPD 2009.
- The Bill was announced by the Scottish government on 12 March 2021,<sup>294</sup> but has not yet been passed into law.
- The Bill will also include a right to a healthy environment, a right for older people to ensure equal access to their human rights, and provision to ensure equal access to everyone to the rights contained in the Bill.

### **2. Protection from Redundancy (Pregnancy and Family Leave) Bill**

- A Private Members’ Bill to make provision about protection from redundancy during or after pregnancy or after periods of maternity, adoption or shared parental leave.<sup>295</sup> The Bill has completed its second reading and was debated by the Public Bill Committee on in November 2022, reported without amendments to the House of Commons. Report stage in the House of Commons is scheduled for early February 2023.

### **Government Response to the Commission on Race and Ethnic Disparities: Inclusive Britain**

- A more inclusive history curriculum, school uniform and hair policy, enriching school day for children, impartial public sector, representative police force, addressing racial discrimination and abuse of police officers, improving judicial diversity, using professional skills to benefit local communities, promoting inclusion in the workplace, improving guidance on positive action and harnessing AI for an inclusive future.<sup>296</sup>

*[for full details, see Non Discrimination: Proposed Legislation section in attached long form report]*

### **3. Bill of Rights Bill 2022-3**

- Former Prime Minister Liz Truss dropped the Bill of Rights Bill 2022-3 which would have repealed the HRA 1998 and reframed the UK’s legal relationship with the ECHR. The government is looking at other legislative options for reform.<sup>297</sup>

### **4. Changes to the Listing Rules – Diversity and Inclusion**

- The FCA is introducing requirements for issuers to confirm whether they have met board diversity targets concerning representation of women and ethnic minorities such as:
  - 40% representation of women;
  - At least one of the senior board positions is a woman; and
  - At least one board member is from a minority ethnic background.<sup>298</sup>

*[for full details, see Non Discrimination: Proposed Legislation section in attached long form report].*

<sup>294</sup> <https://www.gov.scot/news/new-human-rights-bill/#:-:text=Subject%20to%20the%20outcome%20of,people%20and%20minority%20ethnic%20communities.>

<sup>295</sup> <https://bills.parliament.uk/bills/3191>.

<sup>296</sup> <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities#inclusion>.

<sup>297</sup> <https://www.theguardian.com/law/2022/sep/07/liz-truss-halts-dominic-raab-bill-of-rights-plan>; [https://uk.practicallaw.thomsonreuters.com/w-036-8478?originationContext=document&transitionType=DocumentItem&contextData=\(sc.Default\)&ppcid=d1d1c4b2a40a4239b12e8e86f1455bb5&comp=pluk](https://uk.practicallaw.thomsonreuters.com/w-036-8478?originationContext=document&transitionType=DocumentItem&contextData=(sc.Default)&ppcid=d1d1c4b2a40a4239b12e8e86f1455bb5&comp=pluk).

<sup>298</sup> <https://www.fca.org.uk/publication/policy/ps22-3.pdf>, pp. 1, 4.

## Voluntary/Market

### 1. Hampton-Alexander Review

- Independent, voluntary and business-led initiative supported by government, aimed at increasing the representation of women on FTSE 350 Boards and in their Leadership teams) set a target for 33% representation on FTSE 350 company boards by 2020.
- Was successful and has led to more ambitious targets for gender equality in the corporate sector. See Non-discrimination: Disclosure in Practice and Voluntary Schemes in the full report for more detail.

### 2. UK Government Equalities Office

- Issues best practice surrounding reducing the gender pay gap.<sup>299</sup>

### 3. Ethnicity Pay Gap Reporting

- Mandatory ethnicity pay gap reporting will not be introduced yet but government will support employers with **voluntary reporting**.
- Employers can also choose to publish an action plan to improve their ethnicity pay gap.

### 4. Social Mobility Pay Gap Reporting

- Social Mobility Foundation publishes an index that shows the best employers for social mobility but not many employers publish this data.<sup>300</sup>
- The Social Mobility Commission, established by the Child Poverty Act 2010, issued a toolkit for businesses to help them improve their social mobility inclusivity.<sup>301</sup>
- Some companies choose to take the Social Mobility Pledge – this involves committing to measures such as being involved in outreach to schools to connect to individuals from disadvantaged backgrounds.<sup>302</sup>
- Some companies use RARE recruitment software to contextualise applicants' achievements in their socioeconomic context.<sup>303</sup>
- Companies might have their own in-house programs designed to improve social mobility i.e. Work Ready in KPMG.<sup>304</sup>
- Bridge Group is a non-profit consultancy that supports organisations with socioeconomic diversity.<sup>305</sup>

### 5. Stonewall's Workplace Equality Index

- Shows UK companies' score for how well they are progressing equality for LGBTQ+.<sup>306</sup>

<sup>299</sup> In their 'Reducing the Gender Pay Gap and Improving Gender Equality in Organisations: Evidence-based Actions for Employers' guidance they recommend six actions employers which have been effective at having a positive impact: 1) more women shortlisted for recruitment/ promotion, 2) use skill-based assessments for recruitment, 3) use structured interviews for recruitment, 4) be clear on salary ranges, 5) be transparent about promotion, pay and rewards and 6) appoint diversity managers, see [https://gender-pay-gap.service.gov.uk/public/assets/pdf/Evidence-based\\_actions\\_for\\_employers.pdf](https://gender-pay-gap.service.gov.uk/public/assets/pdf/Evidence-based_actions_for_employers.pdf), pp. 4-5.

<sup>300</sup> <https://www.socialmobility.org.uk/index/>.

<sup>301</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1106370/The-building-blocks-an-employers-guide-to-improving-social-mobility-in-the-workplace.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1106370/The-building-blocks-an-employers-guide-to-improving-social-mobility-in-the-workplace.pdf); Social Mobility Commission Business Plan 2022 to 2023; [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1112611/Social\\_Mobility\\_Commission\\_Business\\_Plan\\_2022\\_to\\_2023.docx.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1112611/Social_Mobility_Commission_Business_Plan_2022_to_2023.docx.pdf).

<sup>302</sup> <https://www.socialmobilitypledge.org/>.

<sup>303</sup> <https://www.rarerecruitment.co.uk/>.

<sup>304</sup> <https://socialmobilityworks.org/success-stories/kpmg/>.

<sup>305</sup> <https://www.thebridgeworkgroup.org.uk>.

<sup>306</sup> <https://www.stonewall.org.uk/what-workplace-equality-index-and-how-it-scored>.

## 6. Corporate Social Responsibility

- These initiatives are common practice among large businesses.
- Customers expect to see a business account for their corporate social responsibility.
- The policy will look slightly different in each organisation but will usually involve fundraising events, charity partnerships and awareness raising initiatives.

## 7. Diversity, Equity and Inclusion Policies

- Again, these are widespread among large businesses and will look slightly different in each organisation.

## 8. Equal opportunities employer

- Companies can write a formal policy that commits them to ensuring fairness of opportunity across their organisation.

## 9. Inclusive Employers

- Helps companies foster truly inclusive workplaces.<sup>307</sup>

## 20. 50:50 Project<sup>308</sup>

- Goal of equal representation of men and women across all BBC content.
- This goal has been extended towards representation of ethnic minorities and disabled people.
- 145 organisations have signed up (including BBC) who are using the target in their own fields to improve diversity.

## 10. Diversity in Finance Allocation

- The Investing in Women Code aims to increase the transparency of funding allocated to female entrepreneurs and expose the gender gap in investment.<sup>309</sup> See Non Discrimination: (c) Voluntary Codes to Improve Diversity in Finance Allocation for in the attached long form report for more detail.
- The government is working with the British Business Bank to analyse and improve diversity of applicants who receive entrepreneur loans such as from the Start Up Loans programme and the Future Fund scheme.<sup>310</sup>

## 11. Pre-distribution initiative

- Provides guidance, thresholds, targets, and metrics for companies and investors to measure and manage their impacts on inequality by combining multiple frameworks and corporate and investor disclosure into one disclosure framework.<sup>311</sup>
- They acknowledge that the project will help the private sector meet the requirements of Goal 17 (17.13-17.19) of the Sustainable Development Goals (SDGs).

<sup>307</sup> <https://www.inclusiveemployers.co.uk/about/about-inclusive-employers/>.

<sup>308</sup> <https://www.bbc.com/5050/impact2022/>.

<sup>309</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/821889/GEO\\_GEEE\\_Strategy\\_Gender\\_Equality\\_Roadmap\\_Rev\\_1\\_\\_1\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/821889/GEO_GEEE_Strategy_Gender_Equality_Roadmap_Rev_1__1_.pdf), p. 22.

<sup>310</sup> Inclusive Britain, Action 55 <https://www.gov.uk/government/publications/inclusive-britain-action-plan-government-response-to-the-commission-on-race-and-ethnic-disparities/inclusive-britain-government-response-to-the-commission-on-race-and-ethnic-disparities>.

<sup>311</sup> The framework will have “1) a focus on investment structures and practices that contribute to inequality; 2) targets that companies and investors can work toward to alleviate inequality, metrics to gauge their progress; and thresholds to ensure that the metrics stay within planetary boundaries and respect human rights; and 3) an explicit role for representatives of the most vulnerable individuals and communities as co-creators,” see <https://thetifd.org/s/TIFD-FAQ-Version-30.pdf>, p. 1.

## 12. Halo Code

- UK's first Black hair code to protect employees coming to work with natural hair and protective hairstyles associated with their racial, ethnic and cultural identities.<sup>312</sup>

## 13. Resolution Foundation

- They aim to improve living standards of people on low to middle incomes.
- They “inform public debate, alongside key decision makers in government, the private sector, and civil society. Alongside regular publications from our team on a range of policy issues, we hold a wide ranging programme of events, hosting diverse speakers from academia, the voluntary sector and business, and regularly engage with politicians from across the political spectrum”.<sup>313</sup>
- Their Intergenerational Centre assesses intergenerational fairness and the inequalities that arise from unfairness.<sup>314</sup>
- The centre published an audit on intergenerational inequalities across Britain (21 October 2022) which presented a concern that the impact of the pandemic on education, employment and earnings could affect social mobility of younger generations from lower socioeconomic backgrounds.<sup>315</sup>

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<sup>312</sup> <https://halocollective.co.uk/halo-workplace/>.

<sup>313</sup> <https://www.resolutionfoundation.org/about-us/mission/>.

<sup>314</sup> <https://www.resolutionfoundation.org/major-programme/intergenerational-centre/>.

<sup>315</sup> [https://www.resolutionfoundation.org/app/uploads/2021/10/An-intergenerational-audit-for-the-UK\\_2021.pdf](https://www.resolutionfoundation.org/app/uploads/2021/10/An-intergenerational-audit-for-the-UK_2021.pdf), p. 26.

### 3. Social Protection and Inclusion

Sub-Topic / Demographic	Law/Principle/Association
(a) <u>General</u>	<p><u>Existing Legislation - International</u></p> <ul style="list-style-type: none"> <li>The ICESCR 1976 emphasises the importance of protecting vulnerable groups in society such as the elderly, children, disabled persons and migrants. We have therefore adopted these categories for use in this report.</li> </ul> <p><i>[NB. Protection from discrimination (as provided for by the HRA 1998 and the EA 2010 is discussed as part of the Non-discrimination section].</i></p>
(a) <u>Old Age</u>	<p><u>Existing Legislation – International</u></p> <ol style="list-style-type: none"> <li><b>UN Principles for Older Persons</b> <ul style="list-style-type: none"> <li>Older people should have independence, access to food, water, shelter, clothing, healthcare, should remain integrated in society and participate actively in society.</li> <li>Older people should benefit from community care and protection, should have opportunities for self-fulfilment and live in dignity and security.<sup>316</sup></li> </ul> </li> </ol> <p><u>Existing Legislation – National</u></p> <ol style="list-style-type: none"> <li><b>State Pension Credit Act 2002</b> <ul style="list-style-type: none"> <li>Support with living costs if individuals are over State Pension age and on a low income, this can also be applied to housing costs.<sup>317</sup> As amended by the WRA 2012.</li> </ul> </li> <li><b>Pensions Act 2008</b> <ul style="list-style-type: none"> <li>Every UK employer must place certain staff into a workplace pension scheme and contribute a minimum of 3% towards it.<sup>318</sup></li> </ul> </li> <li><b>Pensions Act 2014</b> <ul style="list-style-type: none"> <li>The State Pension age is increasing and will do continue to do so.<sup>319</sup></li> </ul> </li> <li><b>The Care Act 2014</b> <ul style="list-style-type: none"> <li>Sets out the responsibilities of local authorities regarding care and support including safeguarding adults at risk of abuse or neglect.<sup>320</sup></li> <li>Also sets out care standards.<sup>321</sup></li> </ul> </li> </ol>

<sup>316</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons>.

<sup>317</sup> <https://www.gov.uk/pension-credit>.

<sup>318</sup> <https://www.thepensionsregulator.gov.uk/en/employers>.

<sup>319</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310231/spa-timetable.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/310231/spa-timetable.pdf).

<sup>320</sup> CA 2014, Part 1.

<sup>321</sup> CA 2014, Part 2; ss. 97-102.

