

Equality Commission

FOR NORTHERN IRELAND

Response: Addressing Age Discrimination in Goods, Facilities and Services

Equality Commission for Northern Ireland

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Introduction

The Equality Commission for Northern Ireland (the Commission) welcomes the proposal to address the long-standing gap in equality legislation in Northern Ireland, to protect against age discrimination in goods, facilities and services (age-GFS).

We have consistently called for the law to be strengthened to prohibit age discrimination outside the workplace. Any legislation should reflect best international standards, taking account of best practice and lessons from Great Britain, Ireland and wider jurisdictions.

Currently, people in Northern Ireland are protected against unlawful discrimination in accessing services because of their sex, disability, religion, race and sexual orientation, but they are not protected when such discrimination occurs because of their age.

There is such protection in equality laws in Great Britain and Ireland. In Northern Ireland, there is compelling evidence that older people and children and young people face discrimination due to their age, including in relation to healthcare, retail and financial services. We consider this legislation will help prevent such unjustifiable treatment, and tackle prejudicial attitudes.

Protections for all-ages

We have recommended that people of all ages be protected against age discrimination. This would align with the recommendation of the UN Committee on the Rights of the Child, and international best practice.

Clearly there are times where it is justifiable and beneficial to treat people differently on the basis of age. This can be accommodated within age-GFS legislation while still allowing people of all ages to benefit from protection from unjustifiable discrimination.

For example, we continue to call for a number of narrowly defined exceptions, including an exception for 'statutory authority', meaning that any age-GFS legislation should be secondary to other legislation which imposes age limits. This would apply to legislation which both predates and post-dates the date on which age-GFS legislation comes into force, and would allow for age restrictions on issues like purchasing alcohol and tobacco, gambling, marriage, criminal responsibility, and voting.

We also recommend that age-GFS legislation should include the potential to justify direct age discrimination where a social policy

objective is being pursued and the measures adopted are proportionate. This could include, for example, youth training schemes, or addressing social isolation faced by particular age-groups.

We further recommend exceptions to meet specific justified needs of people of a particular age in regard to their education or training, and to allow justified age-based concessions, such as reduced rates for travel and leisure. There may also be value in introducing a mechanism whereby ad hoc exceptions can be made to the principle of equal treatment as new scenarios are encountered.

When the proposals for age-GFS law reform matter were last debated in detail almost a decade ago, concerns were raised by some that the legislation would mean that parents may become the subject of litigation by their children and that parental consent would be undermined. Similar to other equality legislation, this can be addressed by legislation being drafted so that action can only be taken against service providers and others referred to in the legislation. As such, parents acting in a personal and private capacity could not be subject to litigation by their children, and legislation would not undermine existing provisions in relation to parental consent, for example in accessing medical care, where this is a necessary safeguard.

Engagement

More widely, we would urge engagement with affected groups, including younger people and older people, to assist in the development of the legislation. This should include consideration of multiple identities, for example children from ethnic minority communities, and older women.

We have extensive experience in supporting individuals, service providers and public authorities in relation to equality law. We are therefore well-placed to provide advice on this legislation. to take on the necessary powers and duties to ensure that individuals understand their rights, and providers understand and abide by their duties.

We recognise the consultation survey is high-level. As the proposals progress, before and after introduction of any legislation in the NI Assembly, we are available to provide further advice, based on our expertise as Northern Ireland's equality body.

Summary Response

In summary, in response to the questions in the survey:

- We consider that there is **compelling evidence of age discrimination outside the workplace** experienced by older people, as well as children and young people.
- We **welcome the proposal to expand protections against age discrimination**. Equality law in Northern Ireland should reflect best international standards, taking account of best practice and lessons from Great Britain, Ireland and wider jurisdictions.
- We have consistently called for the **age GFS legislation to protect all ages**. We consider that people of all ages, including children and young people, should not receive an inferior service or have access to a service unfairly denied simply on the basis of their age.
- Protections should be available in relation to **goods, facilities and services, public functions, private clubs and associations; charities; premises; and education**.
- The legislation would **enhance equality of opportunity**. The Commission can offer our expertise in equality law to assist in the development of the Bill.
- Potential benefits to society and the economy should be considered. The **Commission should be resourced to fulfil any resulting new powers and duties**.
- There should be protection against **direct and indirect discrimination, harassment, victimisation**, and other forms of discrimination. Direct discrimination should only be justifiable where there is a social policy objective, and it is proportionate.
- We consider **any exceptions to the legislation should be narrowly construed and objectively justifiable**. We have highlighted positive action; other legislation/ statutory authority; charities; premises, personal care services; education; financial services; concessionary services; sporting and competitive events; clubs; age restricted schemes; and ad-hoc exceptions.
- In general, **remedies should reflect existing equality legislation**. The **Commission should be empowered** to take action to work towards the elimination of discrimination and harassment, and promote equality of opportunity between persons of differing age groups, with the necessary enforcement powers.

1. Evidence of age discrimination

We consider that there is compelling evidence of age discrimination outside the workplace experienced by older people, as well as children and young people.

In 2023-24, the Commission received at least 32 enquiries from individuals seeking advice about age discrimination when buying or accessing products, facilities, and services, even in the absence of legal protections. These enquiries covered a range of areas including health and social care, housing and retail services.

Although a small number compared with our total enquires (2803 in 2023-24), it should be noted that this is the absence of any protections in equality legislation. We would expect enquiries to rise if legislation was introduced, and as individuals became aware of their rights.

We would encourage engagement with younger and older people, including those with multiple identities, to understand their experiences of discrimination and harassment due to their age.

Older people

The Commission has previously commissioned research, which highlighted “*numerous examples of direct and indirect age discrimination across the scope of financial services in Northern Ireland*”.¹ This research also outlined some of the general barriers that affect older people when accessing financial services.

A further report we commissioned by the Institute of Conflict Research (ICR),² likewise highlighted examples of potential age discrimination experienced by older people when accessing health and social care, financial services and other services, such as retail. The report also illustrated examples of the general barriers and negative attitudes experienced by older people when accessing services.

More recently the Commissioner for Older People in Northern Ireland (COPNI) reported³ that, for example, many older people feel that their health concerns are not properly investigated and put down to old age.

