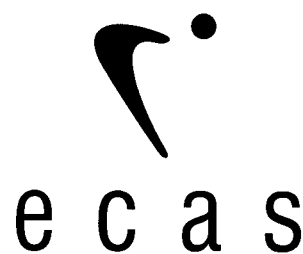


President: The Countess of Rosebery
Chairman: Rev. Dr. W Graham Monteith
Chief Executive: David Griffiths



Established in Edinburgh in 1902

Ms Kate Hepher
Discrimination Law Review Team
Women and Equality Unit
Communities and Local Government
Zone C1, 2nd Floor Ashdown House
128 Victoria Street
London
SW1E 6DE

28th July 2007

Dear Ms Hepher

A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain

I enclose a completed response form for the consultation on the Single Equality Bill.

The response form covers many important areas, but I would like to highlight concerns over the future of the Disability Equality Duty (DED) and the use of joint forums. As a member of the elected executive committee for the Edinburgh Disability Equality Forum (EDEF) I have been closely involved in the work of the City of Edinburgh Council, Lothians NHS, Lothian and Borders Police and the Procurator Fiscal in meeting their new DED. As with any major change, it is taking time for the many thousands of staff involved to fully implement the new procedures. However, we have seen major improvements in the involvement of disabled people in the decision making process and there are very positive signs that we can use the DED to make further improvements.

It is therefore of considerable concern that, with the DED less than a year old, the government already has plans to radically change it and that these plans will remove some of the teeth in the DED. Further change now will undoubtedly lead to confusion and will also lose the momentum we currently have. I strongly believe that the government should allow the DED to run for at least five years before forming a judgment, and that the DED should only be changed if to do so would have a clear advantage for those who are meant to benefit from it – people with disabilities.

My experience with the EDEF has also raised concerns over joint equalities groups. Whilst the City of Edinburgh Council's Multi-Equality Scheme is to be applauded, attempts to consult using joint forums have met significant problems. For example, the Equalities Transport Advisory Group (ETAG) with representatives from 6 equality forums (disability, older people, BME, Women, Faith and LBGT) highlighted the problems of trying to address (for example) physical barriers that are only relevant to one of the 6 groups. It is difficult enough to address the wide range of disabilities

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(physical, learning, sensory and so on) without trying to cover the other 5 forums as well. Transport for disabled people is a complex issue, and it is not reasonable to expect people from the other five 5 groupings to take part in decision making without suitable training. For that reason, the Council has now agreed that transport issues will have to be referred to the EDEF when considering disability. Because of the wide range of physical barriers many disability issues really are different to those affecting other disadvantaged groups, and it is essential that this is recognised in legislation.

Thank you for consulting us on the Single Equality Bill. If we can provide any further information we would be delighted to do so.

Yours sincerely
David Griffiths

David Griffiths
Chief Executive



**A Framework for Fairness:
Proposals for a Single Equality Bill for Great Britain**

Response Form

We welcome your views as part of the consultation. For convenience, this preformatted response form sets out all the questions in the main consultation document. It can also be downloaded from www.communities.gov.uk/index.asp?id=1017165.

Should you wish to use the form, it should be returned, once completed, to:

**Kate Hepher
Discrimination Law Review Team
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Zone C1, 2nd Floor Ashdown House
123 Victoria Street
London
SW1E 6DE**

**Kate.Hepher@communities.gsi.gov.uk
Fax No.: 020 7944 0602
Tel No.: 0207 944 8330**

The consultation closes on 4 September in 2007. Please let us have your response by that date.

When responding, it would be helpful if you could provide the following information.

Please fill in your name and address, or that of your organisation if relevant. You may withhold this information if you wish, but we will be unable to add your details to our database for future consultation exercises.

Name

Organisation (if applicable)

Address

Postcode

Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please

tick this box and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential:

Please say why

You or your organisation

Q(i) In what capacity are you responding?

