



# Strengthening Protection for Children and Young People

when accessing goods, facilities and services

SUMMARY REPORT

## Introduction

1. The Equality Commission for Northern Ireland ('the Equality Commission') is an independent public body established under the Northern Ireland Act 1998. It is responsible for implementing the legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.
2. The Northern Ireland Commissioner for Children and Young People (NICCY) was set up under the Commissioner for Children and Young People (NI) Order 2003 with the primary aim of safeguarding and promoting the rights and best interests of children and young people. NICCY places its work within the context of the UN Convention of the Rights of the Child (UNCRC) and other relevant human rights instruments.
3. The Equality Commission and NICCY have set out below a summary of their **joint recommendations** as regards strengthening the rights of **children and young people** against age discrimination when accessing goods and services. A **full report** of our joint recommendations is also available.<sup>1</sup>

## Context

4. The NI Executive has committed in its Programme for Government to develop and consult on proposals to extend age discrimination legislation to cover the provision of goods, facilities and services.
5. In its proposals for reform: *Ending Age Discrimination in the Provision of Goods and Services*<sup>2</sup>, the Equality Commission has made it clear that it recommends that people of **all ages** should have protection against unlawful discrimination and harassment on the grounds of age when accessing goods and services.
6. Both the Equality Commission and NICCY are strongly opposed to the **blanket exclusion of minors** from statutory protection, an exclusion that currently exists under age discrimination legislation introduced in Great Britain in October 2012.



<sup>1</sup> A full report is available on our respective websites; [www.equalityni.org](http://www.equalityni.org) and [www.niccy.org](http://www.niccy.org)

<sup>2</sup> <http://www.equalityni.org/Delivering-Equality/Addressing-inequality/Law-reform/Policy-responses>

7. We believe that everyone, inclusive of their age, has the right to be treated fairly and should have the opportunity to fulfil their potential. It is important that people of **all ages**, including children and young people, do not receive an inferior service, or have access to a service restricted simply on the basis of their age. People of all ages should have the right to be treated with dignity and respect when receiving a service.
8. We consider that there is a **robust case** for strengthening the rights of children and young people against unlawful discrimination and harassment on the grounds of age in the provision of goods and services.
9. We have set out below our recommendations as regards the **scope** of the proposed legislation and as regards the inclusion of children and young people, including the range of **exceptions** that it should contain.
10. In addition, we have set out the reasons why we are **recommending** that **children and young people** should have protection against unlawful discrimination on the grounds of age when accessing goods and services.

## Recommended scope of legislation

11. In summary, we **recommend** that the proposed legislation gives protection against unlawful discrimination and harassment on the grounds of age in the following areas:
  - **access to general services** (such as retail services, public transport provision or facilities for entertainment);
  - the provision of **health and social care**;
  - **financial services** (such as services of a banking, credit, and insurance nature);
  - discrimination by **public bodies** when exercising public functions (for example, public functions carried out by the police or prison authorities);
  - discrimination by **private clubs** or other associations (such as golf clubs or political parties);
  - **education and associated services** including services provided by schools and education and library boards; as well as institutions of further and higher education, such as universities and colleges of further education;
  - **accommodation**: namely the sale, letting and management of housing accommodation, either in the private or social housing sectors.



12. We **recommend** that the proposed legislation bans unjustifiable **direct** and **indirect discrimination** against children and young people on the grounds of age, as well as **harassment** and **victimisation**.
13. We further **recommend** that policies or practices which discriminate against people of different ages and do not come within a specific exception or are a form of positive action, should be permitted if **objectively justifiable**. In other words, the legislation should allow service providers and others to treat children and young people of different ages differently, where there are **beneficial or justifiable reasons** for doing so.
14. In order to provide clarity for service providers on their responsibilities under the proposed legislation, we **recommend** the legislation **explicitly** states that **direct** age discrimination against children and young people, or people of other ages, can only be justified where a **social policy objective** is being pursued. In addition, the measures adopted to achieve that social policy objective must be proportionate.
15. It is important to stress that we recommend that **only** the test for justification in respect of **direct** age discrimination in the provision of goods and services is limited in this manner. We **recommend** that the test for justifying **indirect** age discrimination is **not** limited to pursuing social policy objectives.