¹ B Fitzpatrick, I Kingston (2008) [Older People's Access to Financial Services](#), , commissioned by ECNI

² ICR (2014) [Strengthening protection for all ages against age discrimination outside the workplace](#), commissioned by ECNI.

³ COPNI (2024) [Are you ageist? Older people's perceptions of ageism in Northern Ireland](#), pp. 35-38.

COPNI have also recently highlighted⁴ that ‘*The COVID-19 pandemic has shown the risks that vulnerable people face when competition for health and social care services increase*’, arguing it is now more urgent than ever to protect against age discrimination.

Likewise, AgeNI’s Lived Experience Report 2023⁵ found that some respondents ‘*felt invisible, not listened to, or not valued for the contributions they can and do make*’, again with particular reference to the healthcare system

Children and young people

Along with the Northern Ireland Commissioner for Children and Young People (NICCY)⁶, the Equality Commission has previously highlighted examples of the prejudicial attitudes and less favourable treatment that children and young people receive when accessing goods, facilities and services, due to their age. such as:

- A disparity of service provision between children and young people and adults. This includes difficulties experienced by children and young people in accessing age–appropriate health and social care services such as problems experienced when moving from child to adult health & social care services.
- The exclusion of children and young people, particularly older children, from access to shops without justification, or refused entry to shops at certain times, or who have been asked to leave their bags at the door, where such conduct has been solely based on stereotypical and negative views of children and young people.
- Harassment or unjustifiable treatment by service providers and public bodies when exercising public functions, based on stereotypical negative views of children and young people.
- The indiscriminate and unjustifiable use of Mosquito devices by retailers / service providers, excluding children and young people from their premises.

⁴ COPNI (2024) [At the centre of government planning: The Programme for Government and preparing for an ageing population](#), p. 9, 33-35.

⁵ AgeNI (2023) [Lived Experience: What Matters to Older People](#), pp. 12, 19.

⁶ ECNI, NICCY (2013) [Strengthening Protection for Children and Young People: Full Report](#), pp. 39-41.

More recently, research commissioned by the Children’s Law Centre in 2022 to gather information from 12-17’s year olds in Northern Ireland reported⁷ that ‘*Young people argued that teenagers and young adults experience discrimination and prejudice because they are viewed as being ‘troublesome’ or ‘dangerous’*’, with some considering that the police anticipate trouble from young people, or provoke young people to behave negatively.

The research also highlighted a range of discrimination issues facing children and young people from particular backgrounds, such as migrants and refugees, and disabled children.

2. General opinion on the proposal

We welcome the proposal to expand protections against age discrimination.

Equality law in Northern Ireland should reflect best international standards, taking account of best practice and lessons from Great Britain, Ireland and wider jurisdictions.

For instance, many European countries, including Belgium, Finland, and Sweden provide protections against age-GFS discrimination for all ages⁸. Further afield, countries like Canada and Australia also have similar provisions, which cover all ages.

Lessons should be learned from other jurisdictions. We note that concerns have been raised in Ireland that protections against age discrimination only apply to adults. The Irish Government reported⁹ that many submissions to their Consultation on the Review of the Equality Acts ‘*highlighted that children were often discriminated against and had little opportunity to defend their rights*’. The Irish Human Rights and Equality Commission¹⁰ has recommended that the exception allowing discrimination against children should be removed.

Legislation should also reflect international human rights standards. Including children and young people would be consistent with the rights

⁷ D. Haydon (2022) [Rights Here Right Now: Children and Young People’s Report to the UN Committee on the Rights of the Child about Children’s Rights in Northern Ireland](#), Children’s Law Centre and youth@CLC, pp. 16-19.

⁸ Other countries which provide protections for all ages include Spain, Slovenia, the Czech Republic and North Macedonia.

⁹ Government of Ireland (2023) [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#), pp. 17-18

¹⁰ IHREC (2022) [Ireland and the Rights of the Child Submission to the Committee on the Rights of the Child on Ireland’s combined fifth and sixth periodic reports](#), p. 23.

contained within the UN Convention of the Rights of the Child (UNCRC). In 2023, the UNCRC Committee recommended in their Concluding Observations on the UK recommended the State Party¹¹ ‘*take legislative and other measures to ensure the protection of all children below 18 years of age from discrimination on the grounds of their age, particularly in England and Northern Ireland*’.

Equality law reform should further advance equality of opportunity and prevent discrimination. Protections should be applied widely, and law reform should occur to close inconsistencies or loop-holes which mean some categories of people unjustifiably do not benefit from protection.

Furthermore, law reform should serve to make equality law as clear and easily understandable as possible. Clearer legislation will assist individuals in understanding their rights; service providers in understanding and effectively implementing their duties; and making it easier for those providing advice or support services to do so. Simplified legislation will also assist those tasked with keeping the legislation under review or updating the legislative framework.

It will likely be helpful to consider the progress of TEO’s proposed reforms to the racial equality legislation¹², which we understand is likely to be introduced in the NI Assembly in 2025/26.

3. Scope of protection

We have consistently called for age GFS legislation to cover *all* ages. We consider that people of all ages, including children and young people, should not receive an inferior service or have access to a service unfairly denied simply on the basis of the age.

There is a range of evidence that children and young people face unjustifiable discrimination and harassment, due to their age.

We note that the New Decade, New Approach Agreement¹³ states ‘*An Age, Goods and Facilities and Services Bill should also be brought forward by the Executive as basis for ensuring that no one is discriminated against because of their age*’ (emphasis added).

¹¹ UNCRC (2023) [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/6-7, para 30 (f).

¹² TEO (2024) [Review of the Current Race Relations \(NI\) Order 1997: Consultation Response Report](#).

¹³ UK Government (2020) [New Decade, New Approach](#), p. 41.

In addition, we consider that providing protection for *all* children and young people, not just those aged 16 and over will help improve outcomes for children and young people and is consistent with the commitments of the NI Executive, including through the Children and Young People's Strategy, which commits¹⁴ to ensuring that '*children and young people are not treated unfairly due to their age*'.

Children and young people already hold rights against unlawful discrimination when accessing goods and services on the other equality grounds, such as sex and disability. We consider that such protections should also extend to the ground of age.

