



Equality Commission for Northern Ireland

May 2014

Response to Office of the First and Deputy First Minister (OFMDFM) Consultation on an Active Ageing Strategy 2014-2020 (AAS)

1.0 Introduction.

1.1 The Equality Commission welcomes the opportunity to comment on the draft Active Ageing Strategy (AAS) and underlying principles. There are a number of positive features within the AAS that we believe will be a contributory factor in delivering equality of outcomes for older people, though further work is needed to ensure that the priorities older people have identified as important to their quality of life, will be delivered by the Strategy. We particularly welcome the observations at para 1.8 which state:

‘Poverty, ageism, prejudice, disrespect and negative stereotyping are root causes of the disadvantage older people face on a daily basis. It can be overt, but more often is subtle and pervasive. The Executive is committed to tackling ageism and age discrimination by, for example, introducing legislation making age discrimination unlawful in accessing goods, facilities and services and tackling barriers to older people in employment. In addition the Executive will encourage active ageing and put in place the building blocks for a future generation of older people to age with respect, dignity, choice and good health.’¹

1.2 Our experience in promoting equality of opportunity on age and wider grounds, along with involvement in the Active Ageing Strategy Advisory Group, have informed and shaped our views on

¹ Office of the First and deputy First Minister (OFMDFM February 2014): Active Ageing Strategy 2014-2020, paragraphs 1.19 and 1.20 pages 6 and 7. Available at: <http://www.ofmdfmi.gov.uk/active-ageing-strategy-2014-2020-consultation.pdf>

the AAS, in particular the importance of both the content and implementation of the Strategy being informed and shaped by older people, and a robust monitoring system that will demonstrate the positive effects that the strategy has the potential to deliver.

1.3 Our views on the strategy have been further informed by the older persons sector and the disabled persons sector at a range of engagement events including:

- Meetings with older persons groups and representative organisations on our proposals for legislative reform on age legislation;
- IMNI² Disability Strategy Stakeholder Workshops and engagement events associated with our reporting role on the monitoring of the implementation of CRPD.

Scope of Response

1.4 In setting out our response to the AAS, our comments will reflect on to what extent it delivers against key criteria in terms of the underlying vision and strategic aims of the strategy with respect to equality and human rights; the participation and influence of older people in the development of the Strategy and action plan; and associated delivery mechanism.

1.5 More specifically, we seek evidence that the AAS effectively addresses:

- An equality & human rights based approach underpinning the content and implementation of the strategy taking account of the forms of discrimination faced by older people in principle and practice;
- the contribution of older people to the development and implementation of the AAS;
- evidence that older persons collective views are reflected within the Strategy in a meaningful way including participation in the delivery of action measures associated with the AAS which reflects their priorities;
- provision of a transparent and accountable framework through which, implementation and progress of the AAS can be clearly assessed and delivers tangible positive outcomes. This must include the allocation of appropriate resources and development of

² See annex 1.

effective review and monitoring mechanisms including the meaningful involvement of older people and their representative organisations in the monitoring and review processes;

- the comprehensive recognition of the diversity of older people taking account of the experience older people, for example as women, ethnic minorities, disabled people;
- ensuring that the content and delivery of the Strategy ensures partnership working across all government departments and interdependence of the AAS alongside other Programme for Government commitments, in the form of other strategies, policies and government programmes;

3.0 General Comments

3.1 We acknowledge in relation to the criteria set out above that the AAS has a number of positive features including:

- Both the vision and strategic aims being underpinned by the United Nations Principles for Older persons³ with acknowledgment of domestic equality legislation and the Human Rights Act 1998.⁴
- Recognition that poverty, ageism, prejudice, disrespect and negative stereotyping are root causes of the disadvantage older people face on a daily basis, which we agree can be overt, but more often is subtle and pervasive.⁵
- The identification of the multiple forms of discrimination older people face is an important factor⁶ when considering the range of issues which impact on older people.
- The commitment to tackling ageism and age discrimination⁷ supporting our call for legislative reform to enhance the rights of older people⁸ as well as the commitment to tackling barriers facing older people in employment.⁹

³ OFMdfM February 2014: Op Cit, paragraph 2.3 page 9.

⁴ Ibid, paragraphs 2.4 and 2.5

⁵ Ibid, paragraph 1.8, page 2. See also paragraph 1.14, pages 4 and 5.

⁶ Ibid, paragraph 1.10, page 3.

⁷ Equality Commission for Northern Ireland (April 2012): Reasons to Reform the Law for all Ages: What You Need to Know. Available at [http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Policy-responses/strengthening-protection-for-all-ages-\(1\)](http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Policy-responses/strengthening-protection-for-all-ages-(1))

⁸ Equality Commission for Northern Ireland (ECNI April 2012): 'Ending Age Discrimination for all Ages' – Proposals for Reform Full Report. Available at <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/StrengtheningProtectiononAllAgesFullReport.pdf>

⁹ OFMdfM February 2014: Op Cit, paragraph 1.8, page 2.