Sub-Topic / Demographic	Law/Principle/Association
	<p data-bbox="566 188 772 212"><u>Voluntary/ Market</u></p> <ol data-bbox="566 248 2123 646" style="list-style-type: none"> <li data-bbox="566 248 2123 319"><b>1. Financial Abuse Code of Practice</b> <ul data-bbox="622 288 1951 312" style="list-style-type: none"> <li data-bbox="622 288 1951 312">• Raises awareness and increases understanding regarding spotting financial abuse – the elderly are often targeted.</li> </ul> </li> <li data-bbox="566 352 2123 446"><b>2. Titchfield City Group on Ageing and Age-disaggregated data (“TCGA”)</b> <ul data-bbox="622 392 2123 446" style="list-style-type: none"> <li data-bbox="622 392 2123 446">• International working group with the mandate of assessing evidence on ageing populations and establishing an analytical framework to process and report data of the same.</li> </ul> </li> <li data-bbox="566 486 2123 550"><b>3. Global Alliance for the Rights of Older People (“GAROP”)</b> <ul data-bbox="622 520 1608 550" style="list-style-type: none"> <li data-bbox="622 520 1608 550">• International network seeking to strengthen and promote the rights of older persons.</li> </ul> </li> <li data-bbox="566 582 2123 646"><b>4. Age UK</b> <ul data-bbox="622 620 1783 646" style="list-style-type: none"> <li data-bbox="622 620 1783 646">• Charity aiming at enhancing the wellbeing of older persons, releasing relevant reports and briefings.</li> </ul> </li> </ol> <p data-bbox="566 691 808 715"><u>Proposed Legislation</u></p> <ol data-bbox="566 751 2123 845" style="list-style-type: none"> <li data-bbox="566 751 2123 845"><b>1. Open-ended Working Group on Ageing</b> <ul data-bbox="622 790 2123 845" style="list-style-type: none"> <li data-bbox="622 790 2123 845">• Working to address the gaps in the current international framework and develop proposals for a legally binding instrument in relation to the rights and protections of older persons.<sup>322</sup></li> </ul> </li> </ol>
(b) <u>Children</u>	<p data-bbox="566 922 958 946"><u>Existing Legislation – International</u></p> <ol data-bbox="566 983 2123 1236" style="list-style-type: none"> <li data-bbox="566 983 2123 1077"><b>1. UN Convention on the Rights of the Child 1990</b> <ul data-bbox="622 1021 2123 1077" style="list-style-type: none"> <li data-bbox="622 1021 2123 1077">• Gives children forty specific rights including the right to life, survival and development, the right to a name and nationality, freedom of expression and the right to have their views respected and best interests considered at all times.<sup>323</sup></li> </ul> </li> <li data-bbox="566 1109 2123 1236"><b>2. ILO Minimum Age Convention 1973 (No. 138)</b> <ul data-bbox="622 1149 2123 1236" style="list-style-type: none"> <li data-bbox="622 1149 2123 1236">• By ratifying this Convention, the UK agreed to pursue a national policy to ensure the abolition of child labour and raise the minimum age of admission to employment to an age which is consistent with the fullest physical and mental development of young persons – the UK specified an age of 16 years.<sup>324</sup></li> </ul> </li> </ol>

<sup>322</sup> <https://social.un.org/ageing-working-group/>.

<sup>323</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>, Arts. 6, 7, 12, 18; <https://www.nidirect.gov.uk/articles/childrens-human-rights>.

<sup>324</sup> [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::P12100\\_ilo\\_code:C138](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::P12100_ilo_code:C138), Art. 1.

Sub-Topic / Demographic	Law/Principle/Association
	<p><b>3. ILO Worst Forms of Child Labour Convention 1999 (No. 182)</b></p> <ul style="list-style-type: none"> <li>UK agreed to secure the prohibition and elimination of the worst forms of child labour.<sup>325</sup></li> </ul> <p><u>Existing Legislation – National</u></p> <p><b>4. Children Act 1989</b></p> <ul style="list-style-type: none"> <li>Enshrines the paramount nature of child’s welfare and the expectations and requirements around duties of care to children. Provides the legislative framework around child protection.</li> </ul> <p><b>5. Children Act 2004</b></p> <ul style="list-style-type: none"> <li>Places duty on local authorities to appoint member accountable for delivery of services and also a duty on local authorities and their partners to co-operate in safeguarding wellbeing of children.</li> </ul> <p><b>6. Childcare Act 2006</b></p> <ul style="list-style-type: none"> <li>The 2006 act requires local authorities to improve outcomes for all young people and children, reduce inequalities and ensure there is sufficient high quality integrated early years provision for childcare.</li> </ul> <p><b>7. Children and Social Work Act 2017</b></p> <ul style="list-style-type: none"> <li>Child Safeguarding Practice Review Panel was established to review and report on serious child protection cases that are complex or of national importance and mandated that local authorities must appoint personal advisers for care leavers up to the age of 25.</li> </ul> <p><b>8. Early Years Foundation Stage (Department for Education)</b></p> <ul style="list-style-type: none"> <li>A statutory framework which is mandatory for all early years providers, which sets out the standards that all providers must meet to ensure that children learn and develop well and are kept healthy and safe. These standards are subject to inspection and reporting.<sup>326</sup></li> </ul> <p><b>9. Children’s Code / Age Appropriate Design Code<sup>327</sup></b></p> <ul style="list-style-type: none"> <li>Created by the Information Commissioner’s Office (“<b>ICO</b>”), this code of practice includes measures for data protection for online services which may be accessed by children. The code translates the complex requirements of the General Data Protection Regulation (“<b>GDPR</b>”, see further below under Consumer and Data Protection). Organisations offering online services accessed by children that are not in compliance with the code could face enforcement action by the ICO, including compulsory audits, orders to stop processing information and fines.</li> </ul>

<sup>325</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182), Art. 1.

<sup>326</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/718179/Early\\_education\\_and\\_childcare-statutory\\_guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718179/Early_education_and_childcare-statutory_guidance.pdf);  
<https://www.gov.uk/government/publications/early-years-foundation-stage-framework--2>.

<sup>327</sup> <https://ico.org.uk/for-organisations/childrens-code-hub/>.

Sub-Topic / Demographic	Law/Principle/Association
	<p data-bbox="573 193 1093 220"><b>10. SEND Code of Practice: 0 to 25 years<sup>328</sup></b></p> <ul data-bbox="622 236 2116 469" style="list-style-type: none"> <li data-bbox="622 236 2116 288">• A statutory code containing legal requirements that local authorities, schools, health bodies and colleges must provide for those aged 0 – 25 with special educational needs.</li> <li data-bbox="622 296 2116 379">• Does not set out specific reporting requirements but does note that practitioners working with children should monitor and review the progress and development of all children. Instead of frequent reporting to Ofsted, records must be kept by schools and be available for inspection when requested.</li> <li data-bbox="622 387 2116 469">• It condenses and presents the main relevant provisions from the <b>Special Educational Needs and Disability Regulations 2014; the Special Educational Needs (Personal Budgets) Regulations 2014; the Special Educational Needs and Disability (Detailed Persons) Regulations 2015; the Children and Families Act 2014.</b></li> </ul> <p data-bbox="573 512 808 539"><u>Proposed Legislation</u></p> <p data-bbox="573 571 1223 598"><b>1. Mandatory Reporting of Child Sexual Abuse Bill<sup>329</sup></b></p> <ul data-bbox="622 614 2116 759" style="list-style-type: none"> <li data-bbox="622 614 2116 697">• To mandate those providing and carrying out regulated or other activities with responsibility for the care of children to report known and suspected child sexual abuse; To protect mandated reporters from detriment; and</li> <li data-bbox="622 705 1424 732">• To create a criminal offence of failing to report prescribed concerns.</li> <li data-bbox="622 740 1368 759">• The first reading took place in July 2022 in the House of Lords.</li> </ul> <p data-bbox="573 794 1061 821"><b>2. Child Support (Enforcement) Bill<sup>330</sup></b></p> <ul data-bbox="622 837 2116 920" style="list-style-type: none"> <li data-bbox="622 837 1800 865">• The second reading took place in December 2022 and will be discussed by the Public Bill Committee.</li> <li data-bbox="622 873 2116 920">• There is also a Child Support Collection (Domestic Abuse) Bill for cases involving domestic abuse.<sup>331</sup> The Bill is set to enter the report stage in early March 2023.</li> </ul> <p data-bbox="573 956 1106 983"><b>3. Human Trafficking (Child Protection) Bill</b></p> <ul data-bbox="622 999 2116 1051" style="list-style-type: none"> <li data-bbox="622 999 2116 1051">• To make provision for the creation of secure safe houses for children that have been subject to human trafficking.<sup>332</sup> A second reading in the House of Commons is scheduled for late February 2023.</li> </ul>

<sup>328</sup> <https://www.gov.uk/government/publications/send-code-of-practice-0-to-25>.

<sup>329</sup> <https://bills.parliament.uk/bills/3328>.

<sup>330</sup> <https://bills.parliament.uk/bills/3203>.

<sup>331</sup> <https://bills.parliament.uk/bills/3209>.

<sup>332</sup> <https://bills.parliament.uk/bills/3248>.

Voluntary/ Market

**1. The Child Friendly Cities Initiative**

- Provides specific actions that businesses can take to uphold and respect children's rights.

**2. Children's Rights and Business Principles (UNICEF, the UN Global Compact and Save the Children)**

- Intended to guide companies on what they can do in the workplace, marketplace and community to support children's rights. The principles are built on best practices and existing standards.

**3. HeadStart Kent**

- Example of a localized network to support young people affected by domestic violence. Member schools receive reports of domestic abuse incidents to assist staff in identifying vulnerable young people early on who may need additional assistance during difficult times.<sup>333</sup>

**4. National Pupil Database (Gov.UK)<sup>334</sup>**

- The Department for Education (government run) releases data relating to the care of children through the National Pupil Database.

**5. Standards for Safeguarding and Protecting Children in Sport (NSPCC Child Protection in Sport Unit)<sup>335</sup>**

- The Standards for Provides a framework for safeguarding, which includes monitoring. It aims to provide a benchmark for those involved in sport with young people to create and maintain a safe sporting environment.
- Standard 9 on implementation and monitoring requires organisations to have a plan to safeguard involved children.
- The standards do not require any external reporting.

**6. Department for Education's Code of Practice on keeping children safe in out-of-school settings<sup>336</sup>**

- Non-statutory guidance sets out safeguarding guidance for providers of out-of-school care for children (i.e. after-school clubs). As the guidance is voluntary, the Department for Education specifies that it will not monitor or assess whether providers actually implement the practices set out.

<sup>333</sup> <https://kentresiliencehub.org.uk/>.

<sup>334</sup> <https://find-npd-data.education.gov.uk/categories>.

<sup>335</sup> <https://thecpsu.org.uk/resource-library/tools/standards-for-safeguarding-and-protecting-children-in-sport/>.

<sup>336</sup> <https://www.gov.uk/government/publications/keeping-children-safe-in-out-of-school-settings-code-of-practice>.

<p>(c) <u>Disabled People</u></p>	<p><u>Existing Legislation – International</u></p> <ol style="list-style-type: none"> <li><b>UN Convention on the Rights of Persons with Disabilities 2009 and optional protocol 2009</b> <ul style="list-style-type: none"> <li>UK ratified this Convention so agreed to promote, protect and ensure full realisation of all human rights for disabled people. The Convention covers a broad range of rights from the right to life, access to justice and equality before the law, to the right to education, independent living, employment and adequate standard of living. UK has also ratified an Optional Protocol to the CRPD 2009, which enables the Committee on the Rights of Persons with Disabilities to consider complaints from disabled people who think their rights under the Convention have been breached and gives the Committee a right to hold an inquiry when there is evidence of gross and systematic violations of disabled people’s rights.<sup>337</sup></li> </ul> </li> <li><b>Equality Act 2010 (as below under Non-discrimination)</b> <ul style="list-style-type: none"> <li>Under this Act, disability is a protected characteristic, and therefore reporting pursuant to this Act is relevant to the this sub-category.</li> </ul> </li> </ol> <p><u>Existing Legislation – National</u></p> <ol style="list-style-type: none"> <li><b>WRA 2012</b> <ul style="list-style-type: none"> <li>Covers universal credit, jobseekers allowance and personal independence payment, child support maintenance and the use of jobcentres.</li> <li>Established the Social Mobility and Child Poverty Commission and amended the Child Poverty Act 2010.<sup>338</sup></li> </ul> </li> <li><b>Local Council Assistance</b> <ul style="list-style-type: none"> <li>If people are on low income/savings, local councils may provide meals, carers, transport etc.<sup>339</sup></li> <li>Disabled people have the legal right to a free care needs assessment to work out how much help they need to live as independently as possible.<sup>340</sup></li> </ul> </li> </ol>
	<p><u>Proposed Legislation</u></p> <ol style="list-style-type: none"> <li><b>Government Consultation on Mandatory Disability Workforce Reporting</b> <ul style="list-style-type: none"> <li>Carried out in early 2022 as a response to limited uptake of the voluntary framework. Awaiting government response to the consultation.</li> </ul> </li> <li><b>Disability Benefit Assessments (Recording) Bill</b> <ul style="list-style-type: none"> <li>To give applicants for Disability Benefit the option of their eligibility assessment being audio recorded.<sup>341</sup> The second reading at the House of Commons is scheduled for late January 2023.</li> </ul> </li> </ol>

<sup>337</sup> <https://www.disabilityjustice.org.uk/take-action/human-rights/>.

<sup>338</sup> [https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23\\_T602165104&format=GNBFULL&startDocNo=0&resultsUrlKey=0\\_T602165105&backKey=20\\_T602165106&csi=274768&docNo=1&scrollToPosition=0](https://www.lexisnexis.com/uk/legal/results/enhdocview.do?docLinkInd=true&ersKey=23_T602165104&format=GNBFULL&startDocNo=0&resultsUrlKey=0_T602165105&backKey=20_T602165106&csi=274768&docNo=1&scrollToPosition=0).

<sup>339</sup> <https://www.moneyhelper.org.uk/en/family-and-care/long-term-care/local-authority-funding-for-care-costs-do-you-qualify>.

<sup>340</sup> <https://www.moneyhelper.org.uk/en/family-and-care/long-term-care/how-to-challenge-your-local-authority-over-your-care>.

<sup>341</sup> <https://bills.parliament.uk/bills/3258>.

Voluntary/ Market

**1. DWP's Voluntary Reporting Framework**

- Provides employers a framework through which to report data on disability, mental health and wellbeing within the workplace.

**2. Disability Confident Employer Scheme**

- This helps employers improve how they recruit, retain and develop disabled people.<sup>342</sup>

**3. ACAS**

- Offers advice to employees and employers, including assisting disabled people to understand their rights at work.