## Exceptions

16. As set out above, we recognise it is **not always appropriate for children and young people to be treated the same way as adults**. Children and young people have different levels of wisdom, maturity, physical ability, education, economic power and other means of self-determination.
17. These differences arise as a consequence of, or must be seen as part of, the **vulnerability** that children and young people have compared to adults. We are of the view that these differences do not provide a basis for no legislative provision and no enforceable rights; rather the **differences give rise to an obligation to take specific and different actions**. The thrust of these exceptions should be to ensure the **best interests of the child**.
18. We **recommend** that the legislation includes **exceptions** which allow service providers and public bodies to treat children and young people differently because of their age in the following circumstances.



- **Legislation:**

We recommend that the legislation makes it explicit that the prohibition on age discrimination in goods, facilities and services is **secondary to other legislation** which imposes age limits.

In other words, we recommend that differential treatment on grounds of age is permitted **where another piece of legislation allows or requires people to be treated differently because of their age**; for example, a requirement to be 16 to be married, age-based state benefits which relate to children and young people, prohibition on the selling of alcohol to under 18s; or the age at which a person can be criminally responsible, allowed to enter into different types of contracts or be allowed to vote.

- **Age –based concessions:**

We recommend that the legislation permits age-based concessions, such as discounts or offers open only to people of a particular age group, **where justifiable**; for example, free or cheaper access for young people to local leisure facilities or public transport, discounts for children and young people by retailers or private clubs, etc.

It is important to note that we **do not support a blanket exception** for concessionary services, as is currently the case under the Equality Act 2010 in respect of the age discrimination legislation in Great Britain.

In the interests of clarity and in light of the fact that many children, young people and older people face financial disadvantage, we believe there is merit in adopting a similar approach to that adopted in Canada; namely that the legislation makes it clear that **concessions aimed at children, young people and older people are not discriminatory**.

- **Proof of age:**

We recommend the legislation allows businesses which sell age-restricted goods such as alcohol, fireworks, cigarettes, etc, to continue to ask for proof of age, where a customer appears to be younger than a particular age, for example 18.

- **Positive action:**

We recommend that the legislation allows service providers and public bodies to take positive action; i.e. action to prevent or compensate for disadvantages experienced by, or to meet the particular needs of, children and young people, where objectively justified. This could include, for example, specific welfare services targeting vulnerable young people. It could also include immunisation programmes, health screening programmes, breakfast clubs targeted at children and young people.



- **Sport:**

We recommend that service providers are permitted to use age limits and age bands within sports at all levels, from grass roots to elite.

- **Ad hoc exceptions**

Finally, we are of the view that there may be value in introducing a mechanism whereby **ad hoc exceptions** can be made to the principle of equal treatment as new scenarios are encountered.

## Recommendations for protection in key areas

19. Our recommendations will strengthen protection for children and young people in a number of key areas.

### Accessing general goods and services

20. We **recommend** that **children and young people** have protection against unlawful discrimination and harassment on the grounds of age when accessing **general day to day services**.
21. **Prejudicial and negative attitudes** towards children and young people by service providers and public bodies has **resulted in their receiving an inferior service** and has impacted on their ability to access day to day services.
22. For example, as a result of stereotypical negative attitudes towards young people as anti-social trouble makers, their access to services has either being denied or restricted. This includes being refused access to shops without justification, being harassed by service providers because they are a young person.
23. Complaints to NICCY have also highlighted the indiscriminate use of Mosquito devices<sup>3</sup> by a number of retailers, resulting in young people being deterred from accessing the shops in question whilst the device is in operation.
24. The *Ark Young Life and Times Survey 2010*<sup>4</sup>, a survey of 16 year olds in Northern Ireland, has highlighted the high level of negative attitudes and barriers that young people face when accessing day to day services, including retail shops.



3 Mosquito devices are electronic devices which emit high frequency sounds that are most audible to people under 20 years and are designed to deter teenagers gathering in certain areas.