- Engagement with the Age Strategy Advisory Group and in particular the public consultation engagement workshops showed evidence of good practice, devoting the majority of the time within the consultation workshops to feedback from older people/advocates and representative organisations;
- Recognition of the economic and social value of the contribution made by older people to our society is considerable as highlighted by the figures in the consultation paper which highlights the future projections of older person's contribution to the wider UK economy.¹⁰

3.2 The Strategy also identifies other government strategies and their relationship to the AAS within the overarching framework, such as the Disability Strategy,¹¹ Fit and Well,¹² Transforming your Care¹³ and the Reform of Adult Social Care¹⁴.

3.3 We welcome the inclusion of these issues within the high level goals and aspirations of the strategy, however we have reservations about method, timeline and funding that must be attached to them to ensure their delivery. These are discussed below.

3.4 We have a number of overarching concerns about the AAS which we believe need to be given further consideration. These include:

- there needs to be a stronger emphasis on a rights based approach beyond a set of principles; the 'needs based' analysis associated with elements of the AAS negate a rights based approach;
- better account needs to be taken of the diversity/multiple identities of older people. Explicit reference to other groups such as older women, ethnic minorities and sexual orientation will likely reinforce the importance given to the

¹⁰ Ibid, paragraph 1.15, page 5

¹¹ Office of the First and deputy First Minister (January 2013): 'A strategy to improve the lives of people with disabilities.' Available at <http://www.ofmdfmi.gov.uk/index/equality-and-strategy/equality-human-rights-social-change/disability/disability-strategy-2012-2015.htm>

¹² Department of Health, Social Services and Public Safety (DHSSPS 2012): Fit and Well – 'Changing Lives' 2012 -2022 A 10 - Year Public Health Strategic Framework Consultation Document. Available at: <http://www.dhsspsni.gov.uk/fit-and-well-consultation-document.pdf>

¹³ Health and Social Care Board (October 2012): Transforming Your Care 'Vision into Action' Consultation and Post Consultation Report are available at: <http://www.transformingyourcare.hscni.net/consultation/>

¹⁴ Department of Health, Social Services and Public Safety (DHSSPS September 2012): 'Who Cares?' - The Future of Adult Care and Support in Northern Ireland Discussion Document. Available at: <http://www.dhsspsni.gov.uk/who-cares-future-adult-care-support-ni-discussion.pdf>

multiple identity and diversity of older people and better implement relevant equality and human rights legislation with respect to anti-discrimination laws and good relations;

- Further consideration is needed as to how older people are engaged in decision making processes at a personal/local/regional/national levels as evidence continues to suggest more work is needed in this area both in terms of the content and development of the strategy;
- There is a lack of clarity as to how actions will be progressed as there are no performance indicators or SMART targets for many action measures;
- No clear commitment to the allocation of resources to the AAS, beyond consideration of some action measures. There is also general uncertainty about the Delivering Social Change Framework and the Delivering Social Change 'delivery initiative'¹⁵ tasked with funding the strategy and prioritisation of key priorities identified within the AAS;
- Uncertainty as to the extent that measures in the action plan, are reflective of the concerns and issues of older people, and on any mitigation to address potential adverse impacts - for example the future funding arrangements associated with the reform of adult social care;

Equality Impact Assessment

- 3.5 OFMDFM's equality scheme (approved by the Equality Commission in September 2013) sets out its commitments in relation to the circumstances for conducting an EQIA.
- 3.6 Given that OFMDFM has identified both major and minor equality impacts of this policy, the Commission would have anticipated that the Department would conduct an EQIA on this strategy. The Commission also notes that it is best practice to conduct a consultation on an EQIA report at the same time as the policy consultation.

4.0 Key Areas of the Strategy

- 4.1 In considering the overall thrust of the strategy, we have identified a series of issues which are touched upon in general terms above.

¹⁵ Ibid, paragraphs 2.8 -2.9, page 10 and paragraphs 8.2, 8.6, and 8.9, pages 48 and 49.

The following section will address these in more detail where necessary, in order of the strategic themes set out in the document.

Vision Statement

“Northern Ireland is an age friendly region in which all people are valued and supported to live actively to their fullest potential with their rights and dignity protected”.

- 4.2 In general we agree with the draft vision statement however we recommend that it makes clear that the rights and dignity of older people are both respected and protected. Further, the vision should specifically acknowledge the contribution of older people as being recognised and valued.
- 4.3 Our recommendation reflects the Northern Ireland Pensioners’ Parliament call on OFMdFM ministers to ensure that the new Active Ageing Strategy positively reflects the important contribution of older people to society and ensures that older people are involved throughout the implementation of the strategy¹⁶
- 4.4 While we welcome the aspiration to make Northern Ireland an ‘Age Friendly Region’ progress against this goal should be linked to the delivery of much broader outcomes beyond the physical and social environment. Indeed, positive outcomes for older people related to the current AAS and subsequent strategies should be the baseline through which we measure whether or not we meet the much broader holistic definition of an age friendly region.