**4. UK Corporate Governance Code<sup>343</sup>**

- While primarily relevant to Corruption and Tax, the code's provisions on board membership inclusion are relevant for the inclusion of disabled people.

**5. Quieter Hour**

- Quieter time slots arranged in shops to be more inclusive to those with autism.

**6. Office for National Statistics ("ONS")**

- A publicly owned body, the ONS collects and publishes data on a number of demographics through surveys and censuses.

In relation to disabled persons, this has included reports on outcomes for disabled people in the UK,<sup>344</sup> the links between disability and loneliness,<sup>345</sup> and disability and social participation.<sup>346</sup>

<sup>342</sup> <https://www.gov.uk/government/collections/disability-confident-campaign>.

<sup>343</sup> <https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code>.

<sup>344</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/articles/outcomesfordisabledpeopleintheuk/2021#education>.

<sup>345</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilitywellbeingandlonelinessuk/2019>.

<sup>346</sup> <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandsocialparticipationengland/2018>.

(d) <u>Migrants</u>	<p><u>Existing Legislation – International</u></p> <p><b>7. UN 1951 Refugee Convention and 1967 Protocol</b></p> <ul style="list-style-type: none"> <li>• The UK ratified this Convention and its accompanying protocol which together outline the rights of refugees and legal obligations of states to protect them.<sup>347</sup></li> </ul> <p><u>Existing Legislation – National</u></p> <p><b>8. Nationality and Borders Act 2022</b></p> <ul style="list-style-type: none"> <li>• Made the Migration and Economic Development Partnership with Rwanda – those who have their asylum claim deemed inadmissible under the UK’s rules and have made an illegal journey to the UK may be relocated to Rwanda.<sup>348</sup></li> <li>• This proved controversial – criticised by UN Refugee Agency for offending the 1951 Refugee Convention.<sup>349</sup></li> <li>• The initial flight did not take place following a ruling by the European Court of Human Rights (“<b>ECtHR</b>”) – how the Government will respond and whether the policy will continue remains to be seen.</li> </ul>
	<p><u>Proposed Legislation</u></p> <p><b>1. Refugees (Family Reunion) Bill</b></p> <ul style="list-style-type: none"> <li>• To make provision for leave to enter or remain in the UK to be granted to the family members of refugees and of people granted humanitarian protection and for legal aid to be made available for these purposes.<sup>350</sup> =</li> <li>• The Bill has been fast-tracked to its third reading in the House of Lords, for which a date is to be confirmed.</li> </ul>
	<p><u>Voluntary/ Market</u></p> <p><b>2. Private Sector for Refugees (“PS4R”)</b></p> <ul style="list-style-type: none"> <li>• Actors across the development finance/ humanitarian/ business sectors seek to bridge the gap between development work and commercial businesses to facilitate the role of businesses in providing practical solutions.</li> </ul> <p><b>3. The Social Care Institute for Excellence</b></p> <ul style="list-style-type: none"> <li>• Has created a code for Good Practice in Social Care for Refugees and Asylum Seekers, though having not been updated since May 2015 it could be queried how influential this is in practice.<sup>351</sup></li> </ul>

<sup>347</sup> <https://www.unhcr.org/uk/1951-refugee-convention.html>.

<sup>348</sup> <https://www.gov.uk/government/publications/migration-and-economic-development-partnership-with-rwanda/migration-and-economic-development-partnership-with-rwanda-equality-impact-assessment-accessible#:~:text=The%20Migration%20and%20Economic%20Development%20Partnership%20with%20Rwanda%20means%20those,processing%20under%20their%20asylum%20system.>

<sup>349</sup> [https://www.rescue.org/uk/article/what-uk-nationality-and-borders-act-and-what-does-it-mean-refugees-uk.](https://www.rescue.org/uk/article/what-uk-nationality-and-borders-act-and-what-does-it-mean-refugees-uk)

<sup>350</sup> [https://bills.parliament.uk/bills/3164.](https://bills.parliament.uk/bills/3164)

<sup>351</sup> [https://www.scie.org.uk/publications/guides/guide37-good-practice-in-social-care-with-refugees-and-asylum-seekers/.](https://www.scie.org.uk/publications/guides/guide37-good-practice-in-social-care-with-refugees-and-asylum-seekers/)

	<p><b>4. Housing and Migration Network</b></p> <ul style="list-style-type: none"> <li>Made up of policy influencers and practitioners from across the public, private and voluntary sectors, and works towards creating solutions for housing migrants. They have produced a number of reports relating to migration trends and the private renting sector.<sup>352</sup></li> </ul>
(e) <u>Peaceful Societies</u>	<p><u>Existing Legislation – National</u></p> <p><b>5. Human Rights Act 1998 / European Convention on Human Rights</b></p> <ul style="list-style-type: none"> <li>Enacts the Articles of the ECHR into English law.</li> <li>Of particular relevance is Article 11: the right of freedom of peaceful assembly and association with others. Includes the right to protest in a peaceful way (static protests, marches, parades and processions, demonstrations and rallies).</li> <li>Police may not prevent or restrict such protests or impose ‘unreasonable indirect restrictions’ on people exercising this right. Any measures taken by the police pre-emptively to restrict the exercise of this right will be subject to particular scrutiny.<sup>353</sup></li> <li>The police also have a positive duty to take reasonable steps to protect people in exercising this right (i.e. where there is a threat of disruption or disorder from others).</li> <li>Article 5: ‘right to liberty and security’ provides for explicit cases where people may be deprived of their liberty, including in lawful arrest or detention. The Article provides for the treatment of people in these circumstances.</li> </ul> <p><b>6. Public Order Act 1986 (as amended by the Criminal Justice and Public Order Act 1954; Racial and Religious Hatred Act 2006)</b></p> <ul style="list-style-type: none"> <li>Part 1 creates public order offences of riot, violent disorder, affray, fear of provocation of violence and intentional harassment, alarm or distress. Part 2 regulates the practice of assemblies (including protests) and processions.</li> <li>Notably, sections 12, 14 and 14A provide the police with powers to limit public assemblies. The police may exercise this power if they reasonably believe the procession/ assembly may result in ‘public disorder, serious criminal damage or serious disruption to the life of the community’. The police may impose conditions relating to the number of participants, location and duration of the assembly. Part 3 creates aggravated offences for acts which exemplify racial and religious hatred.</li> </ul> <p><i>Other Legislation relevant to peaceful societies but not relevant from a social investing standpoint, included for completeness only: Criminal Justice and Public Order Act 1994 (as amended by the Crime and Disorder Act 1998); Crime and Courts Act 2013; Criminal Justice Act 2003 (as amended by the Criminal Justice and Immigration Act 2008); Anti-Social Behaviour Act 2003; Violent Crime Reduction Act 2006; Police, Crime, Sentencing and Courts Act 2022.</i></p>

<sup>352</sup> <https://www.jrf.org.uk/report/uk-migrants-and-private-rented-sector>.

<sup>353</sup> <https://www.college.police.uk/app/public-order/core-principles-and-legislation/core-principles-and-legislation>.

## Proposed Legislation

### 1. **Women, Peace and Security Bill (HL)**

- A private members' bill starting in the HL from the current 2022-2023 parliamentary session.<sup>354</sup>
- "A Bill to support women in UK sponsored and supported conflict prevention, peace processes, mediation and diplomatic delegations; to ensure systematic gender consideration and responsiveness in UK foreign and defence purposes"
- Would apply *outside the UK* in relation to the UK's foreign affairs. Currently awaiting a date for the committee stage.

### 2. **Bill of Rights Bill (HC)**

- A government bill starting in the HC in the current 2022-2023 parliamentary session which would repeal and replace the HRA 1998.<sup>355</sup>
- As above, the current government are no longer pursuing this Bill but are considering other options for reform which may invoke the area of 'peaceful societies'.

## Voluntary/ Market

### 1. **CrimeRate**

- Provides data analysis tools to allow location-based crime to be viewed by users. A similar initiative in Scotland (the **Violence Reduction Unit**) seeks to map violence and knife crime.

### 2. **JUSTICE**

- Charity producing reports and research relating to access to justice, with a particular focus on the treatment of individuals from underserved sectors of society within the justice system.

### 3. **Institute for Economics and Peace: UK and Global Peace Index**

- IEP uses scoring and measurement metrics based on information from a Local Authority level to inform quantitative reports mapping 'peace' both in the UK and Globally.<sup>356</sup>
- IEP uses five indicators, measuring (per 100,000 people) the number of homicides, violent crimes, weapons crime, public disorder offences, and police officers. Also draws conclusions on wider socioeconomic circumstances and their correlation with violence. Outlines the value of peace to the UK Economy, economic benefits of improvements in peace and the total cost of violence.
- Instead of being a framework/ regime – the UKPI is an outcome document, but the information about its methodology may be relevant to III.

### 4. **Clinks**

- Seeks to align the voluntary sector working within the criminal justice system and provides an overview of the different organisations working in this area and their resources.

<sup>354</sup> <https://bills.parliament.uk/bills/3178>.

<sup>355</sup> <https://bills.parliament.uk/bills/3227>.

<sup>356</sup> UK report example: [https://www.economicsandpeace.org/wp-content/uploads/2015/06/UK\\_Peace\\_Index\\_report\\_2013\\_0.pdf](https://www.economicsandpeace.org/wp-content/uploads/2015/06/UK_Peace_Index_report_2013_0.pdf).

## 4. Rights to basic services and amenities

Although there is debate as to what services and amenities are considered fundamental in terms of the absolutely minimum resources necessary for long-term physical wellbeing, we have focused on the following basic needs: healthcare, housing (including access to water and sanitation), education and food.

The key international treaty, to which the UK has voluntarily ratified and is therefore legally bound to, is the ICESCR 1976.<sup>357</sup> It recognises the right of everyone to “adequate food, clothing and housing, and to the continuous improvement of living conditions”<sup>358</sup>.

Sub-Topic	Law/Principle/Association
(a) <u>Applicable to All</u>	<p><b>ICESCR 1976 (as detailed under ‘Employment’ above)<sup>359</sup></b></p> <ul style="list-style-type: none"> <li>Article 11(1) of the treaty recognises the right of everyone to an adequate standard of living, including adequate food, clothing and housing, and to the continuous improvement of living conditions.</li> <li>Article 11(2) guarantees the fundamental right of everyone to be free from hunger, and obliges State Parties (i.e. those countries that have voluntarily agreed to be bound by the treaty) to take steps in this regard, including the improvement of methods of distribution of food, and dissemination of knowledge concerning the principles of nutrition.</li> </ul>
(b) <u>Healthcare</u>	<p><u>Existing Legislation</u></p> <ol style="list-style-type: none"> <li><b>Equality Act 2010 (as above)</b> <ul style="list-style-type: none"> <li>All public authorities are required to have due regard to the aims of the Public Sector Equality Duty (PSED) of the Equality Act 2010 in exercising their functions, such as when making decisions and when setting policies.</li> <li>The Equality Act 2010 (Specific Duties) Regulations 2011 specifies additional duties on public authorities including the NHS. Duties include eliminating unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, and advancing the equality of opportunity and fostering good relations between people who share a protected characteristic and those who do not.</li> <li>In addition to the Equality Act, the following legislation also imposes duties on equality in healthcare: <b>the Public Services (Social Value) Act 2012, the Autism Act 2009, and the Children’s Act 2004.</b></li> <li>In order to demonstrate compliance with equalities legislation and, specifically, the PSED, there needs to be evidence that demonstrates the impact or potential impact that the NHS has on people sharing protected characteristics. This evidence could be in the form of policy papers, project documentation or background research that takes into account what they know about the equality implications of their work. Importantly, any conclusions arising from equality analysis should be influence the service and the material produced.</li> </ul> </li> <li><b>National Health Service Act 2006 (as amended by the Health and Social Care Act 2012)</b> <ul style="list-style-type: none"> <li>Sets out the structure of the NHS in the UK, consolidating existing legislation and integrating provisions on health and social care.</li> </ul> </li> </ol>

<sup>357</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

<sup>358</sup> ICESCR 1976, Art. 11.

<sup>359</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.

Sub-Topic	Law/Principle/Association
	<p><b>3. On the NHS and Health Inequalities</b> [relevant to Ill's focus on underserved sectors of society]:</p> <ul style="list-style-type: none"> <li>• The NHS' 'Five Year Forward View'<sup>360</sup> articulates the need to address the health and wellbeing gap to prevent widening of health inequalities through investment in healthcare where deprivation is higher.</li> <li>• Health inequalities are defined as "differences in health status or in the distribution of health determinants between different population groups"<sup>361</sup>. There is clear evidence that reducing health inequalities improves life expectancy and reduces disability across the social gradient. Tackling health inequalities is therefore core to improving access to services, health outcomes, improving the quality of services and the experiences of people. It is also core to the NHS Constitution and the values and purpose of the NHS.</li> <li>• The NHS Constitution<sup>362</sup> states that the NHS has a duty to "...pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population".</li> <li>• This is reflected in the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012), which introduced for the first time legal duties to reduce health inequalities, with specific duties on Clinical Commissioning Groups (CCGs) and the NHS (as below).</li> </ul> <p><b>4. Health and Social Care Act 2008 (as amended by the Health and Social Care Act 2012)</b></p> <ul style="list-style-type: none"> <li>• Established the Care Quality Commission (CQC) as the regulator of all health and adult social care services.</li> <li>• It is the overarching legislation under which a number of regulations have been made, including: the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Care Quality Commission (Registration) Regulations 2009.</li> <li>• The Health and Social Care Act 2012 introduced the first legal duties on health inequalities (as above), with specific duties on the NHS<sup>363</sup> and CCGs<sup>364</sup>, as well as duties on the Secretary of State for Health.</li> <li>• The Act does not define a list of groups impacted by the duties, rather any group experiencing health inequalities is covered – the CCGs and NHS must consider the whole of the population and identify inequalities within that population group.</li> <li>• Judicial review is an available remedy if the CCG and NHS fail to properly discharge their duties. As the health inequality duties are new legal duties there is currently no reported case law. However, principles emerging from a challenge to the PSED, the 'Brown principles'<sup>365</sup>, are also relevant to the health inequalities duties.</li> </ul>

<sup>360</sup> <https://www.england.nhs.uk/five-year-forward-view/>.

