



UK companies exposed to legal challenge, reputational damage, and tribunal loss.

Inclusion Crowd launches free boardroom briefing to help organisations stay compliant and defensible under UK law

Title: DEI Policy Risk, Compliance & Strategic Value
Prepared for: Executive Board / C-Suite
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Risk Briefing

1. Executive Summary

In light of recent rollbacks of DEI (Diversity, Equity & Inclusion) initiatives in the US, this *briefing clarifies the legal, regulatory, and reputational implications for UK-based organisations.*

Key messages:

- **The Equality Act 2010 prohibits both direct and indirect discrimination** and mandates **proportionate positive action, not affirmative action.**
- **Rolling back DEI policies in the UK increases exposure** to discrimination claims, breaches upcoming compliance duties, **and undermines statutory defences.**
- DEI is not optional, it is a **business-critical risk mitigation strategy** that supports **compliance, talent strategy, ESG, and corporate governance.**

This briefing sets out the legal position, risks of non-compliance, and recommended actions.

2. Purpose of the Briefing

- **Clarify the legal status** of DEI in Great Britain.
- **Distinguish the UK approach** from US developments.
- **Assess legal and reputational risks** linked to policy removal or weak implementation.
- **Recommend actions** to ensure ongoing compliance and board assurance.

Risk Briefing

3. Context & External Landscape

- In the US, the Supreme Court ruling in SFFA v Harvard (2023) has curtailed race-based affirmative action in education.
- President Trump's Executive Orders (2025) seek to dismantle DEI initiatives across federal and private sectors.
- Some UK executives are now questioning their own DEI policies, mistakenly applying US panic to GB compliance.

However, **the UK legal environment is fundamentally different.**

4. Legal & Compliance Overview (GB Focus)

- **Equality Act 2010: Prohibits direct and indirect discrimination** across 9 protected characteristics.
- **Positive action is lawful** under Sections 158 and 159, provided it is proportionate, evidence-based, and not outcome-driven.
- **Affirmative action** (e.g., race-based quotas) **is not permitted in the UK.**
- **Statutory duties under Section 40A (harassment) will expand in 2025**, requiring "all reasonable steps" to prevent workplace harassment.
- **Section 109: Employers are liable for discrimination** unless they can prove they took reasonable steps (e.g., DEI training, robust policies).

"Without DEI policies, it would be hopeless [to rely on the statutory defence]." – Glyn & Dobbie

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5. Risk Assessment

RISK TYPE	DESCRIPTION	SEVERITY	VISUAL
Legal Risk	Increased exposure to discrimination claims due to lack of defensible DEI policy	High	
Reputational Risk	Backlash from employees, stakeholders, and investors due to perceived regression	High	
Financial Risk	Tribunal compensation , legal fees, and cost of remedial action	Medium-High	
Governance Risk	Failure to meet ESG and cultural governance expectations	High	
Operational Risk	Erosion of workforce trust, engagement, and retention	Medium	

6. Business Implications

- **Compliance:** Proactively implementing DEI is necessary to meet current and forthcoming legal duties.
- **Retention & Culture:** DEI policies improve belonging, reduce attrition, and signal corporate maturity.
- **Recruitment:** Inclusive employers attract wider, higher-quality talent pools.
- **Brand & ESG:** DEI credibility is a visible metric in ESG reporting and social value assessments.
- **Board Duties:** Directors are expected to identify and manage legal and reputational risk,

DEI must be part of the risk register.

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7. Recommendations

- a. Maintain and strengthen current DEI policies:** Ensure they are evidence-led, compliant with Sections 158/159, and regularly reviewed.
- b. Review and update training:** Deliver regular, documented training aligned to EHRC Codes of Practice and Section 109 requirements.
- c. Audit DEI policy implementation:** Evaluate whether current DEI efforts are proportionate, effective, and supported by an evidence base.
- d. Prepare for Section 40A expansion:** Begin assessing existing harassment prevention measures and prepare for the 2025 legislative changes.
- e. Add DEI to your Board Risk Register:** Classify it under Legal, Governance, and ESG risks.
- f. Communicate your legal position:** Reassure staff, stakeholders, and suppliers that your DEI approach is compliant, not political.

8. Appendix - Key Legal References:

- **Equality Act 2010**, Sections 158, 159, 109, and 40A.
- **Furlong v Chief Constable of Cheshire Police** (tie-break misuse).
- **Essop v Home Office** (indirect discrimination).
- **SFFA v Harvard (2023)** – comparison only.
- **Glyn & Dobbie**, “The danger of following the US in rolling back DEI in the GB”, Employment Lawyers' Association.

Born out of lived experience

Inclusion Crowd was born in the hearts and minds of people who forged careers and honed expertise in a world of inequity and exclusion.

It was born out of shared pain and frustration and a burning desire to see real change in our lifetimes.

Government, industry and society have talked about equity, diversity and inclusion for too long. There's a disconnect between the words and the reality.

The rate of change is embarrassing. The accepted standard for taking action and making a difference is offensive.

Everyone can see it. No one will say it.

That. Ends. Now. With the united voice of the Inclusion Crowd.

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It is our mission to ensure organisations reflect society at all levels

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