Strategic Aim 1 – Independence

Independence - To promote active independent living by older people giving them choice and control in their lives through the co-ordinated delivery of good warm housing in safe neighbourhoods, accessible transport, adequate income and standard of living, access to social networks and good user-friendly information and equal access to participation in the workplace.

- 4.5 The Commission welcomes the intention to propose a signature programme to address poverty and takes note that the poverty rates for older people are higher than the rates for the rest of the UK. We welcome the commitment to secure at least £30 million in

¹⁶ Northern Ireland Pensioners’ Parliament (2013): Op Cit, Motion 9, page 38.

additional benefits for a minimum of 10,000 people. In our response to Maximising Incomes and Outcomes¹⁷ discussion document, we welcomed a number of the Department for Social Development's (DSD) actions to encourage claimants and potential claimants to avail of their proper benefit entitlement such as the continued funding of independent organisations to provide benefit information and advice, the partnership arrangements with the voluntary and community sector to deliver benefit entitlement check-up assessments and the Department's "Make the Call" advertising campaign.

- 4.6 Nonetheless, the Department's indication that only 14 % of claimants contacted by the Department or advocates undertook a benefit 'check-up' assessment is cause for concern.
- 4.7 We have highlighted to the Department a number of recommendations: including working with the voluntary and community sector to undertake a door to door benefit take up campaign particularly for those older people living in rural areas and not connected to any community groups or network. OFMdfM officials will be aware that the same recommendation was highlighted by others at the stakeholder consultation event in Derry/Londonderry.
- 4.8 While we welcome the consideration of technology as a key means of engaging with older people and other potential claimants underpinned by Department sponsored projects such as Disability Action's 'Age No Barrier' Project, and believe such projects should be supported, affordability of IT equipment would likely be a key issue for many disabled and older claimants.
- 4.9 The top five priorities identified by older people in the Northern Ireland Pensioners' Parliament Report were income related – cost of heating/cost of food and benefit information and entitlements (reinforced by official statistics on poverty experienced by older people) and these factors may make access to modern technology unaffordable.
- 4.10 This strengthens the need to consider home visits as a strong feature in any future campaign. However in the interest of

¹⁷ Equality Commission for Northern (February 2013): Response to Department for Social Development Consultation: Maximising Incomes and Outcomes – A Plan for Improving the Uptake of Benefits. Available at: <http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2013/DSDMaximisingIncomesandOutcomesbenefituptake2013.pdf?ext=.pdf>

efficiency and value for money meeting with older potential claimants within their local community settings is also a valid approach, as highlighted by older people at the consultation events.

- 4.11 Bearing in mind our earlier comments we also feel that the emphasis given to technology associated with the introduction of welfare reforms including internet claim applications and update of claimants personal circumstances in real time, will likely be to the disadvantage of many older people and other claimants unless alternative measures such as home visits and community engagement events are genuinely considered.
- 4.12 The MARA Initiative commits to identifying 12,000 households in rural areas to receive a visit from a trained enabler to offer advice and support.¹⁸ We welcome this commitment and would suggest that the enabler approach be considered within the context of home visits and community engagement initiatives to better target older people.

Housing Conditions and Fuel Poverty

- 4.12 While there is an acknowledgement within the strategy that fuel poverty is a top priority that older people would like addressed, there is no detail in this section as to the follow up programme the Department intends to build on following the 'Affordable Warmth' pilot project.¹⁹

Housing Adaptations Review

- 4.13 In our response to the Housing Adaptations Review the Commission made a significant number of recommendations.²⁰ The Commission strongly welcomes the interdepartmental agreement to the early development of an Accessible Housing Register²¹ and the identification of existing accessible build across all tenures. Given the concern highlighted within the strategy that

¹⁸ Office of the First and deputy First Minister (February 2014): Op Cit, paragraph 3.29, page 24. See also header on page 25

¹⁹ Office of the First and deputy First Minister (February 2014): Op Cit, paragraph 3.37, page 26.

²⁰ Equality Commission for Northern Ireland (May 2013): Response to "Northern Ireland Housing Executive's (Supported by Department of Social Development and Department of Health, Social Services and Public Safety) Public Consultation on the Inter-Departmental Review of Housing Adaptations Services". Full response and recommendations available at:

http://www.equalityni.org/ECNI/media/ECNI/Consultation%20Responses/2013/Inter-Dept_Review_Housing_Adaptation_Services.pdf?ext=.pdf

²¹ Office of the First and deputy First Minister (February 2014): Op Cit, paragraph 3.43, page 27.

purchasing housing designed and suitable for older and disabled people may not always be an option due to limited availability, it appears that the development of an accessible housing register as well as the commitment to future proof existing housing stock will be the general focus of any immediate or interim outcome arising from the review. We would however draw your attention to some of the Commission's key recommendations to the adaptations review team.