In addition, we are of the view that the inclusion of children and young people within the legislation will ensure there is a consistency of treatment, where justifiable. For example, it is illogical for the law to protect an older person or a 17-year old from harassment because of their age but consider it perfectly legal for shop owners, health and social care professionals and other service providers to treat all 15-year olds in this manner.

Including children within the legislation 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

We consider that protecting all ages will also 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.

We have set out joint recommendations with NICCY as regards the strengthening the rights of *all* children and young people against unlawful discrimination and harassment on the grounds of age in the provision of goods and services. These proposals were informed by an expert legal briefing.¹⁵

In summary, we considered that:

¹⁴ NI Executive (2020) [Children and Young People's Strategy: 2020-2030](#), pp. 89-90

¹⁵ R Allen and D Masters (2013) [Expert Briefing: strengthening protection for children and young people](#) commissioned by ECNI/NICCY.

- there are *no legally compelling reasons* for limiting the scope of the legislation to adults;
- 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;
- 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;
- whilst Section 75 of the Northern Ireland Act 1998 does not apply directly to the Assembly, 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;
- there is the opportunity 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.

Further, there is clear support from across different age sectors for the proposed legislation to cover all ages; including from representatives from the older people's sector.

For instance, in recent evidence to the NI Assembly's Executive Office Committee, a representative from the Commissioner for Older People stated that¹⁶:

"It remains contradictory to develop age discrimination legislation to protect older people without also including younger people. No anti-discrimination legislation should exclude any particular group because of perceived complexity. When COPNI consulted older people, many expressed the view that they wanted to see the legislation extended to their children and grandchildren."

¹⁶ NI Assembly (25/02/2024) [Official Report: Inquiry into Gaps in Equality Legislation: Age NI: Commissioner for Older People for Northern Ireland](#) p.3.

Concerns regarding the inclusion of children

We recognise that concerns have raised previously regarding the inclusion of children within the legislation, particularly in relation to parental rights.

We consider that age-GFS legislation, implemented in line with our recommendations, would not allow parents acting in a personal and private capacity to be subject to litigation by their children.

Indeed, the legislation will be a further tool for parents advocating for their children's rights, to ensure their children are receiving appropriate services on a non-discriminatory basis.

Further, we are of the view that the legislation will not undermine the requirement for parental consent as regards accessing certain services; for example, medical care. The requirement to have parental consent is likely to be justifiable, where this is a necessary safeguard. Accordingly, a school nurse would not be stopped from seeking parental consent before administering a vaccination.

We consider there are clearly times when it is appropriate to treat children differently, and this can be accommodated within the age-GFS legislation. As outlined in further detail below, we continue to call for a number of narrowly defined exceptions, including an exception for 'statutory authority', meaning that any age-GFS legislation should be secondary to other legislation which imposes age limits. This would allow for age restrictions on issues like purchasing alcohol and tobacco, gambling, marriage, criminal responsibility, and voting.

We also recommend that age-GFS legislation should include the potential to justify direct age discrimination where a social policy objective is being pursued and the measures adopted are proportionate. This could include, for example, youth training schemes, or services addressing social isolation faced by particular age-groups. Aligned with other equality legislation, indirect discrimination would also be justifiable.

We would highlight that numerous European¹⁷ and wider jurisdictions¹⁸ have included children within the legislation, and we are unaware of this causing particular difficulties. In Ireland¹⁹, concerns have been raised regarding the lack of protection for children in their equality legislation.

¹⁷ Including, but not limited to Belgium, Finland, Sweden, and Spain.

¹⁸ Including, but not limited to Canada and Australia

¹⁹ Government of Ireland (2023) [The Equality Acts Review: Summary of the submissions received to the 2021 Public Consultation on the Review of the Equality Acts](#), pp. 17-18

4. and 5. Priority of Issues/ Definitions and Clarity

We consider there are a range of areas where protections should be clearly provided against age discrimination including: goods, facilities and services; public functions; private clubs and associations; charities; premises; and education. Definitions should align with best standards.

Goods, facilities and services

The legislation should apply to any person concerned with the provision of goods, facilities and services to the public or a section of the public (for payment or not). This is consistent with the approach adopted under other equality legislation in Northern Ireland.

In line with the approach adopted under other equality legislation, specific areas should include the following services/ facilities:

- access to and use of any place which members of the public are permitted to enter;
- facilities for entertainment, recreation or refreshment;
- facilities for public transport or travel;
- accommodation in a hotel, boarding house or other similar establishment;
- financial services (such as services of a banking, credit, and insurance nature);
- services provided by profession or trade or any local or public authority, including the provision of health and social care;
- facilities for education and associated services including services provided by schools and the Education Authority (discussed further below)

For the avoidance of doubt, we consider that parents, acting in a personal and private capacity, would not be subject to litigation by their children under this legislation.

Public Functions

The legislation should apply to the exercise of public functions.

In general, the public functions provisions would apply in relation to a function of a public nature exercised by a public authority or on behalf of

a public authority, and where the function is not covered by the other provisions in the equality legislation, for example, the proposed provisions relating to accessing goods and services, premises, work or education.

Cases brought before the courts in Great Britain revealed gaps in protection under the equality legislation as well as highlighting that it was not always clear whether an act of a public body was a service to the public or constituted carrying out a public function.

For example, police duties involving the provision of assistance to, or protection of, members of the public were deemed to be providing services to the public, whereas police duties relating to controlling those responsible for crime were considered not to be covered by the provisions relating to goods and services under the race equality legislation²⁰.

We recommend that the legislation adopts the approach taken under the disability legislation in Northern Ireland, and the approach adopted in Great Britain under the Equality Act 2010; in that it should prohibit public authorities from discriminating on grounds of age when carrying out their public functions in *all* areas, except in some clearly defined limited areas.

Professor Dickson has raised concerns that some of the exemptions in the Equality Act 2010 may be unjustifiably broad²¹. He has pointed to exemptions relating to commencing or continuing criminal prosecutions, insurance and other financial services provided by an employer and provision of a content service on television, radio or online broadcasting.

Any such exemptions in age-GFS protections in Northern Ireland should be carefully considered to ensure they are narrowly defined and objectively justified.

As we recommend the extension of the age-GFS legislation to cover all ages, we consider, as regards the exercise of public functions in relation to education, that protection in this area should cover *all* ages.