4 *Ark Young Life and Times Survey 2010*, <http://www.ark.ac.uk/ylt/>; See also NICCY briefing paper [http://www.niccy.org/uploaded\\_docs/2011/Publications/Findings%20of%20YLTS%202010%20negative%20stereotyping%20questions.pdf](http://www.niccy.org/uploaded_docs/2011/Publications/Findings%20of%20YLTS%202010%20negative%20stereotyping%20questions.pdf)

25. Further, a survey carried out by **NICCY Youth Panel** in 2006 into the experiences of children and young people as consumers, revealed that the majority of respondents considered that children and young people were treated more negatively or with less respect by shop staff than adults.<sup>5</sup> The Equality Commission has also received a number of complaints from children and young people relating to less favourable treatment by retailers because of their age.
26. In addition, a recent survey by the **Consumer Council on public transport** has shown that one reason why children and young people will not travel on buses on a regular basis is due to the negative attitudes of bus drivers and other members of the public. In fact only 19% of respondents agreed that staff attitudes to young people were positive.<sup>6</sup>
27. The **Review of the Youth Justice system** in Northern Ireland published in 2011 has also highlighted that “discussions with young people, which mirror the findings of the Criminal Justice Inspection Northern Ireland and the Northern Ireland Policing Board, suggest that too many officers are still adopting a judgemental and prejudicial, even antagonistic attitude towards some of the young people they encounter.”<sup>7</sup>

## Health and social care

28. We **recommend** that **children and young people** have protection against unlawful discrimination and harassment on the grounds of age when accessing **health and social care services**.
29. We are of the view that the legislation should contain **no specific exceptions** for age-related differences in treatment or services in health and social care. Any age based practices and rules within health and social care should be assessed against the objective justification test.
30. We believe that the **beneficial or justifiable** use of age, for example, public health programmes, screening or immunisation programmes which target particular children and young people, should continue. They will be permissible under the objective justification test.
31. There is clear evidence that children and young people in Northern Ireland experience difficulties in accessing **age-appropriate health and social care services** (including mental health services).

5 [http://www.niccy.org/uploaded\\_docs/Young%20Consumers%20-%20Final%20Report%2004-12-06.pdf](http://www.niccy.org/uploaded_docs/Young%20Consumers%20-%20Final%20Report%2004-12-06.pdf)

6 *Transport Matters Young People's Experiences, Attitudes and Ideas for Improving Public Transport*, Consumer Council and Youth Action, [www.youthaction.org](http://www.youthaction.org)

7 <http://www.dojni.gov.uk/index/publications/publication-categories/pubs-criminal-justice/report-of-the-review-of-the-youth-justice-system-in-ni.pdf>



32. For example, the Regulation Quality Improvement Authority (RQIA) independent review of child and adolescent mental health services (CAMHS) in Northern Ireland in February 2011<sup>8</sup> highlighted that whilst progress has been made since the Bamford Review in 2006, **young people continue to be admitted to adult mental health wards**. The review indicated that almost 200 children in Northern Ireland were admitted to adult psychiatric wards between 2007 - 2009.<sup>9</sup>
33. We welcome the NI Executive's recent commitment to develop policy guidance on a service model for child and adolescent mental health services (CAMHS), in response to the RQIA review.<sup>10</sup>
34. Further, complaints to NICCY have shown that a **lack of age-appropriate mental health services** has also resulted in younger children having to access services designed for older teenagers and as a consequence specific needs were not being met.
35. It is of note that the NICCY's *Children's Rights: Rhetoric or Reality Review of children's rights in Northern Ireland* has highlighted that the prevalence of mental health problems, though generally high amongst children and young people, has been shown to be particularly high amongst disadvantaged or marginalised groups of youth. This includes those children living in poverty or areas of economic disadvantage or looked after children.<sup>11</sup>
36. The difficulties experienced by children and young people in accessing mental health services was comprehensively set out in the *Bamford Review* in 2006.<sup>12</sup> It highlighted that **'mental health services for children in Northern Ireland have received too little attention for too long and have suffered from a lack of coherent planning and investment'**.
37. We recognise and welcome the work undertaken by the DHSSPS to address the shortcomings highlighted in the *Bamford Review*, including through the production of the Executive's Bamford Action plan in 2009<sup>13</sup>. However, it is clear that children and young people continue to experience barriers to access health and social care services.