- service user participation should be evident across all tenures and actions to identify arrangements to facilitate this are essential;
- Lifetime Home Design Standards should be included in new build across all tenures alongside wheelchair standard design housing;
- the need for greater emphasis on inclusive design to meet the needs of people with a range of disabilities;
- the wider external environment necessary to provide accessibility, such as the pedestrian environment and availability of local infrastructure such as access to transport, shops and social activities;
- the need to ensure a consistent approach to the inclusion of equality of opportunity in procurement standards pertaining across all tenures;
- the need to allocate sufficient resources to the adaptations services across all tenures;
- the need to prepare an outcome focused action plans, setting out key targets and associated performance indicators for the revised housing adaptations service.

4.14 Maintaining older residents in their own homes (as long as is viable and they wish it) is a core element to securing their independence. It is not a zero cost option and the provision of support services particularly in rural areas may prove expensive. The Executive will need to make a conscious decision to do this and allow funding to follow policy rather than policy being dictated by funding.

Strategic Aim 2- Participation

Participation - To promote the active participation of older people in all aspects of life, including social participation which helps address isolation and loneliness and ensures that older people are properly integrated, valued and included in society; to promote the active participation and citizenship of older people in decision making on policies, the provision of services and volunteering opportunities.

- 4.15 The Commission believes that the effective implementation of strategic Aim 2 “Participation” is critical both to the development and implementation of the AAS. We acknowledge the recognition given to the Madrid International Action Plan calling for measures to be taken to enable and ensure the equal participation of older persons in decision making at all levels.²² Further we are cognisant that the development of the AAS was and will continue to be, informed by the involvement of the Ageing Strategy Advisory Group which includes organisations advocating for the interests of older people.
- 4.16 Further we are aware that the proposed Signature Programmes included in the Action Plan were presented to the Northern Ireland Pensioners Parliament.
- 4.17 While the active participation of older people in decision making has positive impacts noted in the AAS²³ there is only limited recognition of the right of older people to participate in decision making frameworks associated with the strategy. It is not sufficient in our view that six monthly meetings of the AAG to oversee the implementation of the strategy address fully the requirement to ensure participation and involvement of older people in the development of the strategy.²⁴ Further presentations and engagements with the Northern Ireland Pensioners Parliament, while positive, do not in themselves constitute direct engagement

²² Office of the First and deputy First Minister (February 2014): Op Cit, paragraph 4.1 page 32

²³ The promotion of the active participation of older people in all aspects of life including social participation (header paragraph – title heading) does we agree address isolation and loneliness however the importance of the active participation of older people in decision making should not consider causal impacts alone but recognise the fundamental right of older persons to inform and shape matters which impact on their lives.

²⁴ Office of the First and deputy First Minister (February 2014): Op Cit, paragraphs 4.3, 4.4, 4.5, 4.6, 8.12 and 8.14 and 8.15 pages 32, 33, 50 and 51.

with older people in decision making structures and frameworks associated with the AAS.

- 4.18 Action should be identified within the AAS to ensure that all government departments involved in the various policies and programs associated with the strategy deliver proper and effective consideration of direct engagement and involvement of older people in the development and implementation of all aspects of the AAS. Such action is consistent with public authorities' obligations to promote the participation of older people in public life under Section 75²⁵ and positive duties associated with anti discrimination legislation such as the disability duties detailed under section 49a and 49b of the Disability Discrimination Act 1995 as amended.²⁶
- 4.19 The obligations highlighted above are further reinforced by CRPD which places great importance on the proper inclusion and participation of disabled people in the development of policies and measures which directly or indirectly impact on the lives of disabled people.
- 4.20 The first principle set out in Article 3, General Principles, of the Convention requires consideration of the need for respect for inherent dignity, individual autonomy, including the freedom to make one's own choices and the independence to enable that choice to be made. Further, within the same provision the Convention calls for the full and effective participation and inclusion in society of disabled people.
- 4.21 In terms of understanding the collective experience of disabled people and their situation, General Obligations Article 4(3) of the Convention requires public authorities to closely consult and actively involve disabled people, **including children, young and older people** through their representative organisations in the development and implementation of legislation and policies to implement the Convention and in decision making processes related to them.

²⁵ Equality Commission for Northern Ireland (April 2010): Section 75 Guide for Public Authorities. Available at http://www.belfasttrust.hscni.net/pdf/S75_Public_Authorities_Outline_Guide.pdf

²⁶ Equality Commission for Northern Ireland (March 2007): A Guide for Public Authorities – 'promoting positive attitudes towards disabled people and encouraging their participation in public life.' Available at: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/DisabilitydutiesGuideforPAs2007.pdf>

- 4.22 Furthermore, the CPRD requires that civil society and **disabled people in particular, are involved and participate fully in the monitoring processes (Article 33(3) National implementation and monitoring).**
- 4.23 We have observed that no framework or structure has been identified to initiate and maintain the wider involvement of older people in the ongoing development and implementation of the strategy. We are aware that OFMdfM is considering the development of a wider stakeholder engagement framework in relation to the disability strategy in addition to the existing disability strategy monitoring and evaluation sub-group. We would encourage OFMdfM in consultation with the Age Advisory Steering Group to adopt a similar approach with regard to the AAS.
- 4.24 On a positive note we would like to commend the good practice adopted by OFMdfM in the conduct of the public consultation engagement events associated with the AAS, specifically the strong emphasis given to the feedback from stakeholders and the fact the majority of time was given to listening to their views rather than presentations from officials which largely characterised the approach adopted in the consultation workshops associated with the Disability Strategy.

