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ARTICLE

## **Should the new age law protect children and young people?**

**by Evelyn Collins, Chief Executive, Equality Commission for Northern Ireland.**

The Equality Commission and the Northern Ireland Commissioner for Children and Young People (NICCY) believe that people of all ages, including children and young people, should be protected against unlawful age discrimination and harassment when accessing goods, facilities and services, for example, health care or education.

We recognise that there are situations in which it is appropriate to treat adults and children differently and the law should allow for that where there are justifiable reasons for doing so.

But that is not a reason for excluding children and young people completely from the protection of anti-discrimination law. Age is the very factor that makes children and young people more vulnerable than adults. They therefore require special protective measures, rather than no protection from age discrimination when accessing services.

The Equality Commission's proposals for reform, 'Ending Age Discrimination in the Provision of Goods and Services', recommend that inequalities in goods, facilities and services, such as health and social care, financial services, retail services or transport provision are addressed on behalf of people of all ages.

The Commission has already welcomed the commitment given in the Programme for Government to extend age discrimination legislation to cover the provision of goods, facilities and services. Strengthening age discrimination legislation for older people is in keeping with the Government's Older People's Strategy, 'Ageing in an Inclusive Society'.

However, together with the Children and Young People's Commissioner, we believe that there is a robust case too for strengthening the rights of children and young people against unlawful discrimination and harassment on the grounds of age in the provision of goods, facilities and services. This is consistent with OFMDFM's 'Strategy for Children and Young People' and the 'Delivering Social Change' framework. In addition, strengthening the rights of children and young people is consistent with the UK

Government's obligations under international human rights conventions; in this case specifically the United Nations Convention on the Rights of the Child

In health and social care, for example, there is compelling evidence that children and young people experience age discrimination when accessing a range of services.

Children and young people with mental health issues can experience difficulties in accessing health and social care services which are appropriate for their age. Almost 200 young people in Northern Ireland were admitted to adult psychiatric wards between 2007 and 2009.

In the provision of health and care services, we believe that there should be no specific exceptions for age-related difference in treatment or services - any age-based decisions should be objectively justifiable.

Negative attitudes, barriers and hostility by service providers are frequently reported by young people trying to use shops or public transport and when engaged with the criminal justice system.

In education, private clubs and other areas too, age-related criteria or rules cannot be arbitrary. Where there are good reasons for limiting a service to people of certain ages, for example, in education, we recommend that decisions are based on the actual needs of children and young people, and either fall within a particular exception, such as a positive action exception, or are justified objectively.

A difference in treatment between adults and children and young people should be allowed where the law allows or requires businesses to restrict access to goods or services to people of certain ages, for example, having to be 16 to get married, or to be 18 to buy alcohol. We have proposed that concessions aimed at children, young people and older people should not be considered discriminatory, so for example, cheaper transport fares or admission to leisure facilities should be permitted.

Including children and young people within the legislation will also ensure that the legislation does not result in unjustifiable and absurd inconsistencies of treatment. For example, an arbitrary age "cut-off" point for the legislation would mean that an 18 year old who is harassed due to his/her age could bring a complaint under the proposed legislation, but a 17 year old, who is subjected to the same harassment, could not.

The Equality Commission and the Commissioner for Children and Young People are working to persuade the Executive to adopt these proposals, which would mean Northern Ireland would be joining the countries which are leading the way internationally on this issue.

## Notes

Our joint document 'Strengthening Protection for all Ages - Proposals for Reform: Protecting children and young people against unlawful age discrimination in the provision of goods and services' (June 2013) discusses the issues.