8 RQIA *Independent review of CAMHS in Northern Ireland*, February 2011

[http://www.rqia.org.uk/cms\\_resources/RQIA%20CAMHS%20Report%202022%20Feb%2011.pdf](http://www.rqia.org.uk/cms_resources/RQIA%20CAMHS%20Report%202022%20Feb%2011.pdf)

9 As regards young people in adult wards, within a 30 month period between 1 April 2007 and 30 September 2009, 197 young people had been admitted onto an adult ward.

10 See *Delivering the Bamford vision, response of NI Executive to the Bamford Review of mental health and learning disability, action plan*, DHSSPS, Nov 2012, <http://www.dhsspsni.gov.uk/2012-2015-bamford-action-plan.pdf>

11 [http://www.niccy.org/uploaded\\_docs/CRU/NICCY%20Rights%20Review%202008%20.pdf](http://www.niccy.org/uploaded_docs/CRU/NICCY%20Rights%20Review%202008%20.pdf)

12 <http://www.dhsspsni.gov.uk/camh-vision-comprehensive-service.pdf>

13 [http://www.dhsspsni.gov.uk/bamford\\_action\\_plan\\_2009-2011.pdf](http://www.dhsspsni.gov.uk/bamford_action_plan_2009-2011.pdf)



38. More recently, the **lack of investment in children's services** has also been highlighted in *Transforming Your Care: A Review of Health and Social Care in Northern Ireland (2011)*. It has indicated that "it has been recognised by a number of independent reviews that, compared to other parts of the UK, there is a significant under investment in children's services."<sup>14</sup> It also noted that it had been acknowledged by several independent authors that the level of investment in Children and Families Services in Northern Ireland is '**approximately 30% less than in other parts of the United Kingdom**'.<sup>15</sup>
39. There are also **inconsistencies within the health sector as to the age which children and young people are transferred to adult services**. This can have a significant impact on the health care that the young person receives, as services that are available to a minor may no longer be available once the young person is transferred to adult services.
40. In addition, there are **parallels** with the barriers experienced by older people in accessing health and social care with those experienced by children and young people. As with older people, there is evidence that :
- children and young people experience difficulties in accessing **age appropriate** health and social care services;
  - children and young people have received in certain health and social care areas **poorer services** compared to other age groups; and
  - children and young people experience difficulties when in **transition** from one health and social care service to another with the result that their needs have not been met.

## Financial services

41. We **recommend** that **children and young people** have protection against unlawful discrimination and harassment on the grounds of age when accessing **financial services**; such as health and medical insurance, saving accounts, motor and travel insurance and unsecured personal loans.



14 <http://www.dhsspsni.gov.uk/transforming-your-care-review-of-hsc-ni-final-report.pdf>

15 It notes that it had been predicted that the number of births in NI was to decline but in fact birth rates had remained broadly static.

42. We **recommend** that any use of age by financial service providers is based on relevant information which is from a source on which it is reasonable to rely. Whilst recommending that the legislation contains a **tailored specific exemption** for financial service providers, we have concerns in relation to the breadth of the financial service exception in Great Britain.<sup>16</sup>
43. It is important to note that **children and young people** access a range of financial services; depending on their age. For example, children aged 16 can access moped insurance; drivers aged 17 are entitled to purchase motor insurance; young people can also independently take out travel insurance, as well as operate saving accounts.
44. We **recommend** that children and young people who are **permitted under the law** to access financial services should have **equal protection** against unjustifiable age discrimination under the legislation as young adults or older people.

## Exercise of public functions

45. We **recommend** that public bodies, when exercising **public functions** are prohibited from unlawfully discriminating against children and young people on the grounds of age.
46. Public functions cover a wide range of important areas including law enforcement by the **police, regulatory functions, receiving someone into a prison or immigration detention facility.**
47. In line with the approach adopted under other existing equality legislation in Northern Ireland, certain public bodies and certain types of functions will be excluded from the scope of the legislation; such as the steps associated with the legislative approach of the NI Assembly or judicial functions, the armed forces or the use of age as a criterion in immigration decisions by immigration authorities.