Strategic Aim 3 – Care

Care - To promote equal access to high quality health and social care services, which promote and maintain physical, mental and emotional health and well-being, and support those with long-term conditions. Health and social care services⁵¹ should conform to best practice and be informed by continuous professional development, research, individual preference and need.

Health and Social Care

- 4.25 Very often, older people are seen as the ‘recipients’ ‘of care and welfare services. This misses out the essential role played by our older citizens in providing care for their partners and informal care for children and neighbours.

- 4.26 We are conscious that the UK Government's National Strategy for Carers included a number of recommendations that should be considered in the context of Northern Ireland, including:
- the introduction of annual health checks for carers;
 - supporting carers to ensure they are able to have a family and community life outside of caring;
 - the development of awareness raising training for GPs on the health issues facing carers; and
 - investment in respite cover to enable carers to take periodic breaks.²⁷
- 4.27 We note the commitment to review the Carers' Strategy in Northern Ireland and would recommend the inclusion of programmes and financial support for all carers in Northern Ireland.
- 4.28 Recent findings/conclusions and recommendations from a recent report²⁸ based on the survey of nearly 3,400 carers, show that:
- 87% said caring responsibilities had a negative impact on their mental health;
 - 83% said caring responsibilities had a negative impact on their physical health;
 - 64% felt they did not receive enough practical support; and
 - half those surveyed said that lack of financial support had an adverse impact.
- 4.29 The findings above are significant given that older people often provide informal care to address gaps in formal care provision
- 4.30 This report made a number of recommendations including: the need for sustainable funding for social care; for respite provision for carers; and the need for timely support from local GPs.
- 4.31 We are aware that, in order to identify the support needs of carers by the local health trusts it is critical that they use and complete the carer's assessment tool. We note that the Bamford Monitoring

²⁷ Department of Health (2010): Carers at the heart of 21st Century families and communities – Recognized Valued and Supported Next Steps to the Carers Strategy (Department of Health: London). Available at:http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_085345

²⁸ Carers Northern Ireland (June 2012): 'In sickness and in Health Report- Summary of key findings', page 1. Available at: <http://www.carersuk.org/news-northern-ireland/item/2610-cw2012-research>

Group points out that only 58% of those surveyed had heard of a carer's assessment and that more work is required to deliver outcomes²⁹.

- 4.32 The Bamford Action Plan set targets for increased respite provision of 200 learning disability packages and 2000 dementia packages per year. However, reductions in funding in 2010/11 resulted in these targets being reduced to 125 and 1200 respectively³⁰.
- 4.33 Many carers also find they are not eligible for Carers Allowance due to strict rules over who can claim it, and of those that receive it, the benefit is the lowest one of its kind at £58.45 a week (2012-13 rate). Furthermore, many carers have to rely on savings; pensions and critical illness cover in order to survive³¹.

Strategic Aim 5 – Promote Dignity

Dignity - To promote and protect the human rights of older people here; to uphold dignity and respect for older people in all areas of life; to promote equality, address inequality, challenge ageism and outlaw discrimination, recognising the additional challenges faced by older people with multiple identities such as gender, age, religion, disability, ethnicity, sexual orientation and the locality that they grew up in.

Protection from Age Discrimination in the area of Good, Facilities and Services

- 4.34 We welcome the commitment to introduce age reform legislation both within the Programme for Government 2012-2015 and the AAS and the commitment given to the allocation of resources to this measure. OFMdFM will note the concern raised by the Northern Ireland Pensioners' Parliament over the slow pace of progress in relation to the introduction of age discrimination legislation and the calls on the government to ensure the issue is

²⁹ DHSSPS Integrated Projects Unit (January 2012): Evaluation of the Bamford Action Plan, as at December 2011, paragraph 5.4.5, page 29. Available at: <http://www.dhsspsni.gov.uk/bamford-evaluation-action-plan2009-2011.pdf>

³⁰ Ibid, paragraph 5.48.