Our recommended approach is consistent with the existing duty under Section 75 of the Northern Ireland Act 1998, which applies to designated public authorities. In particular, designated public authorities must have due regard to the need to promote equality of opportunity on the grounds

²⁰ See the race discrimination case of *Farah v Commissioner of Police of the Metropolis*, the Court of Appeal in England, [1997] 2 WLR 824.

²¹Dickson, B. (2021) [Race Equality Law Reform: Strengthening Protection: Report to the Equality Commission for Northern Ireland](#), p. 41.

of age when carrying out their functions. This duty applies to all their functions in Northern Ireland, including *education functions*, and applies to people of *all* ages; not just young people aged 16 and over.

Private Clubs and Associations

The proposed legislation should apply to private clubs and associations. Private clubs/associations should be defined in line with the approach taken under other equality legislation; namely, have at least 25 members and have admission to membership regulated by its constitution.

Protection against age discrimination by private clubs/associations should extend to existing, potential or former members and associates, as well as existing, potential or former guests. This reflects the approach taken under the disability legislation and in Great Britain under the Equality Act 2010.

Charities

Charities should be covered within the scope of the legislation, consistent with the approach adopted as regards other equality grounds in Northern Ireland and with the approach adopted in Great Britain under the Equality Act 2010.

Premises

The legislation should cover age discrimination in the disposal and management of accommodation. It should apply to both public and private housing and accommodation, including the NIHE, housing associations, and private landlords.

We recommend that retirement villages, sheltered accommodation, supported accommodation and care homes are covered by the legislation and we recommend that the legislation does not include a specific exception/s to cover these types of accommodation.

The extension of protection against age discrimination in housing will, for example, prevent landlords from refusing to let their premises to young adults (for example, students) due to negative stereotypical assumptions about young adults; for example, that they will damage the property or disrupt other tenants.

Including premises within the scope of the legislation is consistent with the approach taken on other equality grounds in Northern Ireland.

It is of note that in Ireland, age discrimination in relation to accommodation is unlawful under the Equal Status Act 2000 (as amended), subject to specific exceptions. Further, legislation in both Australia and Belgium, which prohibits age discrimination outside employment and which covers children and young people, also extends to accommodation. In these jurisdictions, there are only a small number of exceptions which apply to accommodation.

Education

We recommend that education, including education in schools, and the provision of associated services are covered by the legislation.²²

We consider that it should be unlawful for an educational establishment to discriminate on the ground of a person's age by unjustifiably refusing or failing to accept the person's application for admission as a student, or in terms and conditions on which it is prepared to admit the person as a student.

We are of the view that it should also be unlawful for an educational establishment to unjustifiably deny or limit access to benefits, to expel a student or subject a student to any other detriment simply on the basis of their age.

We do not consider that extending the proposed legislation to cover educational services will result in any undesirable or unintended consequences.

It is important to stress that much of the state education sector is governed by statutory provisions; which means that under the proposed statutory authority exception (outlined below), 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.²³

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

²² There is already in Northern Ireland protection against age discrimination for students in institutions of further and higher education, such as universities and colleges of further education.

²³ 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.

criteria are capable of objective justification or fall within a particular exception (for example, a positive action exception).

The legislation, if applied to education, will not mean that schools or other education providers cannot use age based rules; only that where they exist they must be capable of objective justification or fall within an exception, such as the positive action exception.

This means that educational authorities will be able to rely on the general justification defence and the positive action exemption. For example, where there is evidence to support the benefits of free or age – targeted services for children and young people, then the positive action exception would apply.

Importantly, it is of note that in Australia, there is a very wide prohibition on age discrimination in education which covers decisions to refuse or failure to accept applications for admission, the terms and conditions on which students are admitted and decisions to expel students are subject then to any other detriment.

Further, in addition to the general justification defence and the positive action exception, under Australian law, there is only one narrow exception relating to education. This exception allows education providers to restrict admission to pupils with certain ages, if that educational institution is established wholly or primarily for students above a particular age.

Legislation in Australia also covers the education of children and young people of *all* ages and it is clear that this has not resulted in undesirable or unintended consequences.

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.

Further, we consider that the education provisions should apply to children and young people of *all* ages; not just to those aged 16 and other.

We consider that the exclusion of children and young people aged under 16 from the legislation, including the education provisions, will result in absurd inconsistencies; with students in higher education and pupils aged 16 or over in schools being able to challenge unjustifiable age based criteria and practices, whereas pupils in schools aged under 16 will remain unable to challenge such unfair treatment.

We also recommend that the Education Authority and the Council for Catholic Maintained Schools are also covered by the proposed legislation.²⁴ This reflects similar responsibilities placed on these bodies under other equality legislation in Northern Ireland.

6. Rights and Equality

The legislation should reflect the Commission's role as the equality body for Northern Ireland. We consider it has the potential to significantly enhance equality and human rights in Northern Ireland, closing a major gap in protections.

As below, the Commission is the equality body in Northern Ireland, and therefore has particular powers and duties under other equality legislation, including in relation to age discrimination in employment. We can offer expert advice to assist development of the legislation.

As outlined throughout this response, the proposed legislation would have significant benefits for equality, particularly for older people, and children and young people.

We would also reiterate that in 2023, the UNCRC recommended in their Concluding Observations on the UK recommended the State Party²⁵ *'take legislative and other measures to ensure the protection of all children below 18 years of age from discrimination on the grounds of their age, particularly in England and Northern Ireland'*

It will be important to engage with the different equality groups who may be impacted by the proposed legislation to assist you to assess how any legislation can best meet the needs of specific equality groups, and better advance equality and good relations.

7. Costs and Feasibility

Consideration should be given to the social and economic benefits of furthering age equality. The Commission would require resources to undertake powers and duties.

In considering potential costs and benefits to business and the public purse, consideration should be given to the social benefits of furthering

²⁴ ECNI & NICCY (2013) [Strengthening Protection for Children and Young People: Full Report](#)

²⁵ UNCRC (2023) [Concluding observations on the combined sixth and seventh periodic reports of the United Kingdom of Great Britain and Northern Ireland](#), CRC/C/GBR/CO/6-7, para 30 (f).

equality, as well as any potential economic benefits of ensuring more equal access to services.

