



## Briefing on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of belief, disability, age or sexual orientation

### Opportunity to secure legal protection from less favourable treatment on the grounds of age for children and young people

**Young Equals** is a group of charities and children and young people who are campaigning to stop age discrimination. The campaign group is coordinated by the Children's Rights Alliance for England (CRAE). Members of the steering group include Action for Children, the British Youth Council, Families Need Fathers, National Children's Bureau, NSPCC, National Youth Agency, Save the Children UK, The Children's Society, Youth Access and 11 Million, Office of the Children's Commissioner for England (observer status).

**Young Equals** wants legal protection for children and young people from unfair age discrimination in the provision of goods, services and facilities to be enshrined in national and international law.

#### Introduction

The cross cutting draft European Directive on anti discrimination and equal treatment sets out proposals to extend legal protection from discrimination beyond the workplace. The Directive, if passed by the Council of Ministers, will extend existing EU protection to the provision of goods, facilities and services, education and healthcare. Crucially the Directive seeks to outlaw discrimination on the grounds of age, religion, disability and sexual orientation.

The inclusion of age in the Directive is a defining moment in enshrining children's rights in law. As it stands, the Directive will provide much needed legal protection from unfair age discrimination to children, young people and adults.

We urge all Member States to support the retention of the age element of the Directive in order to secure legal protection from negative age discrimination for all people, including children.

#### Age discrimination affects children as well

*"I think young people should definitely be covered - what [is it] about them being under 18 [that] makes them any less of a person than those people over 18? We all deserve to be treated equally... You can't make a law outlawing discrimination apart from certain types!" (Young person, CRAE online debate)*

In research carried out by CRAE and others on behalf of the UK government in 2007, under 18 year-olds were asked to state whether they had ever been treated unfairly because of their age, gender, disability, amount of money their family had, skin colour, religion or culture, the beliefs or behaviour of parents/carers, the child's own beliefs, language, sexual orientation or something else.

Over 3,900 children and young people participated in the online survey in the UK. **Forty three per cent reported that they had been treated unfairly because of their age.**

While fewer than three in 10 (29 per cent) of the under 11s felt that they had experienced age discrimination, nearly two-thirds of older teenagers (64 per cent) reported this. Unfair treatment on the grounds of age was by far the single biggest example of discrimination.<sup>1</sup>

There is much evidence of children and young people experiencing less favourable treatment because of their age in the UK. For example:

- Sixteen and 17 year-olds finding it difficult to access social services and mental health services, falling in the gap between children's and adults' provision.<sup>2, 3</sup>
- Children and young people not being taken seriously when reporting a crime or calling for emergency services.<sup>4, 5</sup>
- Children and young people being treated unfairly in public spaces, e.g. in shops, using public transport, or where mosquito devices are in use.<sup>6, 7</sup>
- Public places such as leisure centres and libraries and transport facilities being unfit for adults with babies and young children.

Age discrimination faced by children and young people goes largely unnoticed and is often seen as legitimate. Signs on shop doorways stipulating 'No more than two children', bus drivers failing to stop for teenagers, young people being followed around department stores and restricted from gathering in public spaces, are common occurrences for many children and young people across the UK.

At the same time, the unique status of children and young people must be recognised and provided for, alongside measures to tackle negative age discrimination. We would want to ensure that age-specific services are allowed to continue. Genuine service requirements would allow a service provider or shop or hotel, for example, to seek to justify different treatment on the basis of demonstrable need. Exemptions should be kept to an absolute minimum.

### **Age discrimination legislation in the European Union**

Several European countries have taken steps to enshrine legal protection from less favourable treatment on the grounds of age for children and young people in the provision of goods, facilities and services in national and local laws. For example, both Belgium and Finland have specific measures in their national constitutions relating to discrimination on the grounds of age.

*Children and young people have been protected from age discrimination in the provision of goods, facilities and services in Australia since 2004 (Age Discrimination Act 2004).*

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<sup>1</sup> Willow, C., Franklin, A. and Shaw, C. (2007) Meeting the obligations of the Convention on the Rights of the Child in England. Children and young people's messages to Government. DCSF

<sup>2</sup> Office of the Children's Commissioner (January 2007) Pushed into the shadows. Young people's experience of adult mental health facilities.

<sup>3</sup> Office of the Children's Commissioner (October 2008) Out of the shadows? A review of the responses to recommendations made in Pushed into the Shadows

<sup>4</sup> CRAE (2007) We are all equal and that's the truth. Children and young people talk about discrimination and equality.

<sup>5</sup> Inglis, G and Shepherd, S (March 2008) Independent Police Complaints Commission Confidence in the police complaints system: a second survey of the general population interim report, BMRB.

<sup>6</sup> CRAE (2008) Get ready for Geneva submission to the UN Committee on the Rights of the Child.

<sup>7</sup> Mosquito devices are electronic devices being used across England to stop teenagers from congregating in public places: it works by emitting a painful high-pitched noise only heard by young people.

Age discrimination legislation may not yet be the norm across Europe, but it is clear that many countries are starting to recognise that children do experience discrimination on the grounds of age, and that legislation is an effective and justified means of remedying this situation.

### **Retain age discrimination protection**

Initial debates on the proposed Directive<sup>8</sup> suggest that some Member States may oppose the inclusion of age, or may seek to restrict it to over 18s only. Retaining the age element of the draft Directive would ensure that all children across the EU receive legal protection from less favourable treatment on the grounds of age.

We believe that to oppose the inclusion of children in protection against age discrimination is in itself discriminatory and contradicts the underlying values of equality and discrimination law. We should not miss this opportunity to tackle entrenched attitudes and unfair treatment of the young.

### **Other aspects of the Directive**

We are pleased to see that the Directive explicitly covers education and urge all Member States to support our calls for education to remain in the Directive. Some Member States have questioned the inclusion of education within the scope of the Directive and state that provisions for education are beyond the competence of the European Union. However, we note that the EU Race Directive does cover education, and see no reason for the proposed cross cutting Directive not to do the same.

Whilst welcoming the Directive in its current form, we believe the inclusion of requirement on buildings and public transport providers to make reasonable adjustments for families with infants and young children<sup>9</sup> would greatly strengthen the Directive's provisions in relation to age discrimination.

### **For further information please contact**

Catherine Billingham  
Parliamentary Adviser  
Children's Rights Alliance for England  
[cbillingham@crae.org.uk](mailto:cbillingham@crae.org.uk)  
+44 (0)20 7278 8222

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<sup>8</sup> Council of Ministers Employment Social Policy Health and Consumer Affairs Council (2 October 2008) Debate on the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of belief, disability, age or sexual orientation.

<sup>9</sup> Note: At a local level, federal states in Germany (Länder) have passed legislation relating to building standards to ensure buildings are accessible to disabled people, older people and people with small children.

McColgan, A, Niessen, J, Palmer, F (2006) Comparative analyses on national measures to combat discrimination outside employment and occupation. Mapping study on existing national legislative measures – and their impact in – tackling discrimination outside the field of employment and occupation on the grounds of sex, religion or belief, disability, age and sexual orientation, VT/2005/062