³¹ Carers Northern Ireland (2012) Op Cit, page 9.

progressed urgently so that older people can avail of the extra legal protection that the legislation will bring.³²

- 4.35 We are aware of OFMdFM's commitment within the Programme for Government to introduce the relevant anti-discrimination age legislation with respect to goods, facilities and services by 2015 and we recommend this commitment with regard to the timescale is written into the Action Plan.³³
- 4.36 We call on the Executive to progress as a matter of urgency the introduction of robust legislation that protects people of all ages from discrimination outside the workplace. We have set out in our proposals for reform 'Ending Age Discrimination in the Provision of Goods and Services'³⁴, our detailed recommendations as regards strengthening the rights of people of all ages when accessing goods, facilities and services.
- 4.37 The Commission has also made it clear that people of all ages, including children and young people, should have protection against age discrimination outside the workplace. We have set out in our proposals for reform, 'Strengthening Protection for Children and Young People', jointly produced with the Northern Ireland Commissioner for Children and Young People (NICCY), our recommendations and reasons why we consider that there is a robust case for strengthening the rights of children and young people in this area.³⁵
- 4.36 We shall shortly forward to OFMDFM a report by the Institute for Conflict Research (ICR), commissioned by the Equality Commission, which highlights examples of potential age discrimination experienced by older people when accessing goods, facilities and services, as well as examples of the general barriers that older people face due to their age when accessing goods and services. We support the report's conclusion that the introduction

³² Northern Ireland Pensioners' Parliament Report (2013): content of motion 8, page 38. Available at: http://www.agesectorplatform.org/images/NIPP_Report_small.pdf

³³ Ibid.

³⁴ Equality Commission for Northern Ireland (April 2012): Strengthening protection for all ages. Proposals for reform: <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/StrengtheningProtectionAllAgesFullReport.pdf>

³⁵ *Strengthening Protection for Children and Young people*, ECNI and NICCY, 2013 <http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/AgeGFSlawproposalfullreport2013.pdf?ext=.pdf>

of legislation that outlawed unjustifiable discrimination on the grounds of age would be an important step in enabling people to challenge inequalities; improve the quality of services; and improve the quality of life for older people. We also support its conclusion that the introduction of this legislation would ensure that older people in Northern Ireland would have similar rights and protections as those in the rest of the United Kingdom.

Human Rights

- 4.34 The Commission welcomes the recognition of the 18 United Nations Principles of Older People, grouped under five themes of 'independence, participation, care, self-fulfilment and dignity as the Northern Ireland Executive's framework for addressing issues affecting older people.
- 4.35 However we believe that the Strategy would benefit from a stronger emphasis on human rights, to reflect more clearly the importance of a human rights framework in addressing older people's issues as matters of rights rather than needs.
- 4.36 We are conscious of the fact that older persons, their advocates and representative organisations in Northern Ireland and elsewhere have called for more visibility and increased use of international human rights standards to address older people's issues on the basis that existing human rights treaties do not adequately articulate what they are. Neither do they fully clarify governments' obligations to protect older people's rights.
- 4.37 We are aware that international obligations to older persons are implicit in most core human rights treaties, such as the two Covenants, on Economic, Social and Cultural Rights and on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, (CEDAW) Convention on the Rights of Persons with Disabilities (CRPD) and the Convention on the Elimination of All Forms of Racial Discrimination.(CERD)³⁶ In the absence of a Convention on the Rights of Older People we believe that any government strategy concerning older people should include its wider obligations associated with those human

³⁶ UN Human Rights, Office of the High Commissioner for Human Rights (December 2010) Report of the General Secretary to the General Assembly – 'Human Rights of Older People' (A/66/173) submitted pursuant to the General Assembly resolution 65/182 of December 2010 available online at <http://www.ohchr.org/EN/Issues/OlderPersons/Pages/OlderPersonsIndex.aspx>

rights instruments identified above and their relationship to older people's priorities and aspirations.

- 4.38 We believe that there is a general lack of awareness of older peoples issues within a human rights context, older people (as has been the case for disabled people) often been characterised as frail and vulnerable as having '**needs**' rather than being viewed and understood as **holders of rights**.
- 4.39 We are of the view that consideration of specific identity based treaties (such as CERD, CEDAW, UNCRPD etc) would emphasise the importance of consideration of the multiple identities of older people taking account of the wider experience of older people and the specific circumstances which influences their lives. The correlation between disability and age is highlighted within the AAS referencing statistical data from the Disability Strategy.³⁷ No consideration however, is given to the inclusion of the Convention on the Rights of Persons with Disabilities (CRPD) as underpinning the development of the strategy, despite the correlation between the prevalence of disability and growing older.
- 4.40 Moreover it should be noted that CRPD Articles 25, (health) and 28 (adequate standard of living and social protection) specifically reference the entitlement of older people with disabilities to these rights within their respective clauses.³⁸ The subject specific issues identified within these articles ranked within the top 5 priorities identified by the Northern Ireland Pensioners Parliament Report of 2013.

Article 28, for example, relates to

- Priorities 1, 2, and 5 concerned with keeping warm/ heating costs;
- food prices;
- information on benefits/entitlements;

³⁷ Ibid, paragraph 1.18 pages 6.

³⁸ **Article 25(b) Health** – “States Parties (governments) shall provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and **older persons**”; **Article 28(b) Adequate Standard of Living and Social Protection** – “States Parties (governments) shall take steps to promote and safeguard the realisation of this right, including measures **to** ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes. Further within the same **Article 28(e)** States Parties (governments) are required to ensure equal access by persons with disabilities to retirement benefits and programmes.”