Consideration should be given to how restricting access to services for people of certain ages may have 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.

As below, we consider that, aligned with other equality legislation, including age protections in employment and goods, facilities and services protections on other grounds, the Commission should have particular powers and duties under the legislation. We will require sufficient resources to adequately fulfil these powers and duties.

8. Forms of age discrimination

Aligned with other equality grounds, the legislation should protect against direct and indirect discrimination; harassment and victimisation, as well as other forms of discriminatory behaviour, like discriminatory advertisements.

In relation to direct discrimination, this should be permitted where objectively justified. We recommend that the legislation should explicitly state that *direct* age discrimination, can only be justified where a *social policy objective* is being pursued; and the measures adopted to achieve that social policy objective are proportionate.

Direct discrimination

Legislation should prohibit direct discrimination due to a person's perceived or actual age, as well as discrimination due to association on grounds of age. This reflects the approach adopted under the legislation prohibiting age discrimination in employment.

Direct discrimination should be defined as discrimination occurring 'because of' a person's age, in line with changes made in Great Britain²⁶.

Professor Dickson however argues that '*because of*' includes more behaviour than '*on grounds of*' and would include factors beyond motivation²⁷.

²⁶ Section 13 (1) of the [Equality Act 2010](#).

²⁷ Dickson, B. (2021) [Race Equality Law Reform: Strengthening Protection: Report to the Equality Commission for Northern Ireland](#), p. 35-36.

As discrimination law aims to protect people from being the victim of discrimination, it usually disregards the motive behind a person's actions and focuses instead on the effect of the action on the alleged victim of those actions.

It therefore makes sense to define direct discrimination as occurring '*because of*' certain treatment rather than '*on grounds of*' certain treatment.

Objective justification

Direct age discrimination should be permitted where objectively justified; i.e. the less favourable treatment is a proportionate means of achieving a legitimate aim. Again this reflects the approach adopted under the legislation prohibiting age discrimination in employment.

We recommend that the legislation should explicitly state that direct age discrimination, can only be justified where a social policy objective is being pursued; and the measures adopted to achieve that social policy objective are proportionate.

A social policy objective is a policy of a 'public interest nature'; as oppose to a purely private aim of a service provider.

For example, facilitating access to employment for young people through the creation of youth training schemes, in circumstances where unemployment is particularly acute for this age group, is likely to be a legitimate aim of a public interest nature.

Our recommendations are consistent with the approach adopted by the Supreme Court in 2012 in the case of *Seldon v Clarkson, Wright and Jakes*²⁸. In this case, which considered the approach to be adopted to direct discrimination in the context of direct age discrimination in the area of employment, the court held that in order to justify direct age discrimination, the legitimate aim must be in accordance with an identifiable social policy of the state.

The court explained that a purely private aim, such as cost reduction, or improving competitiveness, was not acceptable. It further indicated that a social policy objective was a policy of a 'public interest nature'.

We consider that it would be illogical to adopt a different approach to that adopted by the Supreme Court in the field of employment.

²⁸ [Seldon V Clarkson](#) [2012] ICR 716,

Critically, we consider that by expressly including this in the proposed legislation, it will provide clarity for service providers and legal certainty as to what constitutes a legitimate aim.

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.

Further, as highlighted above, any measures adopted to achieve that social policy objective must be proportionate.

We further recommend that guidance on what constitutes objective justification and what are examples of appropriate aims, could helpfully be provided through Codes of Practice and/or good practice guide(s) in this area, as has been the case in other areas of equality law.

Indirect discrimination

The legislation should likewise prohibit indirect discrimination on grounds of age. Indirect discrimination should be defined so as to prohibit provisions, criteria or practices which puts or 'would put' people of the same age group at a particular disadvantage. This is in line with the approach adopted under the race equality legislation.

It will mean that protection against people who have not actually received the service, but have been deterred from seeking the service because of a discriminatory provision, criterion or practices will have protection against indirect age discrimination.

We recommend that the test for justifying indirect age discrimination is not limited to pursuing social policy objectives, but in line with other equality legislation, must be a proportionate means of achieving a legitimate aim.

Consideration should be given to Section 19A of the Equality Act 2010, which, following amendments in 2024, allows that a claimant without a relevant protected characteristic, who suffers a disadvantage arising from a discriminatory provision, criterion or practice together with persons with the protected characteristic, may bring a claim of indirect discrimination.

For example²⁹, an optician allows customers to pay for their glasses by instalments but restricts eligibility to those in work. A pensioner points

²⁹ EHRC (2016) [Technical Guidance on Age Discrimination in Services, Public Functions and Associations](#), para 4.6.

out that this puts pensioners, including her, at a disadvantage as they are less likely to be working. This is likely to be indirect age discrimination, unless it can be justified. The 'same disadvantage' provision would also provide protections for a middle aged person who experiences substantively the same disadvantage.

The service provider may be able to justify the practice, in line with other indirect discrimination claims.

We understand that TEO may be bringing forward a similar provision in the reformed racial equality legislation³⁰, and we are available to give further advice on this provision.

Harassment

The proposed legislation should prohibit age related harassment, defined as unwanted conduct '*related to*' age.

Our recommendation is in line with the definition of harassment under the sex equality legislation in Northern Ireland; as well as the definition of harassment under the age GFS legislation in Great Britain under the Equality Act 2010. We have also called for the definition of racial harassment under the race equality legislation to be similarly amended.³¹ TEO have indicated the 'way forward' for racial equality legislation will likely include a similar definition³².

We recommend that the legislation prohibits harassment due to a person's association with someone of a particular age. Our recommendation is consistent with the approach adopted under the age discrimination in employment legislation, which protects against harassment due to association.

Discrimination on grounds of association due to age would, for example, prohibit a service provider from harassing a person due to his/her association with relative or friend who is of a particular age, such as their association with an older person. This would, for example, cover harassment by a service provider of a carer because they s/he is looking after an older person.

³⁰ TEO (2024) [Review of the Current Race Relations \(NI\) Order 1997: Consultation Response Report](#), p. 75.

³¹ ECNI (2024) [Race Law Reform Policy Position](#), pp. 23-26.

³² TEO (2024) [Review of the Current Race Relations \(NI\) Order 1997: Consultation Response Report](#), p. 24.

