

## Equality Commission for Northern Ireland

### Submission to Joint Committee on Human Rights: Inquiry on UK's Record on Children's Rights

October 2016

#### **1 Executive Summary**

1.1 We consider that the UNCRC Committee's recommendations in its recent Concluding Observations on the UK (2016) relating to Article 2 (non-discrimination principle) of the UNCRC should be treated as a priority for parliamentary follow up - particularly its recommendation relating to giving further consideration to providing protection for all children under 18 years of age against age discrimination.

1.2 We continue to recommend that the NI Executive introduces in Northern Ireland as a matter of urgency age discrimination legislation in the provision of goods, facilities and services that protects people of all ages, including children and young people.

#### **2 Introduction**

2.1 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 equality legislation on fair employment, sex discrimination and equal pay, race relations, sexual orientation, disability and age.

2.2 We have set out below our response to the call for evidence by the Joint Committee on Human Rights in relation to its Inquiry on the UK's Record on Children's Rights.

#### **3 Priorities areas for parliamentary follow up**

3.1 We consider that the UNCRC Committee's recommendations in its recent Concluding Observations on the UK (2016) relating to Article 2 (non-discrimination principle) of the UNCRC should be treated as a priority for parliamentary follow up.

3.2 These include the recommendations that the State Party: considers the possibility of expanding legislation to provide protection for all children under 18 years of age against age discrimination; strengthens its

awareness raising and other preventative measure against discrimination; and addresses the negative attitudes towards children, especially adolescents, within society.

- 3.3 Whilst we have focused below on the Committee's recommendations relating to Article 2 (non-discrimination principle) of the UNCRC, it is important to stress that there is also a need to address other inequalities experienced by children and young people in Northern Ireland in other areas highlighted by the Committee's recommendations. These include inequalities in education, health and social care, employment and their participation in public life<sup>1</sup>.
- 3.4 As regards Article 2, in Great Britain, whilst there is protection under the provisions in the Equality Act 2010 against age discrimination legislation in the provision of goods, facilities and services, this protection does not apply to children and young people. In Northern Ireland, no protections currently exist against age discrimination in the provision of good, facilities and services. While there have been proposals to introduce protections in Northern Ireland, these proposals did not include the provision of protection against age discrimination for children aged under 16 years.
- 3.5 As regards Article 2, significantly, we note that the UN Committee has expressed concern<sup>2</sup> that in Northern Ireland the proposed legislation on age discrimination excludes children under 16 years of age.
- 3.6 Further, we note that the Joint Committee on Human Rights, prior to the introduction of the Equality Act 2010, recommended that people of all ages should be protected from age discrimination in relation to all goods, facilities and services; except where discrimination on the grounds of age can be justified<sup>3</sup>.
- 3.7 The Equality Commission has consistently called for the introduction in Northern Ireland of age discrimination legislation in the provision of goods, facilities and services that protects people of all ages, including children and young people.
- 3.8 We consider that this legislation should allow service providers and others to treat children and young people of different ages differently where justifiable. We have recommended that the legislation contains a number

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<sup>1</sup> See ECNI (2016) [draft Age Equality Policy Priorities and Recommendations](#)

<sup>2</sup> At paragraph 21(a).

<sup>3</sup> See Joint Committee on Human Rights (2009) [Children's Rights Twenty-fifth Report of Session 2008-2009](#), HL Paper 157, HC 318

of exceptions - all of which should be narrowly construed and objectively justifiable<sup>4</sup> .

- 3.9 In our response<sup>5</sup> to the Office of the First and Deputy First Minister's (OFMDFM) consultation in 2015, whilst we welcomed the fact that OFMDFM recognised that “the evidence suggests that children and young people can experience a range of age discrimination and other ageist behaviour...”<sup>6</sup> , we were disappointed that the proposals only afforded protection against discrimination to people aged 16 and over and it was not clear what the key reasons were for excluding those aged under 16. We recommended that OFMDFM set out the key reasons why it proposed to exclude those aged under 16 from the scope of the legislation.
- 3.10 To date, almost a year after the consultation has ended, an agreement has not been reached by the NI Executive on the policy content of this proposed legislation; nor has the Executive set out the key reasons why it proposed to exclude those aged under 16 from the scope of the legislation.
- 3.11 It is important to note that in January 2015 OFMDFM highlighted that the vast majority of respondents to the consultation expressed support for the inclusion of children and young people aged under 16 within the scope of the legislation<sup>7</sup> .
- 3.12 We are of the view that there is compelling evidence that children and young people are subjected to less favourable treatment due to their age when accessing goods and services, and that there is a robust case for strengthening the rights of all children and young people against age discrimination outside the workplace.
- 3.13 Our evidence is outlined in detail in our ‘[Recommendations for reform: strengthening protection for children and young people](#)’<sup>8</sup> (2013), jointly produced by the Northern Ireland Commissioner for Children and Young People (NICCY), and in our response to the 2015 consultation<sup>9</sup>. This

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<sup>4</sup> See ECNI & NICCY [Recommendations for reform: strengthening protection for children and young people](#), Full Report, 2013 at pages 10-14.

<sup>5</sup> See ECNI [Response to OFMDFM consultation on proposals to extend age discrimination legislation in the provision of goods and services](#), 2015.

<sup>6</sup> See p97 of OFMDFM [Consultation on proposals to extend age discrimination legislation in the provision of goods and services](#), 2015.

<sup>7</sup> See evidence by OFMDFM to OFMDFM Committee on 20 January 2016. The Hansard minutes of evidence for this meeting are not available but a recording of the meeting can be viewed [here](#).

<sup>8</sup> See ECNI & NICCY [Recommendations for reform: strengthening protection for children and young people](#), Full Report, 2013 . See also ECNI, 2015: [Key Point Briefing: Strengthening Protection for all Ages](#).

<sup>9</sup> See pages 15-18 of ECNI [Response to OFMDFM consultation on proposals to extend age discrimination legislation in the provision of goods and services](#), 2015.

includes evidence of high levels of prejudicial attitudes and negative stereotypes towards young people in Northern Ireland.

- 3.14 In addition, we consider 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.
- 3.15 We also consider that 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 UNCRC, and the norms of the Council of Europe.
- 3.16 Further, we are of the view that 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.
- 3.17 We also consider that including children and young people within the scope of this legislation, will ensure there is a consistency of treatment between children and adults; where justifiable. It is also in keeping with the NI Executive's proposals to improve the lives of children and young people.
- 3.18 Importantly, we consider that there are no legally compelling reasons for limiting the scope of this legislation to adults. It will also mean that children and young people have similar protection against discrimination when accessing goods and services as they have under other areas of equality legislation.
- 3.19 It will be noted that our recommendations for reform were informed by expert legal briefings on the legal implications of including children and young people within the proposed age legislation.<sup>10 11</sup>

## **4 Proposed Government response to the UN Committee's recommendations**

- 4.1 We continue to recommend that the NI Executive introduces in Northern Ireland, as a matter of urgency, age discrimination legislation in the

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<sup>10</sup> See [Expert Briefing: strengthening protection for children and young people](#) by R Allen and D Masters, 2014 commissioned by ECNI/NICCY, and [Executive Summary](#).

<sup>11</sup> See also [Proposals for Reform of Age Discrimination in the Provision of Goods, Facilities and Services](#), Dee Masters, commissioned by ECNI, 2015.

provision of goods, facilities and services that protects people of all ages, including children and young people.

- 4.2 We also reiterate our recommendation that the NI Executive sets out, have considered the evidence base and engaged with stakeholders, the key reasons why it proposes to exclude those aged under 16 from this legislation.

Equality Commission

06 October 2016