<sup>16</sup> See concerns raised by ECNI in its *Proposals for Reform: Ending Age Discrimination in the provision of Goods and Services*. <http://www.equalityni.org/archive/pdf/StrengtheningProtectionAllAgesFullReport.pdf>

48. It is of note that research carried out in 2010<sup>17</sup>, into the views of young people in Northern Ireland about their interactions with the police<sup>18</sup>, has highlighted that of those respondents that had some form of contact with the police, **a large proportion experienced unacceptable police behaviour**, including disrespectful behaviour, being incorrectly accused of misbehaviour and stopped without reason.<sup>19</sup>

## Private clubs

49. We **recommend** that **private clubs and associations**, such as a local golf or tennis club, are prohibited from unlawfully discriminating against children and young people on the grounds of age.
50. There are a large number of children and young people who are members of private clubs, such as golf or tennis clubs. We are of the view that it is absurd that an 18 year old member of a private club who is harassed due to their age could bring a complaint under the proposed legislation, but a 17 year old, who is subjected to the same harassment by a private club would have no grounds for redress.
51. We consider that the legislation should permit private clubs to offer **justifiable** concessions or discounts or targeted services to members below a certain age or based on long service or membership; for example, pensioners clubs, cheaper prices for over 60s or under 18s or free access to certain age groups at specific times.
52. As highlighted above, we do not support a blanket exception which permits private clubs to target certain ages, regardless of whether or not there is a good reason for the concession.
53. We also **recommend** that private clubs and associations are allowed to restrict membership to certain age groups; for example, clubs for young teenagers. This reflects the approach taken in Great Britain under the Equality Act 2010.



17 *Beyond the margins, Building trust in policing with young people*, ICR, March 2010, [http://www.conflictresearch.org.uk/icresearch#Young\\_People](http://www.conflictresearch.org.uk/icresearch#Young_People)

18 Respondents were predominantly aged between 13-18 years.

19 38% of these respondents felt that police behaviour was disrespectful and 13% complained of harassment.

## Education

54. We **recommend** that the proposed legislation prohibits discrimination on the grounds of age in **education and associated services**. There should be no blanket exclusion for the education sector within the legislation.
55. In particular, we **recommend** that bodies in charge of educational establishments, including **schools and institutions of further and higher education**, such as **universities and colleges of further education**, are prohibited from discriminating on the grounds of age.
56. We further **recommend** that the education and library boards and the Council for Catholic Maintained Schools are also prohibited from unjustifiably discriminating on the grounds of age when providing services. This reflects similar responsibilities placed on these bodies under other equality legislation in Northern Ireland; for example, under the race equality legislation.
57. It is important to stress that much of the state education sector is **governed by statutory provisions**; which means that under the statutory authority exception outlined above, differential treatment on grounds of age by the education sector **will be permitted** where another piece of legislation allows or requires a child or young person to be treated differently because of their age.<sup>20</sup>
58. We recognise that there are a number of areas within education where age criteria are applied; for example, age based admission criteria for the allocation of pre-school, school, college or university places; age based criteria for free or targeted services, such as free pre-school places for three year olds.
59. The inclusion of education within the proposed legislation will mean that **education providers must ensure that age-related criteria or rules are not inappropriate or arbitrary**. It will encourage educational authorities to make decisions based on the **actual needs** of children and young people of different ages. In particular, they must ensure that age based rules or criteria are capable of objective justification or fall within a particular exception (for example, a positive action exception).



<sup>20</sup> For example, the *Primary School (Admissions Criteria) Regulations (NI) 1997* allow schools when selecting children for admission, to give priority to children who have attained the lower limit of compulsory school age over those who have not attained the lower limit of compulsory school age.