As an individual (if so, please go to Q1 in the main comments section)

On behalf of an organisation (if so, please go to Q(ii) below)

As an employer (if so, please go to Q(iii) below)

Other (please specify)

Q(ii) Is your organisation (please tick the boxes that apply to your organisation)

A local authority (including health authority) / organisation

An equality lobby group or body

A statutory body

An organisation representing employers

An organisation representing financial institutions

A professional association

A university

A college of further education

A trade union/staff association

Other – please specify

Q(iii) If responding as an employer, how many people do you employ?

Between 1 and 14 employees

Between 15 and 49 employees

Between 50 and 249 employees

250 employees or more

Q(iv) If responding as an employer please indicate which sector best describes you:

Legal services

Construction and/or building design

Communications

Wholesale and retail trade

- Leisure – hotels, restaurants, pubs
- Leisure – cinemas, theatres, museums
- Leisure – other
- Distribution/transport
- Financial and/or business services
- Electricity, gas and water supply
- Advice and/or information services
- Public administration
- Education/training
- Health and social work
- Charity/voluntary work
- Other (please tick box and specify)

Q5 Do you agree with our proposal to harmonise the definition of indirect discrimination where it applies across the protected grounds?

Yes

No

Please say why:

Where common benefits are concerned, there must be provision to ensure that the adjustment is to the highest standard. As an example, provision of an accessible toilet may be achieved in a way that would be sufficient for certain impairments, but would be insufficient for (perhaps) a person who needed a carer to come into the toilet with them and thus required more space. Therefore, any provision that sees common benefit must ensure that the highest standard is achieved.

Objective Justification

Q6 Do you agree with our proposal to harmonise the objective justification test?

Yes

No

Please say why:

Justification of disability discrimination

Q7 Do you agree that there should be a single test of objective justification for disability discrimination in employment and vocational training, goods, facilities and services, housing, education, private clubs and public functions?

Yes

No

As drafted in the consultation document, this test is a retrograde step as it widens the circumstances in which discrimination can be justified. Whilst the need to simplify the law is agreed – as it can only benefit both disabled people and suppliers – this should not be achieved by widening the scope for discrimination to continue. Whilst “proportionality” may be seen as stricter than “reasonable opinion” the detail of the codes of practice will be of great importance in actual enforcement. It will not, however, help in those circumstances which the new legislation deems discrimination to be justified.

The threshold for reasonable adjustments

Q8 Do you have any comments on our proposal to establish a single threshold for the point at which the duty to make adjustments is triggered?

Yes

No

Please provide:

Victimisation

Q9 Do you agree that the approach to victimisation in discrimination law should be aligned with the employment law approach?

Yes

No

Please say why:

Simplifying Exceptions

Genuine occupational requirement test

Q10 Do you agree that a genuine occupational requirement test should be introduced for all grounds of discrimination, with the exception of disability (where it is not necessary)?

Yes

No

Please say why:

Q11 Do you think there is a need to retain any of the genuine occupational qualifications listed in the Sex Discrimination and Race Relations Acts?

Yes

No

If so please explain why:

Genuine service requirement test

Q12 Do you support or oppose the introduction of a genuine service requirement test for differentiation in the provision of goods, facilities or services, housing and the exercise of public functions?

Support

Oppose

Please give your reasons and examples of what it might cover:

As stated in paragraph 1.75, it will make the law more complex for service providers.

Specific Exceptions

Q13 Do you agree with the proposal for a unified approach where exceptions apply to more than one protected ground, where this is appropriate?

Yes

No

Please give your reasons:

Q14 Do you have any comments on our proposals for retaining the specific exceptions set out in Table 1 in Annex A?

Yes

No

Please provide

Q15 Do you agree that the exceptions listed in Table 2 in Annex A should be removed?

Yes

No

If not, please explain why.

No opinion

Q16 Is there any need to return an exception to allow insurers to treat people differently on the grounds of sexual orientation, where supported by sound actuarial evidence, beyond the end of 2008?

Yes

No

If yes, what should this seek to achieve and why:

No opinion.

Chapter 2: Public Functions

Q17 Do you agree that there would be benefits in adopting a harmonised approach to the goods, facilities and services and public functions provisions are structured across all protected grounds?