<sup>361</sup> <http://www.who.int/hia/about/glos/en/index1.html>.

<sup>362</sup> NHS Constitution for England (2012), available at: <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>.

<sup>363</sup> Duties on the NHS include having regard to the need to reduce inequalities between patients in access to health services and the outcomes achieved (s. 13G); exercising its functions with a view to securing that health services are provided in an integrated way, and are integrated with health-related and social care services, where it considers that this would improve quality, reduce inequalities in access to those services or reduce inequalities in the outcomes achieved (s. 13N); including in an annual business plan an explanation of how it proposes to discharge its duty to have regard to the need to reduce inequalities (s. 13T); including in its annual report an assessment of how effectively it discharged its duty to have regard to the need to reduce inequalities (s. 13U); conducting an annual assessment of CCGs, including an assessment of how well each CCG has discharged their duty to have regard to the need to reduce inequalities, and publishing a summary of the result (s. 14Z16).

<sup>364</sup> These duties on the CCG include: having regard to the need to reduce inequalities between patients in access to health services and the outcomes achieved (s. 14T); Exercising their functions with a view to securing that health services are provided in an integrated way where they consider that this would improve quality, reduce inequalities in access to those services or reduce inequalities in the outcomes achieved (s.14Z1); include in an annual commissioning plan an explanation of how they propose to discharge their duty to have regard to the need to reduce inequalities (s. 14Z11); include in an annual report an assessment of how effectively they discharged their duty to have regard to the need to reduce inequalities (s. 14Z15).

<sup>365</sup> *R (Brown) v Secretary of State for Work and Pensions* (2008) EWHC 3158 (Admin).

Sub-Topic	Law/Principle/Association
	<ul style="list-style-type: none"> <li>• The NHS and CCGs are subject to reporting requirements in relation to their inequality duties.</li> <li>• Further, these amendments included changes on clinically led commissioning; providing regulation to support innovative services; providing a greater voice for patients; a new focus for public health; greater accountability and streamlined arms-length bodies.</li> </ul> <p><b>5. Health and Social Care Act 2008 (Regulated Activities) Regulations 2014</b></p> <ul style="list-style-type: none"> <li>• Governs how care is to be administered in the UK.</li> <li>• These regulations are enforced by the CQC.</li> <li>• Section 2 governs fundamental standards.</li> </ul> <p><b>6. The Care Act 2014</b></p> <ul style="list-style-type: none"> <li>• Contains provisions regarding healthcare workers.</li> </ul> <p><b>7. Mental Health Act 1983 (as amended by the Mental Health Act 2007)</b></p> <ul style="list-style-type: none"> <li>• Main piece of legislation covering the assessment, treatment, and rights of people with mental health disorders.</li> <li>• Specifically, this covers the treatment of people who are detained and treated without their agreement where a mental health disorder means that they are at a risk of harm to themselves or others.</li> </ul> <p><b>8. Health and Care Act 2022</b></p> <ul style="list-style-type: none"> <li>• Introduced new measures that make it easier for health and care organisations to deliver joined-up care for people who rely on multiple different services. Establishes a legislative framework supporting collaboration and partnership, working to integrate services for patients – through the introduction of ‘Integrated Care Systems’ (ICSs). These align local authorities and other local partners together to collectively plan health and care services to meet the needs of their local population, emphasising collaboration.</li> <li>• Targeted changes to public health, social care and the oversight of quality and safety.</li> <li>• The Secretary of State is given more powers to intervene in decisions about changes to local services and to direct NHS England (subject to safeguards to limit the scope of intervention).</li> <li>• National Voices, Age UK, the Richmond Group of Charities and the Kings Fund have all been active in this area to push for the NHS to work together with local authorities and communities.</li> </ul> <p><b>9. Social Security (Special Rules for End of Life) Act 2022<sup>366</sup></b></p> <ul style="list-style-type: none"> <li>• Extends certain social security rules that already apply where life expectancy is 6 months or less, to where life expectancy is 12 months or less.</li> </ul>

<sup>366</sup> <https://www.legislation.gov.uk/ukpga/2022/42/contents/enacted>.

## Proposed Legislation

### 1. **Healthy Homes Bill**<sup>367</sup>

- Private Members' Bill, currently awaiting date for a third reading in the House of Lords.
- If passed, it would set out a new duty for the government to deliver healthy homes through the creation of 'healthy homes' principles and a new 'healthy homes commissioner'.
- This is closely linked with **Housing**: it was drafted by the Town and Country Planning Association, who have been campaigning for new legislation to regulate the built environment, arguing that "too many homes and neighbourhoods currently undermine residents' health and wellbeing. Would relate to people's needs for access to green space, local services, clean air and natural light. Linking 'housing' and 'healthcare', the bill would introduce legally binding healthy homes principles which simplify the regulation of the built environment, which would be used as a framework to improve the quality of new developments.
- A Variety of organisations have given their support to the suggested healthy homes principles", including Age UK, Chartered Institute for Housing and the Chartered Institute for Environmental Health.

### 2. **Health Promotion Bill**<sup>368</sup>

- If passed, it would re-establish the Office of Health Improvement and Disparities as the Office as Health Promotion, and would establish a National Plan for Sport to coordinate, support and maintain access to sporting and recreational facilities for public health.

### 3. **Draft Mental Health Bill**<sup>369</sup>

- Led by the department of Health and Social Care and the Ministry of Justice to deliver on two government manifesto commitments (this was before the change of government, so could be disregarded by current government): to reform the mental health act and to improve the way that people with a learning disability and autistic people are treated in law.
- Intends to give people greater control over their treatment; more transparency and accountability in clinical decision-making; better advocacy; more opportunities to appeal against detention and to ensure they are treated with dignity and respect.

### 4. **Social Security Benefits (Healthy Eating) Bill**<sup>370</sup>

- Private Members' Bill, scheduled to have its second reading on 20 January 2023 in the House of Commons.
- If passed, it would require the Secretary of State to publish annual calculations of the benefit and tax credit rates that would be required for a representative household to afford to buy meals in accordance with the 'Eatwell Guide' to eating healthily.

### 5. **Health Disparities White Paper**

- Yet to be published despite widespread pressure for the government to do so.<sup>371</sup>

<sup>367</sup> <https://bills.parliament.uk/bills/3171>.

<sup>368</sup> <https://bills.parliament.uk/bills/3180>.

<sup>369</sup> <https://www.gov.uk/government/publications/draft-mental-health-bill-2022>.

<sup>370</sup> <https://bills.parliament.uk/bills/3265>.

<sup>371</sup> <https://www.nhsconfed.org/publications/health-disparities-white-paper>.

## Voluntary Measures

### **1. Code of Conduct for Healthcare support workings and Adult Social Care Workers<sup>372</sup>**

- Applies to healthcare support workers and adult social care workers in setting standards of conduct expected in providing safe, guaranteed care and support. A voluntary code but seen as a sign of best practice.

### **2. ISO 45001**

- International standard of Health and Safety aims to help all organisations improve employee safety and health.

### **3. Health & Care Professions Council Standards of Conduct, Performance and Ethics<sup>373</sup>**

- An industry regulator regulating health and care professionals. The Standards provide an ethical framework within which the registrants must operate.

### **4. NHS Equality and Diversity Council**

- Provides leadership on equality and diversity issues across the NHS to improve access, experiences and health outcomes for all patients and to help the NHS be a more inclusive employer by making full use of the talent of its diverse staff and communities.
- The Council establishes and shares a clear evidence base to understand and address key and emerging issues.<sup>374</sup>

### **5. The Equality Delivery System**

- Allows NHS organisations to improve the services they provide for local communities and improve working environments in line with the EA 2010.

### **6. Sexual Orientation Monitoring Information Standard**

- Ensures uniformity when reporting on patient's sexuality.

### **7. Institute of Health Equity**

- Monitors trends in health inequalities and disseminates best practice.

### **8. NHS Race and Health Observatory**

- Gathers and analyses evidence that is then used in policymaking decisions.

### **9. Inequalities in Health Alliance**

- A coalition of healthcare organisations that campaigns for a cross-government strategy to address health inequalities.<sup>375</sup>

### **10. Black Equity Organisation**

- An antiracist campaign group that have published influential research into racism in the UK as it exists in healthcare and other settings.<sup>376</sup>

<sup>372</sup> <https://www.skillsforhealth.org.uk/info-hub/code-of-conduct-for-healthcare-support-workers-and-adult-social-care-workers/>.

(c) Housing

Existing Legislation

*There is a wealth of UK Legislation dealing with housing. In light of the Ill's objective on focussing on under-served demographics, a particular focus is given here to legislation dealing with homelessness.*

**1. Housing Acts 1996/ 2004**

- Extended the regulation of houses in multiple occupation; deals with tenancy deposit schemes; introduced the Housing Health and Safety Rating System (“HHSRS”), which requires the owners or landlords of buildings responsible for assessing risks to health and safety and removing them.
- Part 7 of the Housing Act 1996 provides the statutory under-pinning for action to prevent homelessness and provide assistance to people threatened with homelessness or are homeless.

**2. Homelessness Act 2002 and Homelessness (Priority Need for Accommodation) (England) Order 2002**

- Aimed to take a more strategic approach to tackling and preventing homelessness. Every housing authority district is required to have a homelessness strategy.
- Also strengthened the assistance available to people are homeless or threatened with homelessness by extending the priority need categories to 16/17 year olds, care givers aged 18-20, people who are vulnerable because of time spent in care, the armed forces, prison or custody, or because they have fled their home because of violence.
- All housing authorities must have a homelessness strategy in place based on a review of all forms of homelessness in their area, which must be renewed once every 5 years.

**3. Homelessness Reduction Act 2017**

- Places duties on local authorities to intervene at earlier stages to prevent homelessness in their areas. Requires housing authorities to provide homelessness services to all of those affected, not just those who have a priority need.
- Creates a new duty on housing authorities for those who are already homeless by helping them secure accommodation.
- Certain public authorities have a duty to refer service users to a housing authority users who they think may be threatened with homelessness or already homeless. Housing authorities should incorporate this duty to refer into their homelessness strategy, establish effective partnerships and working arrangements with agencies to facilitate appropriate referrals.

**4. Domestic Abuse Act 2021**

- Strengthens Part 7 of the 1996 Act (as above) to strengthen the support available to victims of domestic abuse who are homeless as a result. Created a new definition of domestic abuse that housing authorities must follow to assess whether an applicant is homeless as a result of being a victim of domestic abuse.

**5. Equality Act 2010**

- Under the EA 2010 (as detailed above) housing authorities need to ensure that decisions relating to homelessness/threatened homelessness do not amount to unlawful conduct, and that they comply with the public sector equality duty.

<sup>373</sup> <https://www.hcpc-uk.org/standards/standards-of-conduct-performance-and-ethics/>.

<sup>374</sup> <https://www.england.nhs.uk/about/equality/equality-hub/patient-equalities-programme/edc/>.

<sup>375</sup> <https://www.rcplondon.ac.uk/projects/inequalities-health-alliance>.

<sup>376</sup> See their two reports Brick Wall After Brick Wall and Systemic Change Required at <https://blackequityorg.com/black-voices-reports/>.

- As above, the equality act provides protection from unlawful discrimination in relation to (inter alia) housing and in relation to protected characteristics. Public authorities, including housing authorities, are required to integrate equality considerations into their decision-making process relating to homelessness and threatens homelessness.

## 6. Human Rights Act 1998

There are implications for housing authorities under the HRA 1998 (as detailed above).

- Housing authorities under Article 3 have an obligation to prevent a person being subjected to treatment or punishment that is inhuman or degrading, to investigate any allegations of such treatment and protect vulnerable individuals;
- Article 4: housing authorities should ensure that their policies take measures to protect victims of modern slavery or trafficking; and
- Article 8: housing authorities should try to ensure that their policies do not interfere with a person's right to respect for private and family life, their home and their correspondence.
- Ultimately, where there may be human rights implications involved in the action or exercise of their powers, housing authorities are expected to consider the terms of the HRA 1998.

### Proposed Legislation

#### 1. Social Housing (Regulation) Bill<sup>377</sup>

- Government Bill originating in the HL backed by the Department for Levelling Up, Housing and Communities, currently awaiting a date for its report stage. Part of the government's response following Grenfell to regulate social housing landlords on consumer issues like safety, transparency and tenant engagement.
- If passed, it will make provision about the regulation of social housing and the terms of approved schemes for the investigations of housing complaints.
- Includes new powers for the Regulator of Social Housing, which are "intended to bring parity between how economic and consumer issues are regulated in the sector".<sup>378</sup> The Bill will (1) introduce a new, proactive consumer regulation regime, (2) refine the existing economic regulatory regime, and (3) strengthen the sector regulator to help implement the consumer and economic regimes.
- As a "largely uncontroversial" piece of legislation, it is likely to be passed into law.

#### 2. Renters Reform Bill (Campaign)<sup>379</sup>

- Put forward to provide renters with more long-term security in their homes, improve housing standards, enhance landlord, housing management agent and letting agent practice, empower renters to enforce their rights and tackle discrimination.
- Not yet a formalised 'Bill' – but has been included in a February 2022 White Paper (Levelling Up), included in the Queen's Speech, and the government's plans were further set out in the government's 'A Fairer Private Rented Sector White Paper' (June 2022). The previous government had committed to bringing forward the Bill in this parliamentary session (by the end of 2022) – it remains to be seen whether the current government will maintain this.
- Campaign currently running by the charity Shelter includes proposals to (1) get rid of 'no fault' evictions; (2) create a register of landlords; (3) introduce a private rented ombudsman to help enforce renters' rights; (4) make it illegal for landlords and agents to refuse to rent properties to people who receive benefits; and (5) give local authorities more power in enforcing and protecting renters' right.<sup>380</sup>

<sup>377</sup> <https://bills.parliament.uk/bills/3177>.