Victimisation

The legislation should prohibit victimisation. We recommend that there is no requirement for the person alleging victimisation to show that they have been “treated less favourably”.

Our recommendation is in line with age-GFS legislation implemented in Great Britain under the Equality Act 2010. Under the Equality Act, a person is victimised if they are subjected “to a detriment”. There is no requirement for the person to show that they have been subjected to “less favourable treatment”. We have also called for the definition of victimisation under the race equality legislation to be similarly amended³³.

Other types of discriminatory behaviour

Consistent with the approach taken in legislation on other equality grounds, the legislation should include certain types of discriminatory behaviour; in particular, discrimination after a relationship has come to an end, discriminatory practices, discriminatory advertisements, instructions to discriminate, pressure to discriminate and aiding unlawful acts.

9. Age-based Practices and Exceptions

Any exceptions should be narrowly construed and objectively justifiable. We consider that the legislation should allow for positive action; other legislative requirements; charities; premises; personal care services; education training and welfare; relevant and proportionate assessment of risk in financial services; concessionary services; sporting events; clubs and associations; and age-restricted schemes. Consideration should be given to a mechanism for ad-hoc exceptions.

In general, we are of the view that any exceptions to equality legislation should be narrowly construed and objectively justifiable.

Further, unlike other equality legislation for other grounds, direct age discrimination should be able to be objectively justified. We consider that direct discrimination should only be justifiable where a social policy

³³ ECNI (2024) [Race Law Reform Policy Position](#), pp 22-23.

objective is being pursued; and the measures adopted to achieve that social policy objective are proportionate.

In addition, we consider that none of the proposed exceptions should permit harassment or victimisation because of a person's age.

In 2015, OFMDFM proposed a range of exceptions³⁴, several of which we did not support, including in relation to immigration, age-related holidays, residential park homes, and sheltered accommodation/retirement villages. If such exceptions are considered for inclusion in this legislation, we would welcome a further discussion on these areas.

Positive action

The legislation should include provision for positive action by service providers. Service providers should be permitted to take proportionate action if it is aimed at; overcoming or minimising a disadvantage; meeting the needs of a particular age group; or so as enable or encourage members of a particular group to participate in an activity where their participation is proportionally low.

We actively encourage service providers to take lawful positive action to address disadvantage on other equality grounds; so it is important that the proposed legislation expressly permits this form of action.

The taking of positive action by service providers is also compatible with the principles underpinning the statutory duties under Section 75, which are aimed at encouraging public bodies to take action that promotes equality of opportunity for people of different age groups.

We have called the definition of positive action under the race equality legislation to be similarly amended³⁵, and TEO have indicated this is the 'way forward'.³⁶

Our proposal is in line with changes already implemented in Great Britain; where there, there is currently a greater scope for service providers to take positive action to promote equality than those in Northern Ireland.

³⁴ OFMDFM (2015) [Proposals to Extend Age Discrimination Legislation \(Age Goods, Facilities and Services\)](#), pp. 53-54.

³⁵ ECNI (2024) [Race Law Reform Policy Position](#), pp. 52-56.

³⁶ TEO (2024) [Review of the Current Race Relations \(NI\) Order 1997: Consultation Response Report](#), p. 43.

Exception for statutory authority (other legislative requirements)

The legislation should include an exception for statutory authority, and explicitly state that the prohibition on age discrimination in goods, facilities and services is secondary to other legislation which imposes age limits and that this would apply to legislation which both predates and post-dates the date on which the proposed legislation comes into force.

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 minimum age to marry, age based state benefits, prohibition on the selling of alcohol to under 18s; or the age at which a person can be criminally responsible, or to vote.

This proposed approach is consistent with the approach adopted under equality legislation on other grounds.

Charities

There should be an exception for charities permitting them to lawfully provide benefits only to persons of a particular age, provided the charity is acting in pursuance of a charitable instrument and if the restriction is imposed by reason of, or in the grounds of, the charitable instrument.

Where the objectives of a charity do not specify a beneficiary group on the basis of age (either directly or indirectly) then the exception should not apply.

In Great Britain, charities must show that the provision of benefits is a proportionate means of achieving a legitimate aim or for the purpose of compensating for a disadvantage linked to age.

The approach adopted in Great Britain aligns with our view that any exceptions to equality legislation should be narrowly construed and objectively justifiable.

Premises

OFMdfM previously proposed³⁷ an exception that would allow people to dispose of their estate or interest in premises on a private basis without being subject to any future ban on age discrimination. For example, someone would be permitted to sell or transfer residential or commercial premises to a younger sibling or eldest child, without being subject to any future ban on age discrimination. However, if they wished to sell residential or commercial premises to another member of the public by engaging the service of an estate agent or advertising the sale in a newspaper, then they would not be permitted to discriminate by refusing to sell the premises to someone on grounds of their age.

OFMdfM also proposed that to include an exception in any future legislation in relation to certain small dwellings, to allow people to choose who they live with in their own homes. The exception would apply to residential accommodation only and would aim to preserve an individual's right to privacy in their own home. The exception would apply only if a number of conditions are satisfied.

In response to the OFMdfM consultation, we agreed with the proposed limited exceptions as regards premises. In particular, we agree with the proposed exception as regards the disposal of premises on a private basis; provided that the person does not use the services of an estate agent or advertise the disposal.

We also agreed with the proposed exception as regards certain small dwellings so as to allow people to choose who they live with in their own homes.

These exceptions are consistent with the approach adopted under most other equality grounds.

Personal care services

We did not agree with the OFMdfM's proposed³⁸ scope of the exception as regards personal care services, carried out within the service providers own home, which OFMDFM referred to as 'care within the family'. This exception would not have applied to people who go into another person's home to provide care.

³⁷ OFMdfM (2015) [Proposals to Extend Age Discrimination Legislation \(Age Goods, Facilities and Services\)](#), pp. 50-52.

³⁸ OFMdfM (2015) [Proposals to Extend Age Discrimination Legislation \(Age Goods, Facilities and Services\)](#), pp.52.

In particular, we noted that it was proposed that this exception would permit harassment and victimisation of a person on grounds of age; despite the fact that in relation to other proposed exceptions, OFMDFM make clear that harassment or victimisation on grounds on age should never be permitted.

