

Age GFS Consultation
Room E3.18
Castle Buildings
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Email: age@ofmdfmi.gov.uk

Date: 5th October 2015

Dear Sir /Madam,

Consultation Paper on Proposals to Extend Age Discrimination Legislation (Age Goods, Facilities and Services).

Thank you for the invitation to respond to this consultation. This response is from the Northern Ireland Commissioner for Children and Young People's (NICCY) Youth Panel. The NICCY Youth Panel (NYP) role is to support the Commissioner in her day-to-day work and to voice our thoughts and opinions on issues that affect us as children and young people. There are currently 25 members of the panel representing different religions, different abilities and disabilities and of different ethnic groups. The members are also spread geographically throughout Northern Ireland.

This response is one of a number of ways that we are exercising our UNCRC Article 12 right (see below) to have our voices heard and taken into account on this proposal to extend age discrimination legislation with respect to goods, facilities and services.

As the Commissioner's youth panel we are aware of all the advice, policy papers and legal opinions that NICCY has passed on to OFMDFM on this issue and are totally supportive of NICCY's stance to date. The NYP fundamentally believes that the exclusion and hence discrimination of children and young people under the age of 16 years from protection through this legislation is fundamentally wrong, illogical and not based on any evidence. Comments which have been made by the Junior Ministers¹ and Officials² state that the exclusion of under 16s is a result of political consensus, and therefore not a decision based on evidence. This causes concern regarding how genuine this consultation exercise actually is.

¹ Committee for the Office of the First Minister and deputy First Minister Official Report (Hansard) Age Discrimination Legislation: OFMDFM Junior Ministers and Officials, 15th April 2015.

² Meeting with Age Sector organizations and OFMDFM, Castle Buildings, 20th April 2015, Age GFS Consultation event, City Hotel, Derry, OFMDFM, 28th July 2015, Age GFS Consultation event, Grosvenor Hall, Belfast, OFMDFM, 18th August 2015.

Firstly, from the NYP point of view, we would urge OFMDFM to take into account the four guiding principles of the United Nations Convention on the Rights of the Child (UNCRC) in taking forward its proposals. The UK Government, including Northern Ireland, is a signatory to the Convention and it has agreed and is obliged to uphold the rights of children and young people in compliance with the Convention. It is our view that the current proposals are not in compliance with the Government's obligations under the UNCRC. The UNCRC provides the overarching framework which guides NICCY's work.

The principles are:

- **Article 2:** '*Children shall not be discriminated against and shall have equal access to all articles in the UNCRC*'. This means every child within a jurisdiction should be able to enjoy the provisions and protections enshrined in law, policy and practice, without discrimination of any kind and irrespective of their or their parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- **Article 3:** '*All decisions taken which affect children's lives should be taken in the child's best interests*'. Essentially, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child should be a primary consideration.'
- **Article 6:** '*All children have the right to life and to the fullest level of development*'. The rights contained in this article are linked to an enjoyment of the 'highest attainable standard' of health and living and to specific issues including child protection, poverty and care.
- **Article 12:** '*Children have the right to have their voices heard in all matters concerning them*'. This article asserts that 'States shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting them, the views of the child being given due weight in accordance with their age and maturity'. Children and young people (c&yp) should therefore be afforded genuine opportunities to participate in decision making in relation to matters affecting their lives.

Also, in its last examination of the UK Government's compliance with its obligations under the UNCRC in 2008, the Committee on the Rights of the Child expressed its concern at the general climate of intolerance and negative public attitudes towards children, including in the media, highlighting that this may often be the underlying cause of further infringements of their rights.³ The Committee recommended that the Government ensure full protection against discrimination on any grounds, including by taking, "...urgent measures to address the intolerance and inappropriate characterization of children, especially adolescents, within the society, including in the media"⁴ The Committee also recommended that the Government take, "...all necessary measures to ensure that cases of discrimination against children in all sectors of society are addressed effectively,

³ Concluding Observations on the United Kingdom of Great Britain and Northern Ireland. CRC/C/GBR/CO/4. Para. 24.

⁴ *Ibid*, Para. 25(a).

*including with disciplinary, administrative or – if necessary – penal sanctions.*⁵ The NYP urges the Government to comply with these recommendations and extend the scope of the proposed legislation to all children and young people.