60. It is important to stress that where there are **good reasons** for restricting an educational service to pupils of certain ages, or certain primary/secondary year classes, then this will be lawful under the proposed legislation. It will **only be possible** to challenge age based rules that **cannot** be objectively justified or do not fall within an exception, such as the positive action exception.
61. In Great Britain, although education in schools is **not** covered by the age discrimination legislation, there is protection against age discrimination for students in **institutions of further and higher education**, such as **universities** and **colleges of further education**.
62. Again, we are of the view that the exclusion of children and young people from the legislation will result in **absurd inconsistencies**; with students in higher education being able to challenge unjustifiable age-based criteria and practices, whereas pupils in schools will remain unable to challenge such unfair treatment.
63. In summary, we **recommend** that the proposed legislation follows a similar approach to that adopted in Australia; namely that that the legislation applies to education **subject to the inclusion of a narrow range of exceptions**.

## Accommodation

64. We **recommend** that the legislation prohibiting age discrimination in the provision of goods and services covers age discrimination in the disposal and management of accommodation.<sup>21</sup>
65. We are of the view that people of all ages, including children and young people should have protection against unjustifiable discrimination when for example, renting residential accommodation. We therefore do **not support** a blanket exclusion on the grounds of age in this area.
66. If children and young people are protected under the proposed legislation, in the area of accommodation, landlords would be prevented without justification, from letting their premises to young people, due to negative stereotypical assumptions about young people; for example, that they will damage the property or will disrupt other tenants.



21 See also ECNI response to UK Consultation on the European Commission proposal for an Equal Treatment Directive, July 2009, [www.equalityni.org](http://www.equalityni.org)

67. There are many young people, aged 16 or 17, particularly vulnerable young people who are homeless and have left the family home and require accommodation.
68. We consider that this is contrary to the draft goods and services Directive<sup>22</sup>, which makes it clear that the scope of the draft Directive covers access to, and supply of goods and other services which are available to the public, including housing. Under the draft Directive, Member States can provide for differences of treatment on grounds of age provided such differences are justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.
69. We **recommend** the inclusion of a small number of narrowly construed specific exceptions relating to accommodation; such as an exception that allows housing associations to provide accommodation to people of particular ages; as well as other exceptions relating to accommodation which exist under other equality grounds, such as those relating to small premises.
70. As with financial services, we are of the view that provided a young person has the **relevant legal capacity** to enter into a contract in relation to the renting or acquisition of accommodation, age discrimination should be prohibited in the same way that it is for adults.

## Rationale in support of reform

71. We consider that there is a **robust case** for strengthening the rights of children and young people against unlawful discrimination and harassment on the grounds of age in the provision of goods and services.
72. Children and young people should not, without good reason, have an access to a service restricted, or receive an inferior service, simply because of their age.
73. We consider that this legislation will ensure that where a child or young person's age is used as a factor in providing a service, it is used in a fair and transparent way.



22 Draft European Union Directive on equal opportunities and access to goods, services on the basis of age, disability, sexual orientation, and religion or belief, 2008/0140 (CNS), See Article 3

74. It will provide a clear legal framework within which providers can design, commission, and deliver age-appropriate services to children and young people, and ensure that there are no inappropriate or harmful barriers caused by age discrimination and that no age group is unjustly excluded from services.
75. **In summary**, the **key reasons** underpinning our recommendations are as follows.
- There is **compelling evidence** that children and young people are subjected to less favourable treatment on the grounds of age when accessing goods and services.
  - The legislation will help challenge **negative stereotypes, prejudicial attitudes, harassment and ageist behaviours** directed towards children and young people by service providers and others, and help **build a culture** where children and young people are treated with respect and feel valued when receiving a service.

It will mean that service providers, public bodies and others will **proactively examine** whether the restriction of services to children and young people of certain ages is justifiable.

- Providing protection for children and young people against discrimination in this area is consistent with the current commitments of the NI Executive as set out in the **OFMDFM Strategy for Children and Young People** which pledges ‘a drive towards a culture which respects and progresses the rights of the child or young person’.

It is also in keeping with the NI Executive’s proposals to improve the lives of children and young people through the **Delivering Social Change Framework**. We are of the view that it will help **improve outcomes** for children and young people in Northern Ireland, including those with **multiple identities**, such as disabled children and young people.