<sup>378</sup> <https://lordslibrary.parliament.uk/research-briefings/lln-2022-0018/>.

<sup>379</sup> <https://www.gov.uk/government/news/government-to-deliver-new-deal-for-renters>.

<sup>380</sup> [https://england.shelter.org.uk/support\\_us/campaigns/renters\\_reform\\_bill](https://england.shelter.org.uk/support_us/campaigns/renters_reform_bill).

## Voluntary Measures

### **1. National Housing Federation Code of Conduct<sup>381</sup>**

- Sets standards for housing associations that are members of the NHF. Includes guidance on (1) acting in the best interest of the housing association and its residence; (2) behaving with integrity; (3) Conducting yourself professionally and treating others well; and (4) Protecting yourself, others and the environment.

### **2. NHF Code of Governance 2020<sup>382</sup>**

- Sets out the standards for housing associations in their internal governance. Code includes standards that housing associations, their boards, and the wider sector should comply with.

### **3. Chartered Institute of Housing (“CIH”) Professional Standards<sup>383</sup>**

- CIH is the industry body for those working in the housing profession. The Professional Standards are more like principles by which professionals in this industry should operate, and comprise: integrity; inclusivity; ethical; knowledgeable; skilled; advocate and leadership.

### **4. Available Affordable Home Ownership Schemes<sup>384</sup>**

- Help to Buy Equity Loan (ending soon)
- SDLT relief included in the most recent mini budget
- Mortgage Guarantee Scheme
  - o A UK wide government scheme to help to increase the supply of 5% deposit mortgages for credit-worthy households by supporting lenders to offer these products through a government backed guarantee on new 95% mortgages until 31 December 2022.
- First Homes
  - o A new scheme supporting local first time buyers including key workers on to the property ladder by offering new-build homes at least 30% discount compared to market prices.
- Shared Ownership
  - o Scheme to buy a portion of a home and rent the remaining share
- Right to Buy
  - o Scheme for council tenants in England to buy the home they rent with a discount of up to £87,200 (£116,200 in London).

<sup>381</sup> [https://www.housing.org.uk/nhf\\_catalog/publications/code-of-conduct2022/](https://www.housing.org.uk/nhf_catalog/publications/code-of-conduct2022/).

<sup>382</sup> [https://www.housing.org.uk/nhf\\_catalog/publications/code-of-governance-2020/](https://www.housing.org.uk/nhf_catalog/publications/code-of-governance-2020/).

<sup>383</sup> <https://www.cih.org/professional-standards>.

<sup>384</sup> <https://www.gov.uk/affordable-home-ownership-schemes>.

<p>(d) <u>Food</u></p>	<p><u>Existing Legislation – International</u></p> <ol style="list-style-type: none"> <li>1. <b>ICESCR 1976</b> Guarantees the fundamental right of everyone to be free from hunger.<sup>385</sup> <ul style="list-style-type: none"> <li>• Signatory states have an obligation to improve methods of distribution of food, and dissemination of knowledge concerning the principles of nutrition.</li> </ul> </li> <li>2. <b>Universal Declaration of Human Rights</b> <ul style="list-style-type: none"> <li>• Recognises the right to a standard of living adequate for their health including food.<sup>386</sup></li> </ul> </li> <li>3. <b>UN Special Rapporteur on the Right to Food</b> <ul style="list-style-type: none"> <li>• This is an independent expert appointed by the UN to examine, monitor, advise and publicly report on realisation of the right to food.</li> <li>• They define the right to food as “the right to have regular, permanent and free access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensures a physical and mental, individual and collective, fulfilling and dignified life free of fear.”<sup>387</sup></li> </ul> </li> </ol> <p><u>Existing Legislation - National</u></p> <ol style="list-style-type: none"> <li>4. <b>Government Food Strategy [N.B. not legislation]</b> <ul style="list-style-type: none"> <li>• In response to the National Food Strategy (the result of an independent review of the UK’s current food system), the Department for Environment, Food and Rural Affairs published their Food Strategy in June 2022 outlining their response (“Government Food Strategy”).<sup>388</sup></li> <li>• Measures include ways to make food more affordable and a “school food revolution” including placing food on the curriculum and improving the nutritional value of school meals.</li> <li>• This Strategy has received criticism from food banks and related charities for not going far enough.<sup>389</sup></li> </ul> </li> </ol> <p>NB – the government was due to publish a Health Disparities White Paper but this has been dropped despite there being pressure from the healthcare sector.<sup>390</sup></p>
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<sup>385</sup> ICESCR 1976, Art. 11(2).

<sup>386</sup> Article 25 of the Declaration, more information here: [https://www.sustainweb.org/righttofood/uk\\_right\\_to\\_food\\_international\\_commitments/](https://www.sustainweb.org/righttofood/uk_right_to_food_international_commitments/).

<sup>387</sup> UN Special Rapporteur on the Right to Food, *Jean Ziegler, Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, including the Right to Development*, 2008, para. 17, available at: <http://www.righttofood.org/wp-content/uploads/2012/09/AHRC75.pdf>.

<sup>388</sup> <https://www.nationalfoodstrategy.org/>; <https://www.gov.uk/government/publications/government-food-strategy>.

<sup>389</sup> <https://www.sustainweb.org/national-food-strategy/>.

<sup>390</sup> <https://www.theguardian.com/politics/2022/sep/29/therese-coffey-scraps-promised-paper-on-health-inequality#:~:text=The%20health%20secretary%20has%20decided,mission%20to%20level%20up%20Britain>; <https://www.rcplondon.ac.uk/news/over-155-organisations-urge-health-and-social-care-secretary-publish-health-disparities-white>.

	<p><b>5. Free School Meals</b></p> <ul style="list-style-type: none"> <li>• The UK government provides free school meals to children from low income families.<sup>391</sup></li> <li>• Local authorities bear the responsibility for administering free school meals.<sup>392</sup></li> <li>• Children that qualify for free school meals also qualify for the Holiday Activity and Food Programme (healthy food and enriching activities during school holidays).<sup>393</sup></li> </ul> <p><b>6. Food Banks [N.B. not legislation]</b></p> <ul style="list-style-type: none"> <li>• In the UK, food banks are run by a range of volunteer-based organisations, redistributing food donated by consumers, retailers and the food industry.<sup>394</sup></li> <li>• The largest network is co-ordinated by the Trussell Trust which has more than 400 food banks UK-wide.</li> <li>• Also the Just Fair Consortium monitors and aims to secure human rights outlined in ICESCR 1976 including the right to food.<sup>395</sup></li> </ul>
	<p><u>Proposed Legislation</u></p> <p><b>1. Free School Meals (Primary Schools) Bill 2022-23<sup>396</sup></b></p> <ul style="list-style-type: none"> <li>• This Bill would extend eligibility for free school meals to all children in state primary schools, and is scheduled to have its second reading in late March 2023.</li> </ul> <p><b>2. Social Security Benefits (Healthy Eating) Bill</b></p> <ul style="list-style-type: none"> <li>• This law would require the government to ensure that benefit and tax rates are calculated in order to allow a representative household to afford to eat healthily. It is scheduled to have its second reading in early February 2023. <i>[As more fully explained in the above 'Healthcare' subsection]</i></li> </ul> <p>The charity <b>Sustain</b> is pressuring the UK government to implement the right to food as UK law and follow a 7 step process as outlined in the UN's Food and Agriculture Organisation which would include a more robust monitoring system for ensuring individuals have the right to food.<sup>397</sup></p>

<sup>391</sup> <https://www.gov.uk/apply-free-school-meals>.

<sup>392</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-9209/>.

<sup>393</sup> <https://www.gov.uk/government/publications/holiday-activities-and-food-programme/holiday-activities-and-food-programme-2021>.

<sup>394</sup> House of Commons Library, *Food Banks and Food Poverty*, 2013, p. 1.

<sup>395</sup> [https://justfair.org.uk/campaigns-2/right-to-food/#:~:text=Legal%20obligations,-The%20International%20Covenant&text=Article%2011\(1\)%20of%20the,continuous%20improvement%20of%20living%20conditions](https://justfair.org.uk/campaigns-2/right-to-food/#:~:text=Legal%20obligations,-The%20International%20Covenant&text=Article%2011(1)%20of%20the,continuous%20improvement%20of%20living%20conditions).

<sup>396</sup> <https://bills.parliament.uk/bills/3393>.

<sup>397</sup> [https://www.sustainweb.org/righttofood/what\\_we\\_want\\_government\\_to\\_do/](https://www.sustainweb.org/righttofood/what_we_want_government_to_do/).

	<p><u>Voluntary/Market</u></p> <ol style="list-style-type: none"> <li><b>1. Olio</b> <ul style="list-style-type: none"> <li>• High street food and supermarket chains such as Pret A Manger, KFC and Tesco partnered with Olio (a charity aiming to end food waste) to redistribute their surplus food to those in need.<sup>398</sup></li> </ul> </li> <li><b>2. FareShare</b> <ul style="list-style-type: none"> <li>• Similarly to Olio, FareShare collects surplus food from organisations and redistributes to school breakfast clubs, older people’s lunch clubs, homeless shelters and community cafes.<sup>399</sup></li> </ul> </li> <li><b>3. In-House Measures</b> <ul style="list-style-type: none"> <li>• The largest supermarket companies in the UK have their own surplus food redistribution networks.<sup>400</sup></li> </ul> </li> </ol>
(e) <u>Education</u>	<p><u>Existing Legislation (International)</u></p> <ol style="list-style-type: none"> <li><b>1. ICESCR 1976 (as detailed above)</b> <ul style="list-style-type: none"> <li>• Articles 10, 13 and 14 set out obligations to educate.</li> <li>• The right to education covers primary, secondary and higher education and ‘fundamental education’ for those who have not completed primary education.</li> <li>• Under ICESCR 1976, access to a primary education is compulsory, free and absolute.</li> <li>• The state has a positive obligation to make the whole education system accessible to all including disabled children.</li> <li>• Of relevance to III and their focus on underserved demographics is the Committee on Economic, Social and Cultural Rights’ finding that “significant disparities in terms of school performance and dropout rates continue to exist between pupils belonging to ethnic, religious or national minorities, in particular Roma/ Gypsies, Irish Travellers, and other students”.<sup>401</sup></li> </ul> </li> <li><b>2. UN Convention on the Rights of the Child.<sup>402</sup></b> <ul style="list-style-type: none"> <li>• Every child has the right to education and that the aim of that education should be their development to their fullest potential.</li> <li>• Implementation is monitored by the Committee on the Rights of the Child, who have recommended that the UK invest ‘considerable additional resources’ to ensure a ‘truly inclusive education’ for all children.<sup>403</sup></li> </ul> </li> </ol>

<sup>398</sup> <https://olioex.com/about/supporters/>.

<sup>399</sup> <https://fareshare.org.uk/>.

<sup>400</sup> See for example, Morrisons and The Co-Op: <https://my.morrisons.com/community-and-charity/unsold-food-waste-programme/>; <https://www.coop.co.uk/environment/food-share>.

<sup>401</sup> [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGBR%2fCO%2f5&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGBR%2fCO%2f5&Lang=en).

<sup>402</sup> UN Convention on the Rights of the Child, Arts. 28 and 29.

<sup>403</sup> <https://www.ohchr.org/en/treaty-bodies/crc>.

	<p><b>3. UN SDG 4</b></p> <ul style="list-style-type: none"> <li>• UN SDG 4 aims to make education accessible to all:<sup>404</sup> ensuring “inclusive and equitable quality education and promote lifelong learning opportunities for all”.</li> <li>• The UK has reported on all relevant indicators in this area.<sup>405</sup></li> </ul> <p><u>Existing Legislation (National)</u></p> <p><b>4. Education Acts 2002 and 2011</b></p> <ul style="list-style-type: none"> <li>• In accordance with the ICESCR 1976 rights above, under this act there is a duty to secure early years provision free of charge.<sup>406</sup></li> <li>• The Act makes provisions as to academies (i.e. publicly funded schools operating outside of local government control and with autonomy in terms of wages and aligning themselves to the national curriculum). For independent schools, the Act imposed minimum standards in terms of health and safety and space requirements.</li> <li>• The Act also addresses Post age 16 education and training to skills funding.</li> </ul> <p><b>5. Equality Act 2010 (as detailed above)<sup>407</sup></b></p> <ul style="list-style-type: none"> <li>• Schools have a duty to provide reasonable adjustments (auxiliary aids and services) for disabled pupils.<sup>408</sup></li> <li>• There are other obligations in relation to the Positive Action that schools must do to alleviate disadvantaged by pupils with protected characteristics.</li> <li>• Under the Act it is unlawful for the responsible body of a school to discriminate against, harass or victimise a pupil or potential pupil in relation to admissions, the way it provides education, the way that pupils access benefits, facilities or services or by excluding a pupil or subjecting them to any other detriment.</li> </ul> <p><b>6. Education and Inspections Act 2006</b></p> <ul style="list-style-type: none"> <li>• The Education and Inspections Act 2006 gives the Office for Standards in Education, Children’s Services and Skills (“Ofsted”) the power to inspect schools and a range of other education providers to monitor and improve standards of learning across the country.<sup>409</sup></li> <li>• Inspectors also ensure that education providers comply with the EA 2010 and the HRA 1998 [<i>as defined in more detail in the above ‘Non-discrimination’ section</i>].</li> <li>• Inspectors focus on quality of education, behaviour and attitudes, personal development and leadership and management.<sup>410</sup></li> <li>• Ofsted grades can either be ‘outstanding’, ‘good’, ‘requires improvement’ or ‘inadequate’.</li> </ul>
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<sup>404</sup> <https://www.unesco.org/en/education/education2030-sdg4>.