Additionally, with regard to this consultation, we would urge the Department to take into account the following issues relevant to children and young people:

- **No rationale has been provided for the proposed exclusion of under 16s within the scope of the legislation.** It has been suggested one of the reasons for the exclusion of under 16s from the scope of the legislation is a fear of undermining parental rights. It is our view that this fear is unfounded. It is also our experience that our parents are supportive of their children being protected from age discrimination in accessing goods, facilities and services, particularly where this protection should ensure equal access to vital services in areas such as health, including mental health and education.
- **There is significant evidence that children and young people experience discrimination in accessing goods, facilities and services.** Children across Northern Ireland suffer disproportionately high levels of mental ill health. In a survey of 752 young people, 27% stated that they have had a concern about their mental health.⁶ In Northern Ireland in 2013/14, only £19.4m was allocated to Child and Adolescent Mental Health Services (CAMHS), which equates to 7.8% of the total planned mental health expenditure for that period,⁷ despite the fact that children and young people under 18 represent almost a quarter of Northern Ireland's population. We wish to see this discrimination being urgently addressed through the inclusion of everyone of all ages within the scope of the legislation.
- By not including under 16s in the legislation, the NYP believes that this reinforces negative stereotypes relating to this group and **sends a message to society that under 16s are less worthy of protection and that discriminating against under 16s unjustifiably on grounds of their age is acceptable.**
- OFMDFM states in the consultation document that both older and younger people experience age discrimination and other ageist behaviour. In addition, it highlights the extremely high perception of age discrimination among children and young people themselves and refers to the 2010 Young Life and Times Survey which found that 83% of respondents agreed that young people are judged negatively just because they are young. This is in contrast to 43% and 37% of respondents to the 2008 and 2014 Northern Ireland Life and Times Survey (Ark) respectively who felt that older people are treated worse than people in the general population because of their age. The NYP believes that everyone requiring protection from discrimination should have access to such protection. **We do not believe that excluding children from the scope of future Age GFS protections, 83% of whom perceive that they are being negatively treated because of their age, is an example of evidence based policy**

⁵ *Ibid*, Para. 25(c).

⁶ Children's rights survey to inform young person's report to the Committee on the Rights of the Child, January 2015, Children's Law Centre and Save the Children.

⁷ Information received by the Children's Law Centre from the Health and Social Care Board, dated 17th February 2015.

making.

- From the 2011 census we find that children and young people under 16yrs account for 21 per cent of the population, whereas those aged 65 and over account for 15 per cent. The remaining 64 per cent of the population are aged between 16 and 64. **As young people we find it incomprehensible how the working age adult population - who have not been described as vulnerable nor has any evidence being sought to prove that they have been discriminated against - will be included in the scope of the legislation but not those under 16 who OFMDFM have described as vulnerable.**
- **Research shows overwhelming support for the inclusion of people of all ages in future Age GFS legislation.** A survey carried out by Age NI and Age Sector Platform found that 90% of people aged 65 and over agree or strongly agree that the legislation should extend to people of all ages. This figure was higher among the general population with 92% agreeing/strongly agreeing that the legislation should extend to people of all ages.⁸ Research has also shown significant political support for the legislation, with 87% of MLAs agreeing that it must be a priority for this current NI Executive to deliver legislation outlawing age discrimination.⁹
- **The NYP has serious concerns that the exclusion of under 16s from the legislation may result in further cuts to vital children's services.** The NYP is extremely concerned that when decisions are being made regarding the allocation of extremely limited funding for services, children's services will be disproportionately cut as they are the only group who will not be protected under the legislation. This is very worrying and comes at a time of already devastating cuts to education and youth services and chronically underfunded child and adolescent mental health services.

In conclusion, the NYP would **strongly urge OFMDFM to urgently reconsider and reverse its proposal to exclude almost 380,000 children and young people under the age of 16** from this legislation. OFMDFM should ensure the policy proposals to extend age discrimination legislation to the provision of goods, facilities and services are extended to **everyone** in Northern Ireland.

NICCY Youth Panel
5th October 2015

⁸ Millward Brown Research, commissioned by Age NI and Age Sector Platform, 29 May 2014

⁹ MLA research panel, December 2013, compiled by Stratagem and ComRes. (MLA Research Panel, Dec 13, compiled by Stratagem and ComRes). ComRes surveyed 40 MLAs between 29 October – 25 November 2013 by self-completion postal questionnaire and online. Data is weighted by party group and region).