It is also consistent with the recent **Together: Building a United Community** Strategy announced by OFMDFM wherein children and young people are named as a key priority and where the aim is to “build a community where they can play a full and active role in building good relations”.<sup>23</sup>



23 [http://www.ofmdfmi.gov.uk/together\\_building\\_a\\_united\\_community.pdf](http://www.ofmdfmi.gov.uk/together_building_a_united_community.pdf)

- We believe that excluding children and young people from the scope of the legislation would be a **breach of the general principle of equal treatment** and accordingly would itself amount to discrimination. Providing protection for children and young people against discrimination in this area is consistent with the UK Government's **obligations under international human rights conventions**, including the UN Convention on the Rights of the Child, and the norms of the Council of Europe.
- Further, whilst Section 75 of the Northern Ireland Act 1998 does not apply directly to the Assembly, in our view, the Assembly, by legislating to give protection to children and young people under the legislation, is **acting in a manner consistent with the Section 75 duty**, which applies to other public authorities.

In addition, the extension of age discrimination legislation to children and young people will **build on** and **extend** the existing responsibilities on public bodies towards children and young people under **Section 75**.

- There is also the opportunity for the NI Executive to adopt a '**model of best practice approach**' that is designed to safeguard and promote children's rights; in line with the approach that has already been adopted in **other countries**; in particular, **Australia, Canada and Belgium**.

Further, the legal systems of these countries, have shown that children and young people can be protected against age discrimination and suitable exceptions formulated **without encountering drafting difficulties or creating any undesirable or unintended consequences**.

- Providing protection for children and young people against age discrimination outside employment is consistent with an approach which recognises that **age** is the very factor that makes children and young people more **vulnerable** than adults.

These differences place children and young people at risk or at a disadvantage in comparison with adults and therefore they require **special protective measures**; rather than **no protection** from age discrimination when accessing goods and services.

- Further, including children and young people in the scope of this legislation is consistent with **European consumer protection law** which recognises that there should be enhanced levels of protection for vulnerable consumers.



- In addition, we consider that including children and young people within the legislation, will ensure there is a **consistency of treatment** between children and adults; where justifiable. This will ensure that the legislation does not result in **unjustifiable and absurd** inconsistencies of treatment.

For example, a 18 year old will be able to challenge service providers or public bodies, who, without justification, treat them, in an inferior way, because of their age; whereas a 17 year old subjected to the same inferior treatment will not.

- We consider that there are **no legally compelling reasons** for limiting the scope of the legislation to adults. We address in detail in the **full report** the concerns on this issue raised as part of the debate in Parliament and in the recent debate in the Northern Ireland Assembly in March 2013.
- The legislation will ensure that children and young people have similar protection against discrimination when accessing goods and services as they have under **other areas of equality legislation**; for example, protection against discrimination on the grounds of religious belief, political opinion, sex, sexual orientation, disability and race.
- Providing protection for children and young people against discrimination in this area is in line with the **draft European Commission Directive** on the provision of goods and services.
- The inclusion of children and young people in this legislation can also have **positive impacts for businesses** and public bodies. Restricting access to services for people of certain ages has economic implications; for example, when children and young people as customers are either refused service or restrictions are placed on their ability to access services, the economy misses out on increased business and revenue.



## Conclusions

76. In conclusion, it is clear that there is a **robust case** for strengthening the rights of children and young people against unlawful discrimination and harassment on the grounds of age in the provision of goods and services.
77. It is also clear that legislation prohibiting age discrimination outside the workplace, if introduced, will have a **significant impact** on addressing key inequalities which people of all ages, including older people and children and young people, face when accessing goods and services provided by the public, private and voluntary/community sectors.
78. Both the Equality Commission and NICCY are committed to ensuring that robust age discrimination legislation that strengthens and enhances the rights of people of all ages to access services without discrimination is introduced in Northern Ireland.
79. We have taken, and will continue to take, proactive steps to raise awareness of our recommendations for reform of this important age equality legislation outside the workplace; including our recommendation that children and young people should have protection against unlawful discrimination and harassment on the grounds of age when accessing goods and services.
80. We will continue to proactively engage on this issue with a wide range of stakeholders, including our MLAs, Assembly Committees, representatives from the children and young people sector, as well as directly with children and young people themselves.
81. We call on the NI Executive to progress **as a matter of urgency** the introduction of robust legislation that protects people of all ages from age discrimination outside the workplace.





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