<sup>405</sup> <https://sdgdata.gov.uk/4/>.

<sup>406</sup> Education Act 2011, s. 7.

<sup>407</sup> <https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools>.

<sup>408</sup> [https://www.equalityhumanrights.com/sites/default/files/reasonable\\_adjustments\\_for\\_disabled\\_pupils\\_1.pdf](https://www.equalityhumanrights.com/sites/default/files/reasonable_adjustments_for_disabled_pupils_1.pdf).

<sup>409</sup> Education and Inspections Act 2006, Chapter 1.

<sup>410</sup> <https://www.gov.uk/government/publications/education-inspection-framework/education-inspection-framework>.

	<ul style="list-style-type: none"> <li>• Schools graded ‘requires improvement’ at two successive inspections will be subject to increased monitoring by Ofsted.<sup>411</sup></li> <li>• If a school is judged as ‘inadequate’, the school will become a sponsored academy and may be subject to further increased monitoring and other restructuring measures if the academy does not show the required progress.<sup>412</sup></li> </ul> <p><b>7. Higher Education and Research Act 2017 (“HERA”)</b></p> <ul style="list-style-type: none"> <li>• From a reporting standpoint, this Act requires the OfS to ensure that the ongoing conditions of registration for certain providers includes a transparency condition.</li> <li>• This mandatory condition will apply to all registered higher education providers in either the Approved or Approved (fee cap) part of the OfS Register.</li> </ul> <p><i>[N.B. see Non-discrimination: (d) Education section in the attached long form report for full details].</i></p> <p><b>8. Apprenticeships, Skills, Children and Learning Act 2009</b></p> <ul style="list-style-type: none"> <li>• Created a statutory framework for apprenticeships. Provides a right to an apprenticeship for suitably qualified 16-18 year olds and a right for employees to request time away from their duties to undertake training and a duty for employers to consider such requests.</li> <li>• Designed to assist young people aged 16 – 24 who do not have the appropriate skills or experience, traineeships provide the essential work preparation training, English, maths and work experience required to secure an apprenticeship or employment.<sup>413</sup></li> </ul> <p><b>9. Training and education for those on benefits – The Universal Credit Regulations 2013</b></p> <ul style="list-style-type: none"> <li>• Attendance at Job Training Centres are often requirements for individuals to have continued access to unemployment benefits under Part 8 of the regulations.</li> <li>•</li> </ul>
	<p><u>Proposed Legislation</u></p> <p><b>1. Higher Education (Freedom of Speech) Bill<sup>414</sup></b></p> <ul style="list-style-type: none"> <li>• A Government Bill originating in the House of Commons. The Bill has completed its third reading in the House of Lords and is now awaiting a date for the House of Commons’ consideration of the Lords’ amendments.</li> <li>• Intended to make further provisions to protect freedom of speech in higher education institutions, the government claim to address gaps in the existing legislative framework governing freedom of speech.</li> </ul>

<sup>411</sup> <https://www.gov.uk/guidance/inspecting-schools-guide-for-maintained-and-academy-schools#:~:text=Schools%20judged%20'requires%20improvement',a%20period%20of%2030%20months.>

<sup>412</sup> As above.

<sup>413</sup> <https://www.gov.uk/government/collections/traineeships--2.>

<sup>414</sup> <https://bills.parliament.uk/bills/2862.>

	<p><b>2. Schools Bill</b><sup>415</sup></p> <ul style="list-style-type: none"> <li>• A Government Bill currently awaiting its third reading in the House of Lords.</li> <li>• If passed, would make provision about the funding of schools, attendance at schools, the regulation of independent educational institutions and teacher misconduct. The Bill has been criticised for approaching a ‘piecemeal’ approach to the regulation of schools, and that the reforms to school structure included in the bill are “likely to be controversial”.<sup>416</sup></li> <li>• Would improve the school system so that opportunity is more equal for all children irrespective of where they live. The government’s target is that by 2030, 90% of primary school children will achieve the expected standard in reading, writing and maths, and the percentage of children meeting the expected standard in the worst performing areas will have increased by a third.<sup>417</sup></li> </ul> <p><b>3. Schools White Paper</b><sup>418</sup></p> <ul style="list-style-type: none"> <li>• This document contains a raft of measures aimed at ‘levelling up’ education in the UK. Measures include increasing teacher training, improving literacy teaching and teacher retention as well as moving towards an education system that is fully trust led.</li> <li>• The government committed to give £100 m to the Education Endowment Foundation so that they can continue to communicate best practice throughout the country.</li> </ul> <p><b>4. SEND Review</b><sup>419</sup></p> <ul style="list-style-type: none"> <li>• The government issued a <b>Green Paper</b><sup>420</sup> on the UKs current Special Educational Needs and Disabilities (“SEND”) and Alternative Provisions (“AP”) system which proposed to establish a new national system for setting standards for SEND and AP and increasing investment overall in this area, among other measures.</li> <li>• The government held a consultation on the above Green Paper (which ended in July 2022) and is expected to respond soon.</li> </ul>
	<p><u>Voluntary Measures</u></p> <p><b>1. Department for Education (“DfE”)</b><sup>421</sup></p> <ul style="list-style-type: none"> <li>• Sets the minimum standards for teachers and has issued optional safeguarding practice for out-of-school settings (after school clubs, music and sports lessons) in relation to health and safety child protection, staff suitability and governance.</li> <li>• Stores data from schools in the National Pupil Database<sup>422</sup></li> <li>• Includes an Inclusion in Schools programme to improve diversity and inclusion in state-funded secondary schools.<sup>423</sup></li> </ul>

<sup>415</sup> <https://bills.parliament.uk/bills/3156>.

<sup>416</sup> <https://lordslibrary.parliament.uk/research-briefings/lln-2022-0013/>.

<sup>417</sup> The Queen’s Speech, 2022.

<sup>418</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1063601/Opportunity\\_for\\_all\\_strong\\_schools\\_with\\_great\\_teachers\\_for\\_your\\_child\\_web\\_-\\_accessible.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1063601/Opportunity_for_all_strong_schools_with_great_teachers_for_your_child_web_-_accessible.pdf).

<sup>419</sup> <https://www.gov.uk/government/consultations/send-review-right-support-right-place-right-time>.

<sup>420</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1064655/SEND\\_Review\\_Right\\_support\\_right\\_place\\_right\\_time\\_summary.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1064655/SEND_Review_Right_support_right_place_right_time_summary.pdf).

<sup>421</sup> <https://www.gov.uk/government/publications/keeping-children-safe-in-out-of-school-settings-code-of-practice>.

<sup>422</sup> <https://find-npd-data.education.gov.uk/>.

<sup>423</sup> <https://www.ase.org.uk/inclusion-in-schools-programme>.

- Funds the English Hubs Programme which supports primary schools with improving phonics teaching and early language and focuses on the children who are progressing the slowest.<sup>424</sup>
- Funds the Education Endowment Foundation via the Accelerator Fund to support schools access specialist programmes for pupils.<sup>425</sup>

## 2. Office for Students (“OfS”)

- Regulates higher education providers with the aim of ensuring that all students from all backgrounds have equal access to participate and succeed in higher education.<sup>426</sup>
- The primary way that they do this is through monitoring access and participation plans.<sup>427</sup>

*[N.B. see Non Discrimination: (d) Education section in attached long form report for full details].*

## 3. Enabling Education Network<sup>428</sup>

An international information network and consultancy service provider that aims to make education more inclusive for all.

- Athena **Swan Charter** <sup>429</sup>
- Voluntary organisation that educational institutes can become a party to encourage and recognise a commitment to advancing gender equality. Specifically targeted at higher education and research institutions.

## 4. Alliance for Inclusive Education<sup>430</sup>

- Aims to improve the equality of learning experience for disabled students.

## 5. Respect Ability<sup>431</sup>

- Similarly, this organisation provides best practice for educators in terms of being inclusive to those who are disabled.

## 6. Social Mobility Commission<sup>432</sup>

- Aims to ensure that where individuals are born does not determine their life outcomes. Addresses education alongside other sectors.

## 7. Education Endowment Foundation

- Specialises in breaking the connection between socioeconomic status and educational attainment by issuing guidance to schools concerning how to improve teaching and learning for 2-19-year-olds through better application of evidence.<sup>433</sup>

<sup>424</sup> <http://www.englishhubs.org/>.

<sup>425</sup> <https://educationendowmentfoundation.org.uk/projects-and-evaluation/projects/accelerator-fund-evaluation-2021-2022>.

<sup>426</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>427</sup> <https://www.officeforstudents.org.uk/advice-and-guidance/the-register/search-for-access-and-participation-plans/#/AccessPlans/>.

<sup>428</sup> <https://www.eenet.org.uk/>.

<sup>429</sup> <https://www.advance-he.ac.uk/equality-charters/athena-swan-charter>.

<sup>430</sup> <https://www.allfie.org.uk/>.

<sup>431</sup> <https://www.respectability.org/about-us/>.

<sup>432</sup> <https://www.gov.uk/government/organisations/social-mobility-commission>.

<sup>433</sup> <https://educationendowmentfoundation.org.uk/about-us>.

	<p><b>8. Teachfirst<sup>434</sup></b></p> <ul style="list-style-type: none"> <li>• Social enterprise that places high achieving graduate teachers in classrooms in the most deprived areas of the UK.</li> </ul> <p><b>9. TutorMate<sup>435</sup></b></p> <ul style="list-style-type: none"> <li>• A CSR initiative that allows businesses to support students below their expected reading age.</li> </ul> <p><b>10. Oxplore - Raising Attainment in Schools Project<sup>436</sup></b></p> <ul style="list-style-type: none"> <li>• A partnership between the University of Oxford Undergraduate Admissions and Outreach department and an academy trust in the North West (the Challenge Academy Trust in Warrington, Cheshire) aimed at closing the attainment gap between different student groups.</li> </ul> <p><b>11. ‘Centre for Transforming Access and Student Outcomes (“TASO”)<sup>437</sup></b></p> <ul style="list-style-type: none"> <li>• This is the OfS’ ‘what works’ centre that publishes guidance on how to eliminate inequality in education.</li> </ul> <p><b>12. Uni Connect<sup>438</sup></b></p> <ul style="list-style-type: none"> <li>• A national network of local partnerships between universities, colleges, schools and local agencies to create pathways into further and higher education.</li> <li>• Similarly, <b>Gateway to Growth</b> in East Anglia links local graduates with local businesses to improve their employment rates.</li> </ul> <p><b>13. Parent Power</b></p> <ul style="list-style-type: none"> <li>• Partnered with Trinity College, Cambridge to secure funding for laptops for families in need whose children had to learn remotely during lockdown.<sup>439</sup></li> <li>• Aimed at parents of the highest achieving children and releases podcasts produced by and for parents to break down perceived barriers to progressing to the top universities.<sup>440</sup></li> </ul>
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<sup>434</sup> <https://www.teachfirst.org.uk/our-impact>.

<sup>435</sup> <https://www.tutormate.org/>.

<sup>436</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>437</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

<sup>438</sup> As above.

<sup>439</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/594363/Progress\\_at\\_Secondary\\_School\\_report\\_final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/594363/Progress_at_Secondary_School_report_final.pdf), p. 45;

<https://www.sec-ed.co.uk/best-practice/diversity-across-the-school-steps-we-can-take-equality-inclusion>.

<sup>440</sup> <https://www.officeforstudents.org.uk/publications/place-matters-inequality-employment-and-the-role-of-higher-education/>.

## 5. Corruption and Tax Evasion

### Law/Principle/Association

#### Existing Legislation

##### 1. OECD Base Erosion and Profit Shifting (“BEPS”)<sup>441</sup>

- The OECD published a number of recommendations of which the UK has implemented several.
- For example, the UK ratified the Multilateral Instrument (“MLI”) which has the effect of changing all Double Tax Treaties to include anti-avoidance measures.<sup>442</sup>

##### 2. HMRC’s General Anti-Abuse Rule (“GAAR”)<sup>443</sup>

- Underlying principle in UK tax legislation, based around the idea that the “levying of tax is the principal mechanism by which the state pays for the services and facilities that it provides for its citizens, and that all taxpayers should pay their fair share”.<sup>444</sup>
- Applies to income tax, capital gains tax, inheritance tax, corporation tax, petroleum revenue tax, SDLT, ATED, diverted profits tax, apprenticeship levy and NICs.
- Elements of the GAAR are enacted through the Finance Act (most recently amended in 2022), and HMRC has published a number of resources and guidance to the application of the principle for different actors.
- The GAAR rejects the line of reasoning taken by some Courts that taxpayers are free to reduce their tax bills in any way they legally may, and instead its incorporation into statute imposes a limit on the extent to which taxpayers can go to reduce their tax liability.
- The main objective of the GAAR is to deter taxpayers from entering into ‘abusive arrangements’ and deter the promotion of the same. If the taxpayer is undeterred and proceeds with an abusive arrangement, the GAAR acts to counteract the abusive tax advantage which they are trying to achieve via a tax adjustment.
- While the GAAR is incorporated into some statute, it remains an independent option in that HMRC may still rely on it when the legislation is silent as to abusive arrangements/ the GAAR. The burden of proof is on HMRC to show that the arrangements are abusive. Where the GAAR applies, HMRC will be entitled to counteract the abusive tax arrangement in a just and reasonable manner to recover any revenue that has been lost.

##### 3. Targeted Anti-Avoidance Rules (“TAAR”)

- A number of these TAARs have been introduced in UK tax legislation with the effect of prohibiting certain actions where the main purposes is to gain a tax advantage.
- Several regimes have been introduced seeking to counteract:
  - A. Controlled Foreign Company (“CFC”) rules: where companies move profits to countries in lower-taxed jurisdictions, profits remain taxable in the parent company’s jurisdiction;<sup>445</sup> and
  - B. Anti-hybrids rule: to stop companies exploiting differences between countries’ tax rules.<sup>446</sup>

<sup>441</sup> <https://www.oecd.org/tax/beps/>.