- while concerns about health and social care in relation to Article 25 ranked number 4 in older people's list of priorities.³⁹

- 4.41 Further the inclusion of CRPD within the AAS would enlighten older people, who have acquired/or may acquire a cognitive or physical impairment later in life of their additional rights and the obligations of government to them in that regard
- 4.42 While international human rights treaties are not directly enforceable in domestic law, those treaties ratified by the UK such as, CRPD and CEDAW are binding on government as a matter of international law⁴⁰;
- 4.43 Adopting an effective human rights approach to the AAS would also correspond well the aims underpinning both the origin and work of the Northern Ireland Pensioners Parliament (NIPP). Two of their eight aims are concerned with securing a rights based approach in dealing with older peoples issues. First, the aim to increase the confidence of older people to make their voice heard and to uphold their rights; secondly, the aim to increase older people's knowledge of their rights and entitlements.⁴¹

Allocation of Appropriate Resources

- 4.44 We are concerned that the Executive has not identified clearly enough what resources will be allocated from the Delivering Social Change Fund for the implementation of the strategy. This is a critical factor in delivering an effective Strategy. Without the allocation of adequate resources to the Strategy it is unlikely that a number, of the action measures will be realised, beyond those which have already been resourced and progressed.

³⁹ Northern Ireland Pensioners Parliament Report (2013): Table heading Survey Results and Comparisons to Previous Years, page 12. Comparing the survey results on the two previous years 2011/12 we are advised that the Compton Report recommendations with respect health and social care reforms moved the issue of health and social care from its previous ranking of 7 to 4. The report noted that the proposed closure of statutory care homes was a concern, but the lack of adequate quality care packages was the most common cause of concern at the survey events. Available at: http://www.agesectorplatform.org/images/NIPP_Report_small.pdf

⁴⁰ Northern Ireland Human Rights Commission (NIHRC March 2012) In Defence of Dignity: The Human Rights of Older People in Nursing Homes <http://www.nihrc.org/documents/research-and-investigations/older-people/in-defence-of-dignity-investigation-report-March-2012.pdf>

⁴¹ Northern Ireland Pensioners Report (2013) 'Aims of the Pensioners Parliament' bullet points 3 and 4 page 7 available at: http://www.agesectorplatform.org/images/NIPP_Report_small.pdfhttp://www.agesectorplatform.org/images/NIPP_Report_small.pdf

4.45 OFMdFM will be aware we had raised similar concerns in relation to the funding of the Disability Strategy. We drew attention to a recent international comparative study undertaken to determine critical success factors for the effective delivery of national disability strategies, which identified the requirement for government to have a clear understanding of the resources available to implement a disability strategy. In New Zealand, for example, an external review of the implementation of their national disability strategy found that one of the key reasons for lack of progress in the delivery of an effective strategy was the lack of dedicated implementation and funding plan for the strategy.⁴²

4.46 The Northern Ireland Human Rights Commission (NIHRC) in its research *In Defence of Dignity: The Human Rights of Older People in Nursing Homes* also draws attention to General Comment No 6 from the UN Committee charged with overseeing the implementation of the International Covenant on Economic, Social and Cultural Rights, (ICESCR) observed that although older people are not specifically referred to in ICESCR:

*“[...] it is clear that older persons are entitled to enjoy the full range of rights recognized in the Covenant. [...] Moreover, in so far as respect for the rights of older persons requires special measures to be taken, States party (governments) are required by the Covenant to do so to the maximum of their available resources.”*⁴³

4.47 NIHRC’s research further adds that the Committee specified that, during times of economic recession, States Party (governments) have a duty to protect disadvantaged groups, including older people, who are particularly at risk.⁴⁴

4.48 The research draws attention to the fact that in relation to devolved matters such as health and social care the Northern Ireland Executive has responsibility for delivering adequate resources to deliver resources to support older people in spite of the current

⁴² Flynn, Dr E., (2011): *From Rhetoric to Action – Implementing the UN Convention on Human Rights for Persons with Disabilities* - Chapter 4 ‘Critical Success Factors in Delivering A National Disability Strategy Lessons from International and Comparative Experience’, pages 197-286, (Centre for Disability Law, National University of Galway).

⁴³ Northern Ireland Human Rights Commission (NIHRC March 2012): *In Defence of Dignity*, paragraph 1, page 15 <http://www.nihrc.org/documents/research-and-investigations/older-people/in-defence-of-dignity-investigation-report-March-2012.pdf>

⁴⁴ *Ibid*, paragraph 2, page 15

economic difficulties facing Northern Ireland; the minimum obligations contained in the ICESCR should continue to be respected.⁴⁵

- 4.49 We recommend that the Executive demonstrate a clear commitment to the strategy by adopting an investment plan to deliver resources so as to ensure and enable the effective implementation of the strategy.
- 4.50 In doing so we further recommend the integration of those priorities associated with phase 2 of the action plan with those additional priorities which are allocated resources following this consultation. We would hope that the revised strategy will contain all agreed priorities and the specific allocation of resources to each action as well as clear identification of the total resources being allocated to the strategy.

