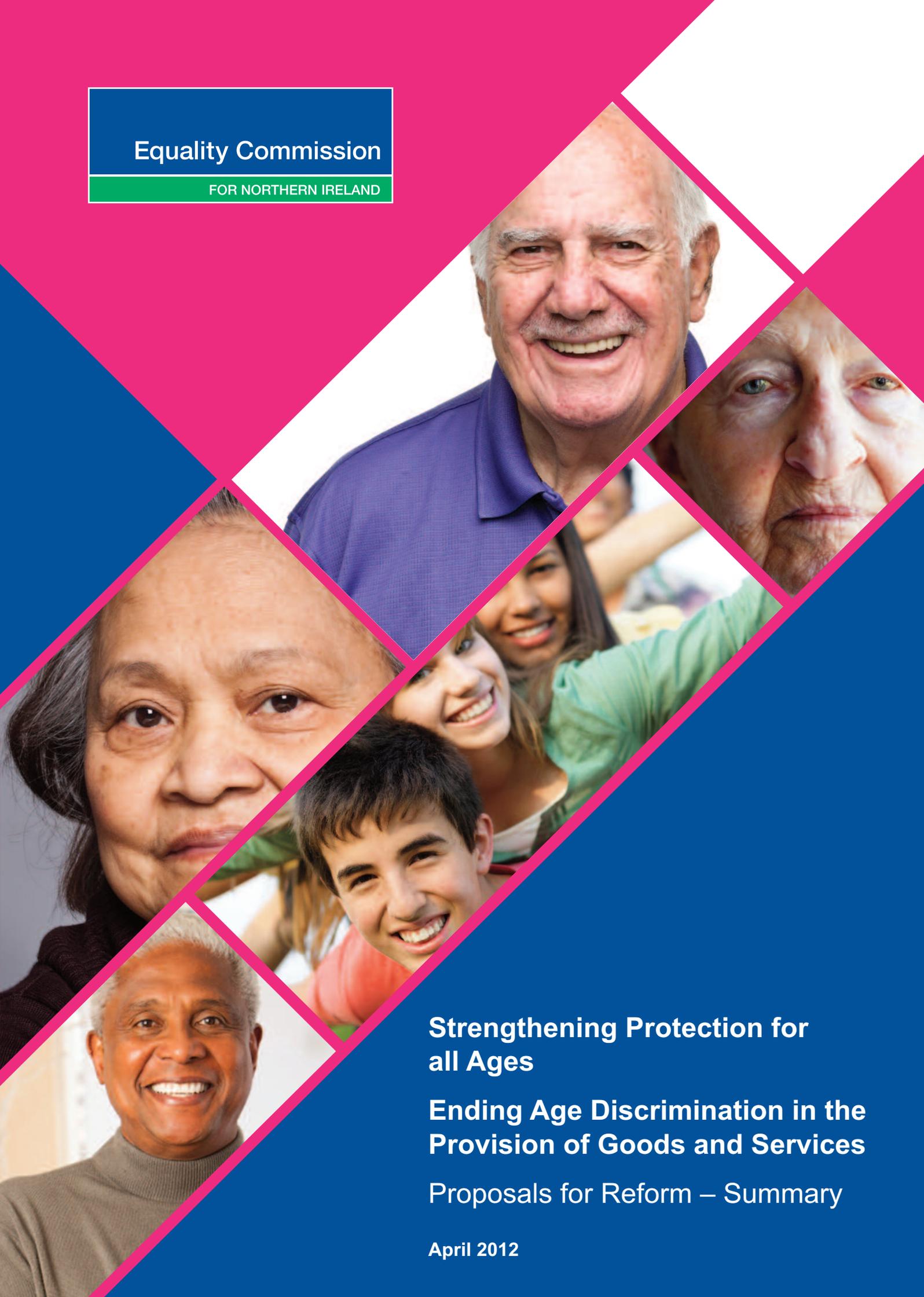


Equality Commission

FOR NORTHERN IRELAND



Strengthening Protection for all Ages

Ending Age Discrimination in the Provision of Goods and Services

Proposals for Reform – Summary

April 2012

Introduction

The Equality Commission recommends reform of the age equality legislation in Northern Ireland so that individuals have increased protection against discrimination on the ground of **age** by those providing **goods, facilities or services**, exercising **public functions** or by **private clubs**.