We recommended that the proposed exception does *not* permit a carer, who is providing care to person in their own home, to harass or victimise that person on grounds of his/her age.

Under the OFMDFM proposals, this, for example, would mean that a paid carer of an older person who provides such care in the *carer's own home* would *not* be prohibited from harassing an older person due to their age when providing this care.

In contrast, it was proposed that under the legislation a carer who provides paid care to an older person in the *older person's home*, would be prohibited from harassing the older person on grounds of age when providing care.

Whilst we are not proposing that the age-GFS legislation should cover the treatment of parents when caring for their children in a personal and private capacity, we consider that the exception proposed by OFMDFM was too broad and would permit unacceptable forms of age discrimination; specifically harassment or victimisation on grounds on age.

Education, training and welfare

The legislation should include an exception so as to permit service providers to provide goods, facilities and services to meet the specific justified needs of a person of a particular age in regard to their education, training or welfare, or any ancillary benefits.

This is in line with similar exceptions that exist under other equality grounds. For example, the sexual orientation GFS legislation allows for the provision of goods, facilities and services to meet the specific and justified needs of a person of a particular sexual orientation in regard to their education, welfare or other ancillary benefits.

Financial services

Careful consideration should be given to an exception relating to financial services in relation to products where there is a risk-based assessment.

We consider that the burden should be on financial service providers to demonstrate that age is a relevant factor in the assessment of risk and that any difference in treatment is proportionate. Any use of age by financial service providers should be based on relevant information which is from a source from which it is reasonable to rely.

Across Europe, age discrimination in insurance and insurance related products have attracted comparatively high-levels of case law³⁹, compared with other age-GFS issues.

A report considering the approach to age-GFS protections within the EU has noted⁴⁰ ‘a growing number of Member States which are taking more proactive steps to reduce potential discrimination based on age by requiring more probing actuarial evidence either in combination with a reasonableness test or more particularly a full legitimate justification and proportionality test’.

OFMdFM previously proposed mirroring the approach in GB. This provides a broad exception to age discrimination in relation to financial services⁴¹, although where there is an assessment of risk it must be carried out by reference to information which is relevant to the assessment of risk and from a source on which it is reasonable to rely.

However, we consider this to be unjustifiably wide; there is no protection against discrimination by financial services where there is no assessment of risk, and there is no proportionately requirement.

A European Commission report⁴², which was considering the future approach of EU law, recommended that ‘*proportionate differences in treatment on the grounds of age do not constitute discrimination if age is a determining factor in the assessment of risk for the service in question and this assessment is based on actuarial principles and relevant and reliable statistical data*’.

The report suggests that this approach ensures that any assessments made by financial service providers are based on sound actuarial principles and that the data is reliable and up to date taking into account the most recent statistical information. This ensures that individuals are

³⁹ European Commission (2020) [Age discrimination law outside the employment field](#), E. Dewhurst European network of legal experts in gender equality and non-discrimination, European Commission, pp. 107-108.

⁴⁰ European Commission (2020) [Age discrimination law outside the employment field](#), E. Dewhurst, European network of legal experts in gender equality and non-discrimination, pp. 87-91.

⁴¹ [Paragraph. 20A, Schedule 3 of the Equality Act 2010, as amended](#)

⁴² European Commission (2020) [Age discrimination law outside the employment field](#), E. Dewhurst European network of legal experts in gender equality and non-discrimination, pp. 120, 124-125.

not subject to decisions which are based on stereotyped and out-of-date information.

We note that the Irish legislation⁴³ has a limited exception, which outlines that *'annuities, pensions, insurance policies or any other matters related to the assessment of risk... where the treatment is effected by reference to actuarial or statistical data obtained from a source on which it is reasonable to rely, or other relevant underwriting or commercial factors, and is reasonable having regard to the data or other relevant factors'*.

The Irish legislation has allowed individuals to bring cases relating to discrimination in financial services. For instance, in the case of *Shanahan v Laya Healthcare Ltd*⁴⁴, the complainant was unable to receive a quotation for winter sports travel insurance online or over the phone, as he was over 65. The Workplace Relations Commission found that the complainant had established a prima facie case of direct discrimination on the grounds of age.

We also note that the Equality Act 2010 contains⁴⁵ a disability discrimination exception in relation to actions taken by insurance businesses, if it is done by reference to information that is both relevant to the assessment of the risk to be insured and from a source on which it is reasonable to rely, and it is reasonable to take the action. This does not extend to wider financial services.

In 2014, a report commissioned by the Equality Commission highlights case studies⁴⁶ which gave examples where older people had experienced unfair practices due to their age when accessing financial services.

These case studies highlighted instances of older people being;

- refused insurance completely because they reached a certain age- which in one instance resulted in the older person been unable to continue in employment because he was refused motor insurance;
- older people experiencing what they consider to be excessive rises in their insurance premiums simply because it reached a certain age; or being quoted excessive travel insurance

⁴³ [Section 5\(2\)\(d\) of the Equal Status Act 2000, as amended](#)

⁴⁴ Workplace Relations Commission, Ireland, [DEC-S2016-071](#),

⁴⁵ [Paragraph 21, Schedule 3, of the Equality Act 2010](#).

⁴⁶ ICR (2014) [Strengthening protection for all ages against age discrimination outside the workplace](#), commissioned by ECNI.

premiums but with wide variations between insurance providers;

- older people have been refused access to a credit card when they reached a certain age.

In fact, a large proportion of the overall case studies outlined in the report related to concerns about older people's treatment when accessing financial services.

We recognise that there can be some differences between people of different ages as regards certain financial products which have a causal link to age. For example, as regards motor insurance the risk profile of a 17 year old will be very different to that of a 50 year old.

Nevertheless, it is clear that, due to its proposed scope, if an exception as wide as that which was proposed by OFMDFM was introduced, many of the older people highlighted in those case studies would not be able to challenge the treatment they received from financial service providers.

In the event that an exception is included in the legislation, it should not apply to harassment or victimisation; as there should be no circumstances in which law should permit financial service providers to harass or victimise a customer due to their age. Any exception should also be subject to statutory review.

Concessionary Services

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.

We have already made clear that direct age discrimination should only be capable of being justified where a social policy objective is being pursued; and the measures adopted to achieve that social policy objective are proportionate.