5.0 Screening decision: Not to conduct an EQIA

- 5.1 OFMDFM's equality scheme (approved by the Equality Commission in September 2013) sets out its commitments in relation to the circumstances for conducting an EQIA. The Commission queries the Department's decision to screen the policy out and not conduct an EQIA, for the following reasons:
- 5.2 OFMDFM outlines in its equality scheme that, *'If our screening concludes that the likely impact of a policy is 'major' in respect of one or more of the equality of opportunity and/or good relations categories, we will normally subject the policy to an equality impact assessment.'* Where major impacts are identified, therefore, the Department commits to 'normally' subjecting the policy to equality impact assessment.
- 5.3 Furthermore, where minor impacts are identified OFMDFM has committed in its equality scheme, at paragraph 4.10, to considering measures that might mitigate the policy impact, and to considering alternative policy proposals which might better achieve the promotion of equality of opportunity and/or good relations. No potential mitigating measures or alternative policies have been outlined in the screening form in Annex B of the consultation document.

⁴⁵ Ibid.

- 5.4 In the policy screening form OFMDFM outlines that the policy is likely to have both ‘**major**’ and ‘**minor**’ impacts on equality of opportunity for those affected by the policy, however, the Department has opted to screen the policy out ‘*at this stage*’ (and not conduct an equality impact assessment), though the form suggests that ‘*the option remains to carry out an EQIA in the future.*’
- 5.5 Given that the OFMDFM has identified both major and minor equality impacts of this policy, the Commission would have anticipated that the Department would conduct an EQIA on this strategy. The Commission notes that it is best practice to conduct a consultation on an EQIA report at the same time as the policy consultation.
- 5.6 The seven separate elements of an EQIA (which align to the steps in the policy development process) are as follows:
1. Defining the aims of the policy.
 2. Consideration of available data and research.
 3. Assessment of impacts.
 4. Consideration of:
 - measures which might mitigate any adverse impact; and
 - alternative policies which might better achieve the promotion of equality of opportunity.
 5. Consultation.
 6. Decision by public authority and publication of report on results of EQIA.
 7. Monitoring for adverse impact in the future and publication of the results of such monitoring.

Commission comments on the screening form

Available Evidence

- 5.7 In Chapter 4 of its equality scheme OFMDFM commits to gathering ‘*relevant information and data, both qualitative and quantitative, or use existing data sets*’ in order to answer the four screening questions. In the policy screening form in Annex B of the consultation document, however, the Department presents very little quantitative or qualitative information/evidence outlining the potential impact of the proposed policy on the Section 75 groups. The Department has committed to providing such

information/evidence in its policy screening form, in order to demonstrate why it has screened in (for equality impact assessment) or screened out the policy, and also to let consultees know the basis upon which the policy was screened in or out.

- 5.8 We have observed that reference is made in the screening form indicating that OFMdfM officials held consultations with older people in 2009 - 2010, with respect to pre-consultations on the Strategy which were carried out in the past 2 years (with the Ageing Strategy Advisory Group), and to age research commissioned by OFMdfM. However, very little evidence or data from these consultations and research, relating to the Section 75 categories, is outlined in the screening form.
- 5.9 There appears to be no proper consideration of how this data is relevant to the assessment of equality impacts in relation to the strategy. Nor does the screening form set out how the policy proposes to address any adverse impacts / opportunities to promote equality of opportunity i.e. mitigation, as noted above. The screening form should contain quantitative and qualitative evidence/information to support the public authority's decision to screen the policy in or out, and also to help inform consultees who will be responding to screening and policy consultations. Regardless of whether this information is included in the main policy consultation document, it should also be set out in the screening form.

Monitoring

- 5.10 The age strategy screening form does not indicate that any monitoring mechanisms have been or will be put in place. OFMdfM in Chapter 4 of its equality scheme commits to monitoring policies that it has adopted. The purpose of monitoring is to identify any future adverse impacts arising from the policy, and also to inform policy development. The Commission advises that monitoring mechanisms for any final strategies are put in place, recorded in screening forms/EQIA reports and published, as per scheme commitments.

6.0 Concluding remarks

- 6.1 In conclusion, we welcome the development of this strategy, as it has the potential to deliver significant improvements in the lives of

our older people. However, the inclusion of the actions to accompany the strategy within the DSC framework are problematic in that the DSC framework itself has been screened out in relation to conducting an EQIA. The lack of clarity on which actions will be taken forward, along with a lack of funding commitment, make it extremely difficult to assess whether or not the strategy will go far enough in addressing the needs of our ageing population.

- 6.2 The Commission is concerned that OFMdfM has decided not to subject the strategy to an EQIA at this stage. Early consideration of how the strategy could better promote equality and good relations, rather than a consideration of negative impacts would make for a much more effective approach.
- 6.3 The Commission remains happy to discuss our comments and recommendations in more detail as required.