<sup>442</sup> <https://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps.htm>.

<sup>443</sup> <https://www.gov.uk/government/collections/tax-avoidance-general-anti-abuse-rule-gaar>.

<sup>444</sup> HMRC’s General anti-Abuse rule (GAAR) Guidance, approved by the GAAR advisory panel with effect from 16 July 2021.

<sup>445</sup> <https://www.gov.uk/hmrc-internal-manuals/banking-manual/bkm406600>.

<sup>446</sup> <https://www.gov.uk/hmrc-internal-manuals/international-manual/intm561500>.

#### **4. Finance Act 2022 (amending earlier Finance Act 2016)**

- Section 86 contains a new measure which allows the HMRC to publish information about tax avoidance schemes, to better inform taxpayers of the risks involved.<sup>447</sup> HMRC is able to publish the names of suspected promoters of these schemes.
- Both the Finance Act 2016 and the most recent Finance Act 2022 incorporate the GAAR (as above) into its provisions, in relation to HMRC's powers of investigation, issuing of notices and regulating sanctions and penalties.

#### **5. Disclosure of Tax Avoidance Schemes (“DOTAS”)<sup>448</sup>**

- Provides that certain people (usually the promoter of the scheme) must provide information to HMRC about particular avoidance schemes within 5 days of the schemes being made available or implemented.
- The avoidance schemes in question are those which have as the main expected benefit the obtaining of a UK tax advantage and which fall within any one of the certain widely drawn ‘hallmarks’.
- Aim of the DOTAS regime is to provide HMRC with information about potential tax avoidance arrangements at an earlier stage than otherwise would have been the case and to enable swifter and more effective investigation and, where appropriate, counteraction.

#### **6. The Companies (Miscellaneous reporting) Regulations 2018 and Wates Corporate Governance Principles for Large Private Companies<sup>449</sup>**

- Applies to large private companies in response to calls for more transparency and accountability in these companies which are not covered by the UK Corporate Governance Code (as below).
- Similarly to the UK Corporate Governance Code, the Principles focus on areas including board composition, director responsibilities, opportunity and risk, remuneration, stakeholder relations and purpose and leadership.
- All private companies are now required legally to report on these areas under the above regulations.

#### **7. United States Foreign Account Tax Compliance Act (“FATCA”)<sup>450</sup>**

- Requires UK financial institutions to report to HMRC on US customers that hold accounts with them.
- FATCA allows for a 30% withholding tax to be applied to the US source income of any non-US Financial Institution that fails to comply with this requirements.
- Implemented in the UK through the US IGA.<sup>451</sup>
- As with the CRS (below) this is primarily an information gathering tool for tax authorities.

#### **8. OECD Common Reporting Standard (“CRS”)<sup>452</sup>**

- Much like FATCA, under the CRS, participating jurisdictions obtain information from their financial institutions (banks, insurers and asset management businesses) and automatically exchange that information with other jurisdictions via ‘Automatic Tax Information Exchange’.

<sup>447</sup> <https://www.gov.uk/government/publications/clamping-down-on-promoters-of-tax-avoidance-guidance/publication-by-hmrc-of-information-about-tax-avoidance-schemes-section-86-part-6-finance-act-2022>.

<sup>448</sup> <https://www.gov.uk/government/publications/disclosure-of-tax-avoidance-schemes-guidance/disclosure-of-tax-avoidance-schemes>.

<sup>449</sup> <https://www.frc.org.uk/getattachment/31dfb844-6d4b-4093-9bfe-19cee2c29cda/Wates-Corporate-Governance-Principles-for-LPC-Dec-2018.pdf>.

<sup>450</sup> <https://www.gov.uk/hmrc-internal-manuals/international-exchange-of-information/ieim400040>.

<sup>451</sup> <https://home.treasury.gov/system/files/131/FATCA-Agreement-UK-9-12-2012.pdf>.

<sup>452</sup> <https://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>.

- It is an information gathering requirement to ascertain tax residency and creates a reporting requirement which is intended to help fight tax evasion and protect the integrity of tax systems. The OECD’s website contains an overview of the participating jurisdictions as updated from time to time.<sup>453</sup>

#### 9. OECD Model Mandatory Disclosure Rules for CRS Avoidance Arrangements and Opaque Offshore Structures<sup>454</sup>

- Draws on best practice recommendations (in BEPS Action 12 Report) specifically targeted for this kind of structure. These rules were published in response to concerns that offshore structures were being used to promote and circumvent reporting obligations under the CRS (above). Currently optional for jurisdictions to adopt, create a framework for mandatory disclosure rules based on best practice.

#### 10. Corporate Criminal Offence (“CCO”) of Failure to Prevent the Facilitation of Tax Evasion<sup>455</sup>

- Two CCOs were introduced under the Criminal Finances Act 2017.
- Under the CCOs, businesses are criminally liable if their associated persons facilitate tax evasion, either in the UK or overseas. A defence is available if the company has Reasonable Prevention Procedures (“RPPs”) in place to prevent its associated persons from facilitating tax evasion.
- The two offences have two stages:
  - o Criminal tax evasion (not avoidance) must have taken place; and
  - o A person/entity who is associated with the business must have criminally facilitated the tax evasion while performing services for that business.

#### 11. Bribery Act 2010

- Creates a broad offence relating to the failure of companies to prevent bribery,
- In its related guidance to the Act, the Ministry of Justice has provided six principles for implementing appropriate procedures to prevent bribery, comprising: proportionality, top-level commitment, risk assessment, due diligence; communication and monitoring and review.<sup>456</sup>

#### Proposed Legislation

#### 1. Economic Crime and Corporate Transparency Bill 2022-23 (HC Bill 154)<sup>457</sup>

- The Public Bill Committee reported the Bill with amendments, after a number of Committee debates.
- The Bill would expand the powers of Companies House and improve transparency, for example providing CH with investigation and enforcement powers. Provisions would relate to company names, identify verification requirements, protection of personal information, and increasing transparency of company ownership. The SRA would be given the power to impose higher fines for economic crime, and the Serious Fraud Office’s pre-investigation powers would be expanded to all types of investigation (currently just bribery and corruption).
- The Bill would also make it easier for businesses to disclose information about money laundering without breaching confidentiality requirements to prevent economic crime.

<sup>453</sup> <https://www.oecd.org/tax/automatic-exchange/crs-implementation-and-assistance/crs-by-jurisdiction/#d.en.345489>.

<sup>454</sup> <https://www.oecd.org/tax/exchange-of-tax-information/model-mandatory-disclosure-rules-for-crs-avoidance-arrangements-and-opaque-offshore-structures.htm>.

<sup>455</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/672231/Tackling-tax-evasion-corporate-offences.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/672231/Tackling-tax-evasion-corporate-offences.pdf).

<sup>456</sup> <https://www.justice.gov.uk/downloads/legislation/bribery-act-2010-guidance.pdf>.

<sup>457</sup> <https://bills.parliament.uk/bills/3339>.

## 2. Policy paper on voluntary code of conduct for directors<sup>458</sup>

- Institute of Directors has published a policy paper calling for the government to commission the development of a voluntary code of conduct for directors of UK companies. Based on the Chartered Director Code of Professional Conduct.

## 3. OECD Two Pillars

- OECD has published guidance on its two pillars:
  - A. **Pillar 1: Profit Allocation and Nexus**<sup>459</sup>: this is a set of proposals to revisit tax allocation rules with the intention of a portion of multinationals' residual profit being taxed in the jurisdiction where the revenue is sourced. This is on track for implementation by mid-2023.<sup>460</sup>
  - B. **Pillar 2: 15% global minimum tax rate**: contains a number of new rules for granting jurisdictions additional taxing rights where other jurisdictions have not exercised their primary taxing rights or income is subject to low rates of tax.<sup>461</sup>

## Voluntary Measures

### 1. UN SDG 16<sup>462</sup>

- UN SDG 16.5-16.7 set goals to “substantially reduce corruption and bribery in all their forms”, “develop effective, accountable and transparent institutions at all levels” and ensure “responsive, inclusive, participatory and representative decision making at all levels”.
- The UK has reported on almost all of the relevant indicators within these goals.

### 2. UK Corporate Governance Code<sup>463</sup>

- Sets out good practice standards for areas including board membership, development, remuneration, shareholder relations, accountability and audits. It is not law so compliance is not compulsory, but it operates on a “comply or explain” basis under which applicable companies are requested to either follow the code or explain why they do not.
- It applies to Companies with a ‘premium listing’, who are expected to align their business with the Principles of the Code but may choose not to comply with its provisions – in this case an explanation is required.

### 3. UK Stewardship Code<sup>464</sup>

- Applies to asset owners, managers and service providers – i.e. those investing money on behalf of UK savers. Relates to the responsible allocation, management and oversight of capital to create long-term value, both for clients and for long-term sustainable benefits for the environment, society and economy.
- Includes 12 principles for asset managers and asset owners, and 6 principles for service providers, that operate on an ‘apply or explain’ basis. Signatories must report annually on the activity they have taken and the outcomes achieved in relation to the code’s principles. A full list of signatories is kept on the FRC website.<sup>465</sup>

<sup>458</sup> <https://www.iod.com/news/governance/iod-policy-paper-a-voluntary-code-of-conduct-for-directors/>.

<sup>459</sup> <https://www.oecd.org/tax/beps/progress-report-on-amount-a-of-pillar-one-two-pillar-solution-to-the-tax-challenges-of-the-digitalisation-of-the-economy.htm>.

<sup>460</sup> <https://www.oecd.org/tax/international-tax-reform-multilateral-convention-to-implement-pillar-one-on-track-for-delivery-by-mid-2023.htm>.

<sup>461</sup> <https://www.oecd.org/tax/beps/oecd-releases-detailed-technical-guidance-on-the-pillar-two-model-rules-for-15-percent-global-minimum-tax.htm>.

<sup>462</sup> <https://sdgdata.gov.uk/16/>.

<sup>463</sup> <https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code>.

<sup>464</sup> <https://www.frc.org.uk/investors/uk-stewardship-code>.

<sup>465</sup> <https://www.frc.org.uk/investors/uk-stewardship-code/uk-stewardship-code-signatories>.

#### 4. OECD Principles of Corporate Governance<sup>466</sup>

- Principles designed to assist policy makers evaluate and improve the legal/regulatory/institutional framework for corporate governance, with a “view to supporting economic efficiency, sustainable growth and financial stability”.
- The Principles are currently under review and revised Principles will be issued in 2023.

#### 5. OECD Guidelines for MNEs<sup>467</sup>

- The most comprehensive international standard on responsible business conduct, covering areas such as human rights, labour rights, environment, bribery, consumer interests, information disclosure, science and technology, competition and taxation.
- The code is not legally on the companies but are binding on signatory governments, who are responsible in ensuring that the Guidelines are implemented and observed.

#### 6. B Corporation (as above – see under Employment)

- As outlined above under Employment, the B Corporation is a voluntary scheme for companies wishing to have a wider positive social impact.
- Companies signing up to B Corp must incorporate a legal requirement into their constitutional documents. This includes a commitment to create a material positive impact on society and the environment through the company’s business and operations, and considering all stakeholder interests when making decisions (this includes shareholders, employees, suppliers, society and the environment).
- The certification process requires a risk review, B Impact Assessment, Disclosure Questionnaire and Verification.
- Once certified as a B Corp, companies must recertify every three years, using the B Impact Assessment and certification process as a tool to allow for monitoring and transparency.<sup>468</sup>

#### 7. World Economic Forum (WEF) and International Business Council (IBC) Metrics (WEF IBC Metrics)<sup>469</sup>

- The WEF IBC Metrics relation to ‘Principles of Governance’ provide metrics to monitor company purpose, governance and risk management. They also provide metrics on how a company pays its taxes. As of September 2022, 121 companies have already incorporated the metrics into their reporting processes (including annual and sustainability reports). A further 150 companies have shown their support for the initiative.

#### 8. The Good Business Charter (as above in Employment)

- This accreditation requires its members to commit to paying fair taxes, not engage in tax avoidance and to commit to being transparent in their relationship with HMRC.<sup>470</sup>
- There are currently 1121 accredited organisations, including large companies like Deloitte, Aviva and TSB.<sup>471</sup>

<sup>466</sup> <https://www.oecd.org/corporate/principles-corporate-governance/>.

<sup>467</sup> <https://mneguidelines.oecd.org/>.

<sup>468</sup> <https://www.bcorporation.net/en-us/certification>.

<sup>469</sup> <https://www.weforum.org/reports/measuring-stakeholder-capitalism-towards-common-metrics-and-consistent-reporting-of-sustainable-value-creation/>.

<sup>470</sup> <https://www.goodbusinesscharter.com/pay-fair-tax/>.

<sup>471</sup> <https://www.goodbusinesscharter.com/accredited-organisations-posts/>.