We consider that concessions aimed at children and young people and older people which have clear social policy objectives, for example, to alleviate financial disadvantage or address under-participation experienced by those age groups, should be allowed, on the basis that they are justifiable.

Many children, young people and older people face financial disadvantage and are vulnerable to experiencing poverty. Older people, in particular, can be vulnerable to social exclusion and isolation.

So, for example, free or reduced entrance fees for children and young people or older people at leisure centres would be consistent with the social policy objectives of promoting healthy lifestyles or social inclusion.

In light of this, in the interests of clarity, we consider the legislation should make clear that age- based concessions aimed at children and young people and older people which have clear social policy objectives, are not discriminatory and are permitted on the basis that they are justified.

We note that in Canada, the legislation makes it clear that concessions aimed at children, young people and older people are not discriminatory.

We are of the view that guidance for service providers on the types of concessions which are likely to be justifiable could also be provided through Codes of Practice and/or good practice guide(s) in this area.

Sporting and other competitive activities

We consider that service providers should be permitted to use age limits and age bands within sports and other competitive activities, at all levels, from grass roots to elite.

Clubs and associations

Private clubs and associations should be allowed to restrict membership to certain age groups; for example, clubs for young teenagers.

However, we do not support a blanket exception which permits private clubs to target concessions at certain ages.

Previous proposals would have allowed, for example, a club to offer free or cheaper access to its facilities to people of a particular age; regardless of whether there are justifiable reasons for doing so.

In our 2015 response to OFMDFM's proposal we highlighted that we had received complaints that some private health clubs offer reduced fees for adults aged 30-40 years. In our view, under the proposed legislation, the private health club should be required to objectively justify offering such a concession to this particular age group.

However, as already highlighted above, we consider the legislation should make clear that age- based concessions aimed at *children and young people and older people* which have clear *social policy objectives*, are not discriminatory and are permitted on the basis that they are justified.

We recommend that concessions which have clear social policy objectives, for example, to alleviate financial disadvantage or address under-participation experienced by certain age groups, should be allowed, on the basis that they are justifiable. So, for example, free or reduced entrance fees for children and young people or older people by private leisure clubs would be consistent with the policy objectives of promoting healthy lifestyles or social inclusion.

Age restricted schemes

The legislation should include an exception for age restricted schemes. For example, the legislation should allow 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.

However, the exception should not permit harassment or victimisation by a service provider on grounds of age.

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. Legislation prohibiting discrimination on the grounds of age in Australia and has already adopted such a mechanism.⁴⁷

Such exceptions may, for example, allow service providers on a temporary basis or as part of a pilot scheme to restrict services to certain ages, with the aim of assessing and reviewing the impact on certain ages at the end of the temporary period. In line with the approach taken in these other countries, temporary exceptions could be granted by the Equality Commission.

If such an approach was taken, appropriate resourcing for the Commission would be required.

⁴⁷ For example, in Australia the legislation contains a process by which individuals and organisations can seek “temporary exemptions” by applying to the Australian Human Rights Commission. The Australian Human Rights Commission has developed guidelines outlining the criteria it applies.

10. Enforcement and Accountability

The Commission is the equality body in Northern Ireland, and has specific powers and duties in relation to the other equality legislation. We have the experience and expertise to provide advice to service providers impacted by any legislation, and individuals who feel they may have been unlawfully discriminated against under any new provisions.

However, the Commission has faced over a decade of squeezed financial resources, with a significant fall in staff complement. Therefore, if we are to meaningfully undertake new powers and duties in relation to age discrimination, we will require appropriate resources on an ongoing basis.

We recommend that the Commission have general duties under the legislation:

- to work towards the elimination of discrimination and harassment;
- to promote equality of opportunity between persons of differing age groups; and
- to keep under review the working of the legislation and, when considered necessary, draw up and submit to TEO proposals for amending the legislation.

We also recommend that we be granted the following powers under the legislation:

- provision of legal advice and assistance to complainants;
- power to take 'own-motion' cases;
- undertake research/educational activities;
- issue Codes of Practice and guidance;
- power to conduct formal investigations and to make recommendations for change following those investigations;
- power to advise TEO on necessary changes to the legislation;
- power to challenge persistent discrimination; pressure to discriminate; instructions to discriminate; discriminatory advertisements and discriminatory practices.

The Commission is currently considering its powers and duties more widely. We are available to provide further information on this area as helpful.

In general, we call for the harmonisation of equality legislation. In relation to remedies, OFMDFM's proposals previously outlined that age-GFS legislation should include the following enforcement provisions:

- a person who believes that they have been discriminated against may bring proceedings before a county court to get a ruling on whether discrimination has occurred and to seek a remedy for the wrong doing, usually in the form of financial compensation;
- a time limit that proceedings would only be allowed to be brought within six months from when the act of alleged unlawful discrimination occurred. This time limit may be waived with the permission of a court;
- a person who is a victim of alleged discrimination and is considering bringing proceedings under the regulations should have the benefit of a standard form by which to question the alleged discriminator, and that there should be a similar form available for the alleged discriminator to respond; and
- other provisions on evidence, burden of proof and remedies consistent with other equality legislation that applies to goods, facilities and services.

We consider that provisions under age-GFS legislation should broadly align with the other equality grounds. However, you will wish to consider any developments in relation the racial equality legislation.

We understand that the introduction of age-GFS legislation in Great Britain has not led to a significant number of cases being brought. We would not anticipate a high level of cases being brought to the County Court in Northern Ireland, if this legislation is introduced.

11. Mitigations and Alternatives

We consider that there is a need for legislation in order to provide protection against age discrimination in goods, facilities and services, and wider areas, in Northern Ireland.

As the legislation progresses, we remain available to discuss any relevant mitigations or alternatives to specific provisions.

12. Additional comments

The Commission continues to be available to discuss the detail of these proposals, as they further develop. including as provisions on the age scope, exceptions and any objective justification test for direct age discrimination become clearer.

Such engagement will allow us to provide timely advice, identify any potential gaps or areas which could be strengthened, and consider any implications for our powers and duties, which will assist in the finalisation of the drafting process. We anticipate that this would also assist the progression of the Bill through the NI Assembly.

Equality Commission for Northern Ireland
June 2025