



## **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  
Date: April 2025 (Q2)  
Prepared by: Inclusion Crowd

# 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.

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## 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 <b>exposure</b> to discrimination <b>claims</b> due to lack of defensible DEI policy	High	
Reputational Risk	<b>Backlash</b> from employees, stakeholders, and investors due to perceived <b>regression</b>	High	
Financial Risk	Tribunal <b>compensation</b> , legal fees, and cost of remedial <b>action</b>	Medium-High	
Governance Risk	<b>Failure</b> to meet ESG and cultural <b>governance</b> expectations	High	
Operational Risk	Erosion of <b>workforce</b> trust, engagement, and <b>retention</b>	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.***

# Risk Briefing

## 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.*

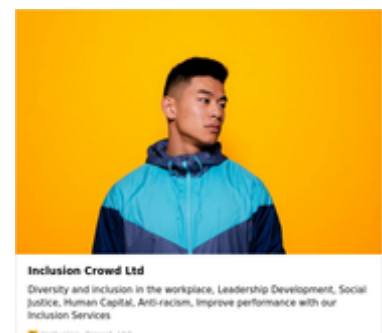
*That. Ends. Now. With the united voice of the Inclusion Crowd.*

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

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