

Children in Scotland

every child - every childhood

EU Directive Consultation Responses

July 2009

EU and International Section

Government Equalities Office, 9th Floor, Zone G9

Eland House

Bressendon Place

London SW1E 5DU

Children in Scotland appreciates the opportunity to make a brief response to this consultation about how the UK Government should deal with the recent *European Commission Equal Treatment Directive*. As the umbrella organisation for the children's sector (voluntary, statutory and private) across Scotland, we will limit our response to one specific issue: age discrimination.

We were surprised and disappointed that the UK Government continues to propose taking an 'ageist' position on the issue of age discrimination. We know that discrimination against people below the age of 18 throughout the United Kingdom is just as real, wrong and in need of meaningful governmental action as similar discrimination against older members of society. Therefore, Children in Scotland fully agrees with the EC statement (pages 15-16 of the EC's Impact Assessment) that: *Discrimination on grounds of age affects older and younger age groups*.

Children in Scotland strongly disagrees with the UK Government's assertion (page 11-12 of this *Consultation Document*) that '*age discrimination legislation is not an appropriate way to ensure that children's needs are met*.' The UK Government's point that children should be treated differently on the basis of age (e.g., a 2-year-old versus a 12-year-old) is correct when manifested in positive, age-appropriate ways.

However, the validity of this point/policy disappears as soon as that *different* treatment becomes *negative or unhelpful* toward children because of their age. Discrimination **against** children on the grounds of age is not consistent with the UK's Government's commitment to 'put equality at the heart of government'. It is also not consistent with the UK Government's position in relation to people having disabilities. In that case, UK law and Government policy deal sensibly with the distinction between positive versus negative consequences for the groups being treated *differently*.

Thus, there is a precedent for the UK Government making a clear distinction between 'desirable positive' and 'unacceptable negative' treatment based upon age differences. While age discrimination legislation is not the best or only way to ensure that children's needs are met, there are times and circumstances when such legislation would be *one* appropriate way of advancing their interests and meeting their needs. We encourage the UK Government to adopt this more nuanced position in responding to the EC.

Children in Scotland's other major concern about the proposed UK Government response to the *EC Equal Treatment Directive* is with the factual basis for the statement on page 5 of the UK Government's 'Impact Assessment' that: *Earlier consultations led by GEO have uncovered no evidence of discrimination against under 18s. We therefore anticipate very little impact on service providers.*

The examples and evidence gathered by the Children's Commissioners in the four nations of the UK and by various NGOs (especially through the Young Equals campaign). Similarly, the *Concluding Observations* (2008) from the UN Committee on the Rights of the Child do not support the UK Government's remarkable claim that it could uncover '*no evidence of discrimination against under 18s*'. Evidence of such discrimination does exist and should be taken fully into account by the UK Government.

In conclusion, we see no productive purpose served by the UK Government's opposition to the age discrimination part of this proposed EC Directive. Accordingly, Children in Scotland encourages the UK Government to reconsider and rewrite the age discrimination section of its response to align with the *European Commission Equal Treatment Directive*. Discrimination against children and young people must be recognized, taken seriously and halted as quickly as possible by the UK Government. Accepting the EC's position on age discrimination would be a step in the right direction.

For further information, please contact:

Dr Jonathan Sher
Director, of Research, Policy and Programmes
Children in Scotland
Princes House, 5 Shandwick Place
Edinburgh EH2 4RG

Telephone: 0131 222 2418
E-mail: jsher@childreninscotland.org.uk
Website: www.childreninscotland.org.uk