Specifically, this reform will help address key inequalities facing people of different ages in Northern Ireland when accessing goods and services; including health and social services, financial and other services such as retail, transport and entertainment. The changes will ensure parity of protection when accessing goods and services which exists on other equality grounds. They will also mean that age equality legislation in Northern Ireland keeps pace with legislative changes due to take effect in Great Britain later this year. Finally, the proposed changes are in keeping with the Executive's Older People's strategy "*Ageing in an Inclusive Society*",¹ which aims to improve the lives of older people.



The changes will strengthen protection for people of all ages against discrimination outside the workplace.

¹ 2005, www.ofmdfmni.gov.uk

What changes are required?

In summary, the Equality Commission recommends extending the scope of age equality protection beyond the workplace² so that individuals have protection against discrimination and harassment when obtaining goods and services. This will mean, for example, that an individual will have the right to seek redress in court if they, without justification, receive an **inferior service** or are **unable to access** goods or services on the basis of their age.

In particular, the Equality Commission recommends:

- the legislation covers the provision of **health and social care, financial services** (such as grants, loans, credit or finance or insurance) and **other services** (such as retail services, transport provision or facilities for entertainment);
- banning age discrimination by public bodies when exercising **public functions** (including regulatory or law enforcement functions, budget setting, grant-making, etc);
- protecting individuals against unlawful discrimination on the grounds of age by **private clubs or other associations** (such as golf clubs or political parties);
- the legislation permits differential treatment on the grounds of age where it can be **objectively justified**; for example, free bus passes, eye tests for over 60s or other treatment that counteracts disadvantage faced by certain age groups;
- banning unjustifiable **direct** and **indirect** discrimination on the ground of age (actual and perceived), as well as **harassment** and **victimisation**.

² Employment Equality (Age) Regulations (Northern Ireland) 2006

Why is reform needed?

Help address key inequalities

The proposed changes will help address key inequalities facing people of different ages in Northern Ireland when accessing goods, facilities and services.

For example, there is growing evidence that many people are being subjected to unjustifiable discrimination and harassment because of their age. The legislation will help challenge negative stereotypes, prejudice and ageist behaviours. It will help reduce social exclusion and improve active ageing and independent living by older people, by improving access to and targeting of, various services. It will also improve transparency and accountability within the financial services sector.



The legislation will help challenge negative stereotypes, prejudice and ageist behaviours.

The changes will also benefit individuals with multiple identities; for example, **older disabled people**. The proposals aimed at addressing the needs of older people in health and social care will, for example, have a positive impact on a large number of disabled people.

By extending the legislation to cover **children and young people** (minors), the changes will, for example, help tackle the unjustifiable exclusion of children and young people from a range of services, and help challenge negative attitudes and stereotypes.

Finally, strengthening the age legislation will ensure that service providers and others consider proactively whether their age policies and practices are justifiable. This will create a cultural shift that will help society remove entrenched disadvantages facing people of different ages.

The Equality Commission's recommendations will strengthen protection for individuals in a number of key areas.

- **Health and social care**

The introduction of age discrimination legislation would mean that health and social care service providers and practitioners would have to justify, if challenged, any age-based decisions. In particular, providers would have to show any treatment complained of was a proportionate means of achieving a legitimate aim.

The proposed age discrimination legislation will not prevent age being taken into account in decision-making when justifiable. The Equality Commission believes that age should not be used as a proxy for need and that each person's needs must be assessed individually. The legislation will ensure that older people have a fairer or more equitable access to diagnoses and treatment. This means that individuals may be able to challenge a decision not to refer an older person for treatment based solely on their age, or where a service provider has not considered the wellbeing or dignity of older people.