## 6. Consumer and Data Protection

### Law/Principle/Association

#### Existing Legislation

1. **Consumer Rights Act 2015 (as amended by the Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (SI 2018/1326)).**
  - The main piece of legislation applying to consumer contracts. Part 1 outlines a consumer's statutory rights in respect of contracts for goods, services and digital content, and provides consumers with remedies if these rights are not met. Part 2 creates a fairness test, requiring transparency of all written terms. Enforcement is dealt with under Part 3.
  - The Consumer Rights Act also implements **the Unfair Contract Terms Directive** (93/13/EEC), parts of the **Consumer Rights Directive** (2011/83/EU) and the **Sales and Guarantees Directive** (1999/44/EC).
  - The 2018 amendments are in place to update references to the UK as no longer being a part of the EEA in respect of certain provisions
2. **Consumer Protection from Unfair Trading Regulations 2008 (SI 2008/1277) (as amended by the Consumer Protection (Amendment) Regulations 2014 (SI 2014/870; the Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (SI 2018/1326))**
  - Prohibits misleading and aggressive sales practices in consumer to trader transactions (as well as business to business practices that could affect consumers and a trader buying a product from a consumer). This applies to marketing, entry into the contract and performance of the contract.
  - The legislation sets out commercial practices deemed to be unfair ('Blacklisted Unfair Practices'), a breach of which can attract criminal liability. The 2014 amendments created a civil right of redress to consumers against traders who conduct misleading or aggressive practices.
  - The 2018 amendments are in place to update references to the UK as no longer being a part of the EEA in respect of certain provisions.
3. **Data Protection Act 2018 ("DPA 2018") (implementing the EU's General Data Protection Regulation ("GDPR")).**
  - Alongside the UK GDPR, the DPA 2018 is the overarching piece of legislation relating to the use of personal information by businesses, the government and organisations. Creates 'data protection principles' which outline how personal data should be used, including for specific purposes, transparently, accurate, not kept for longer than necessary, and handled securely.<sup>472</sup>
  - Sensitive personal information is subject to stronger protections and safeguards. Alongside regulating how entities can use personal data, the DPA 2018 also provides for individuals' rights relating to the data that entities store about them. For example, there is a right to be informed how personal data is being used, the right to access personal data, have incorrect data updated, and have data erased.<sup>473</sup>
4. **UK GDPR**
  - Post Brexit, the UK GDPR retains the GDPR in the UK with minor amendments (e.g. change of currency). It has a wider scope than the DPA 2018 in terms of who is caught by its provisions. The GDPR includes an obligation on organisations to demonstrate compliance.<sup>474</sup>

<sup>472</sup> <https://ico.org.uk/for-organisations/guide-to-data-protection/introduction-to-dpa-2018/some-basic-concepts/>.

<sup>473</sup> <https://www.gov.uk/data-protection>.

<sup>474</sup> <https://ico.org.uk/for-organisations/dp-at-the-end-of-the-transition-period/data-protection-and-the-eu-in-detail/the-uk-gdpr/>.

## Proposed Legislation

### **1. Data Protection and Digital Information Bill 2022-2023 (HC Bill 143)<sup>475</sup>**

- It is part of the (former) UK Government's proposed reforms to the data protection regime following Brexit, balancing data protection alongside innovation and growth.<sup>476</sup> If passed in current form, the Bill would allow organisations to have greater flexibility with how they comply with specific elements of data protection legislation, i.e. in terms of the accountability framework, introducing a risk-based approach to transfers of personal data internationally.
- Organisations may have more rights in relation to processing personal data, such as by increasing the categories of cookies that may be used without the data subject's active consent.
- While these developments expand and evolve the GDPR, the current government may choose to pursue a more aggressive data protection strategy that departs more radically from the GDPR. The Bill is currently awaiting its second reading, which has been postponed to allow Ministers to consider the legislation further.<sup>477</sup>

### **2. Digital Markets, Competition and Consumer Bill 2022**

- Intended to strengthen consumer rights and protect households and businesses. Principal changes in the Bill are a strengthening of the UK's consumer law enforcement regime, providing the Competition and Market Authority ("CMA") with new powers.
- The CMA would be able to: (i) determine whether consumer law had been broken and require conduct to be stopped, (ii) impose higher fines on companies for breaches of consumer law, (iii) provide further redress to consumers, and (iv) compel provision of information. It would also address 'subscription traps', and fake online reviews and exploitative online practices.
- In the Autumn Statement 2022, the Government confirmed that this Bill would be brought forward in the next parliamentary session.<sup>478</sup>

## Voluntary Measures

### **1. Advertising standards agency ("ASA") and CAP / BCAP Codes<sup>479</sup>**

- The content of advertising/ sales promotion and direct marketing across all media is self-regulated, but the legislative provisions within the Consumer Protection from Unfair Trading Regulations are reflected into the applicable voluntary codes, so in the instance of misleading or unfair advertising, the CMA is able to take enforcement action.
- The CAP/ BCAP codes address non-broadcast and broadcast advertising respectively (written by the Committee of Advertising Practice and the Broadcasting Committee of Advertising Practice).

### **2. OECD Guidelines for MNEs (as above for Corruption and Tax Evasion).**

<sup>475</sup> <https://bills.parliament.uk/bills/3322>.

<sup>476</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1022315/Data\\_Reform\\_Consultation\\_Document\\_\\_Accessible\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1022315/Data_Reform_Consultation_Document__Accessible_.pdf).

<sup>477</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-9606/>.

<sup>478</sup> <https://www.gov.uk/government/publications/autumn-statement-2022-documents/autumn-statement-2022-html>.

<sup>479</sup> <https://www.asa.org.uk/codes-and-rulings/advertising-codes/non-broadcast-code.html>; <https://www.asa.org.uk/codes-and-rulings/advertising-codes/broadcast-code.html>.

# Reed Smith's environmental, social and governance ('ESG') experience

Businesses are increasingly recognising that a strong ESG proposition is central to their legal, corporate and financial risk management. Boards and management across industries are grappling with how to address and leverage ESG-related issues to create long-term value for their organizations and benefit the broader community. ESG is also becoming an important competitive differentiator as it attracts interest from shareholders, customers, suppliers, financial lenders and employees. Increasingly, ESG is broadening companies' vision of who their stakeholders are and their responsibility to society as a whole.

Demystifying ESG is a challenge for any business. Understanding the regulatory, reporting and governance requirements may not be easy, and the numerous perspectives companies must think about can be overwhelming.

For example, consider how sustainability fits into your business model. How do your products and services contribute to sustainable development? What are your policies on environmental impact? Do you have appropriate, independent oversight of your reporting of ESG metrics? How is your business contributing to the future development of society as a whole? Do you have diverse and inclusive suppliers with professional procurement policies? These are just some of the many ESG questions to be addressed.

In our complex, changing world, we can be clear on one thing: ESG is not about window dressing. Where publishing an annual CSR report and appearing to have a corporate "social conscience" was once enough, new and anticipated regulation across the world now means real risks are at play. With risk, however, comes the opportunity to gain a competitive edge, as customers, suppliers and employees are all paying close attention to companies' sustainability practices and behaviours.

## How Reed Smith can help

As a leading international law firm, Reed Smith combines an experienced regulatory and standards team with sector-focused lawyers to offer a dedicated cross-border ESG service. We regularly assist clients with reviewing and implementing their ESG activities and plans, and we recognize that clients actively facing ESG issues, including compliance and reporting demands, have to improve and expand their use of standards, metrics and criteria.

We adopt the multi-disciplinary approach needed to advise clients on the complex interplay of assets, liabilities, risks and opportunities within the ESG universe. We provide regulatory compliance and crisis management advice, but we also counsel clients on resource sustainability, adaptability and resilience. We can help you not only fulfil reporting requirements but also maximize the opportunities that arise from going beyond what is required and standing out as a leader in many socially impactful areas.

We have assisted clients on matters that span the spectrum of this dynamic and evolving area – including transactional, environmental, corporate, regulatory or dispute-related matters – by deploying skill sets that are cross-border, cross-practice and sector-focused.

For more information relating to Reed Smith's ESG Practice, please visit our website:  
<https://www.reedsmith.com/en/capabilities/services/environmental-social-governance>

# Reed Smith's social impact finance experience

Social impact finance initiatives seek to provide funding to organizations and projects that pursue a double bottom line – generating a sustainable financial return while creating measurable social and environmental benefits. In recent years, the social impact finance sector has experienced rapid growth as attitudes have shifted regarding the private sector's role in addressing the world's most pressing social and environmental problems.

Reed Smith has been and remains on the cutting edge of this transformation, having established a Social Impact Finance practice in 2013 to serve clients (both investors and social enterprises) seeking creative funding solutions that deliver double bottom line returns to investors. Our Social Impact Finance team is comprised of lawyers from across our global offices, organized on a cross-disciplinary and multi-jurisdictional basis. These lawyers have a wide range of corporate and commercial expertise, including fund formation, venture capital and growth equity investment, structured finance, banking, real estate, capital markets, tax and regulatory.

We regularly advise on a range of social impact initiatives, including the establishment of funds, innovative investment structures, social impact bonds and other capital market solutions. We represent organisations and individuals – including social entrepreneurs, financial institutions, private and institutional investors, social enterprises and microfinance institutions – that are pioneering the development of innovative business models to address pressing social needs. We also provide training, research and network opportunities to support the social impact finance sector both from a legal and commercial perspective.

We take a “hearts and minds” approach to our Social Impact Finance practice. Our commitment to this practice derives in part from our lawyers' deep commitment to making a difference in the lives of others by applying our knowledge and expertise. At the same time, we recognize that Social Impact Finance is transforming capital markets, and we view it as a business imperative to stay at the forefront of this rapidly expanding movement.

## Case studies

- Advised The Global Alliance for Vaccine and Immunizations (GAVI) on a financing agreement to guarantee continued production of the antigen for the first malaria vaccine to be proven safe and effective. GAVI joined forces with GlaxoSmithKline and MedAccess to create this innovative financing structure, with MedAccess sharing the risk of the vaccine not being recommended, and GAVI and GSK being assured of funding for continued production of the antigen. The transaction prevented a shutdown of the facility producing the antigen and prevented the delays of winding down production and having to restart it later if the vaccine pilot proved successful. The RTS,S/AS01e vaccine was recommended by the World Health Organization in October 2021.
- Advised BRAC International Microfinance on the launch of its transformative international debt programme to tap capital markets for securing reliable and consistent funding that will secure financing for its microfinance operations for the next decade. Establishing a dedicated international financing company for BRAC International Microfinance represents a significant step in BRAC's evolution. The first debt issuance by the financing company is linked to BRAC International Microfinance's COVID-19 rebuilding efforts, making liquidity available to households living in poverty in developing countries. Subsequent issuances (backed by loans in other countries in sub-Saharan Africa and Asia) will propel BRAC International Microfinance's growth in existing and new countries to make financial products and services available to its borrowers and savers that will strengthen their livelihood, wellbeing and resilience.
- Advised the International Commission on Financing Global Education Opportunity on the establishment of a new finance facility - the International Finance Facility for Education (IFFEd). This facility, which has been developed as a crucial response to the global learning crisis, is a ground breaking and novel way to finance education in countries around the world. By multiplying donor resources and motivating recipient countries to increase their own investments, the Facility will unleash new funding streams for education. The business model is based on an innovative financing structure that takes advantage of multilateral development bank's capacity to leverage donor financing. They can borrow in capital markets and provide financing equal to several times their paid-in capital while retaining their AAA rating. This approach is estimated to unlock \$10 billion in new funding for education from the international community.

# Author Biographies



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Claude Brown is part of the firm's global environmental, social and governance (ESG) practice. Claude has a particular focus on the environmental and social aspects of ESG. Claude is recognised as one of the world's leading legal experts in weather risk management, adaptive finance, green finance and the voluntary carbon markets. He has been involved in the design and implementation of carbon registries, as well as trading platforms. He has extensive experience of transactions using products to mitigate the effect of drought on the agricultural economies of Malawi and Ethiopia, as well as transactions to assist in sustainable energy generation in South America and Asia. He regularly advises on adaptive finance products to assist developing economies generate resilience in the efforts to address climate change in the Caribbean, Africa and Asia. He has worked on credit risk mitigants for Multilateral Development Banks to free up their balance sheets in order to provide more financing within LDCs and LMICs, as well as assisting commercial banks in developing sustainable finance strategies and products.



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Andrzej is part of the firm's global environmental, social and governance practice and founding member of the social impact finance group. Andrzej has a particular focus on the social aspects of ESG. He has been involved in ground-breaking impact investing and social impact finance deals, including healthcare and education impact bonds in the UK, India and Africa, innovative financing for the continued production for the world's first malaria vaccine and bond issuances for the financing of microfinance institutions across Africa. He regularly advises investors, issuers, foundations and charities on their ESG linked financial transactions.



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Rosanne specialises in regulatory enforcement investigations and general commercial litigation, and is part of the firm's global regulatory enforcement and environmental, social and governance practice. Rosanne frequently advises clients on white collar matters, including the UK Bribery Act 2010, anti-money laundering obligations and the Criminal Finances Act 2017 (in particular, the corporate offences of failure to prevent the facilitation of tax evasion). She advises a wide range of clients in relation to a variety of issues, including crypto. She has extensive experience in both internal and regulator-initiated investigations, of both a domestic and cross-border nature. She has acted for clients in connection with a variety of investigations (across different jurisdictions) including Financial Conduct Authority (FCA), Serious Fraud Office (SFO), U.S. Department of Justice (DOJ), U.S. Securities and Exchange Commission (SEC), and Office of Foreign Assets Control (OFAC) investigations. She has a particular focus on the social and governance aspects of ESG, helping global organisations to understand their obligations and achieve compliance with modern slavery and human trafficking requirements, in addition to white collar matters referred to below.



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Caspar advises on a wide range of UK tax aspects for corporate and institutional clients.

Caspar has a particular focus on cross-border tax matters in the corporate and finance arenas, such as restructurings, M&A activity, funds work and employee equity incentivisation. He has considerable experience of providing international tax structuring advice, including recommending appropriate holding company structures for new investments or group reorganisations and the establishment or restructuring of multinational business operations even where there is no UK element.

*"An outstandingly good tax lawyer. Everything about him is excellent. His tax knowledge is both wide ranging and highly detailed, meaning that he can often provide instant answers to complex questions."* – Legal 500 for Corporate Tax, 2022

*"He is very constructive and easy to deal with."* – Chambers Global, 2022

*"He is very calm, collected and sensible."* – Chambers Global, 2022



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Previously Ida was a Board Director and Senior Vice-President and Senior Counsel of Capital Group (CG) and served as its Director of Public Affairs in Europe. Before CG, Ida was European Counsel with JP Morgan Investment Management and a Partner at the international law firm Jones Day (London and New York). Ida was a founding Director of the UK Investor Forum.



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Bella started working for the Impact Investing Institute as Policy Director at its launch in November 2019. She is currently the Joint Interim Chief Executive and leads several of the Institute's projects, particularly in the areas of policy, regulation, and pensions.

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Additional research and contributions by Zoe Payne.

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