The legislation will, for example, ensure that older people have a fairer or more equitable access to diagnoses and treatment.

- **Financial services**

The Equality Commission considers that the introduction of age discrimination legislation will improve **transparency** and **accountability** within the financial services sector so that consumers can be confident that age is not being misused. Financial services include a wide range of services, such as equity release products; mortgages; loans; investment bonds; health, medical, motor and travel insurance.

The Equality Commission recommends that the legislation contains a tailored specific **exemption** for financial service providers which will permit differences in treatment on the grounds of age provided they are proportionate to risks and costs. It also recommends that where providers seek to justify a higher price for reasons of risk connected to a person's age, they produce evidence based on relevant information and from a reliable source.



The changes will improve transparency and accountability in financial services.

- **Private clubs and other services**

The Equality Commission also recommends the extension of age discrimination legislation to cover other services such as retail services, transport provision, facilities for entertainment as well as private clubs such as golf clubs and political parties.

This will make it unlawful, for example, for a retailer to assume that an older person is incapable of signing a contract without a younger person present to explain details; or, a service provider refusing to provide a service to someone based on their age such as refusing to rent a car (unless it can be objectively justified); or a younger person being refused entry into pubs and clubs.

To keep pace with changes in Great Britain

The UK Government has confirmed its commitment to ban age discrimination in the provision of goods and services. The Equality Commission considers that people in Northern Ireland should not have **less protection** against age discrimination outside the workplace compared to people in other parts of the UK. As such, strengthening age legislation in Northern Ireland will keep pace with legislative changes due to take effect in Great Britain.

However, the Equality Commission is strongly opposed to the blanket exclusion of children and young people (minors) from statutory protection as proposed by the UK Government. This blanket exclusion would mean that minors will remain unable to challenge unjustifiable age discriminatory practices.



The changes will ensure that Northern Ireland equality law keeps pace with changes due to take effect in Great Britain.

To ensure parity with other existing equality laws

Age is the **only** equality ground where there is no protection against discrimination in the provision of goods and services. Extending age protection to goods and services will mean that people will be afforded similar protection to that enjoyed by other equality groups. This includes people of different community backgrounds, ethnic minority communities, disabled people, people of different sexual orientation and men and women. It will also ensure greater harmonisation and simplification of equality legislation.

To further the Executive's age strategy

Strengthening age discrimination legislation is in keeping with the overarching aims and objectives of the Executive's Older People's strategy "*Ageing in an Inclusive Society*"³. Notably, a key objective of the strategy is "to promote equality of opportunity for older people and their full participation in civic life, and challenge ageism wherever it is found".

To comply with the draft EC Directive

Strengthening the legislation will help ensure that Northern Ireland's age equality legislation complies with the anticipated requirements of the draft European Commission Directive on the provision of goods and services.⁴

The Directive, if adopted, will require Member States to introduce an effective legal framework to address age discrimination beyond the workplace within two years of adoption.

3 See footnote 1

4 2008/0140 (CNS), available on the European Commission website.

Summary

The Equality Commission recommends a number of changes to age equality law to address key inequalities related to age, strengthen protection against discrimination and to address the gaps in legislation compared to other equality laws.

In addition, the changes will also ensure Northern Ireland equality law keeps pace with changes in legislation which are due to take effect in Great Britain later this year.

The Equality Commission will continue to take proactive steps in order to raise awareness and secure support for its recommendations for age reform.

**Equality Commission for Northern Ireland
April 2012**



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FOR NORTHERN IRELAND

About this document

This document is a summary of the Equality Commission's proposal for reform ("Ending age discrimination in the provision of goods and services"). Copies are available by contacting us or on our website www.equalityni.org.

Further information and advice

For further information and advice on equality issues, for more information about the Equality Commission and its work, or to receive this publication in an alternative format, contact us:

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European Year for **Active Ageing**
and **Solidarity between Generations 2012**