Yes

No

Please say why:

The barriers affecting different groups are very different. For disabilities the barriers are predominantly physical, whereas for race, faith, sexual orientation and other equality areas the barriers are predominantly attitudinal. To achieve a commonality of approach will therefore be extremely difficult and there is a risk of reducing the protection offered instead of keeping it level or even increasing it. Our answer to Q7 covers just such an instance.

Q18 Do you think the exceptions could be streamlined in this area or do you think that there are any exceptions that should apply to public authorities that it would not be appropriate to apply to the provision of goods, facilities or services by private bodies?

Yes

No

Please say why:

The duty should be the same regardless of whether the service is provided by a public, private or voluntary body.

Chapter 3: Equal Pay

Q19 Do you agree that the distinction should be retained?

Yes

No

Please say why

Q20 Do you consider there are further areas of the law of equal pay developed by case law, which it would be helpful to codify?

Yes

No

Please give details of these areas of legislation and any case law relevant to these

Q21 Do you have further suggestions on how we could simplify equal pay legislation or make it easier to work in practice?

Yes

No

Please provide further information on how equal pay legislation could be simplified to make it easier to work in practice.

Q22 Do you agree that allowing the use of hypothetical comparators would be unlikely to give any benefit in practice.

Yes

No

Please explain

Part 2: More effective law

Chapter 4: Balancing Measures

Q23 What evidence is there of the extent to which the current “positive action” provisions are being used? Do you consider that the current provisions limit the actions that employers and others would like to take?

Some employers are guaranteeing interviews to “target groups” (e.g. those with disabilities) who meet the minimum criteria in a job advertisement. Although such “positive action” is legal, some see it as “positive discrimination” and mistakenly believe it is not legal. The current provisions are difficult to understand and there is, as stated in para 4.36, confusion – we have even had conflicting advice from different specialist employment lawyers. This can tend to make employers “play safe” and that means not taking “positive action” but treating everyone the same (which, as you point out, is not a level playing field).

There is a need for some caution, as “positive action” can cause resentment and ill-feeling in those who are not aided by it. This can be counter-productive. There is also an obligation on employers to their shareholders or under charity law, to employ the most suitable applicant. Positive action must therefore not be taken in a way that contravenes other legislation.

For positive action to be effective, the legislation needs to be clear and there also needs to be education of the general public as to why it is necessary.

Q24 Do you agree that it would be helpful for organisations seeking to make progress towards their goals of tackling under-representation and

disadvantage to be able to use a wider range of voluntary balancing measures?

Yes

No

Please explain:

Some groups will be particularly keen to tackle specific issues (for example, as a charity involved in the support of those with physical disabilities we are keen to see employment prospects for that group improved). It would be helpful to have voluntary measures that we could not only use ourselves, but also encourage others to use, in addressing that issue.

Q25 Do you agree that measures to meet special needs in relation to education, training or welfare or any ancillary benefits should be permitted in respect of all protected groups?

Yes

No

Please explain why:

To achieve a clear Single Equality Act.

Q26 Do you agree with these proposals for issuing of guidance by the Commission for Equality and Human Rights, but that the Commission should not have a role approving positive action programmes?

Yes

No

Please explain why:

We agree the argument at Paras 4.50 and 4.51. We would, however, add that there is a need for CEHR to consult and work with other statutory organisations to ensure that guidance is consistent. An example would be the Health and Safety Executive who may have views on what are, and are not, reasonable adjustments for certain employment situations.

Q27 Do you agree that we should have a power to continue the operation of the current provision beyond 2015, if this is still necessary and proportionate?

Yes

No

Please explain why:

Such matters should be decided democratically. The rules for politicians should be the same as the rules for everyone else. As stated in response to Q24, we believe the scope for voluntary measures should be widened – but the same rules should apply to us all.

Q28 Do you agree that we should widen the scope of voluntary positive measures for political parties to target the selection of candidates beyond gender?

Yes

No

Please explain:

The rules for politicians should be the same as the rules for everyone else. As stated in response to Q24, we believe the scope for voluntary measures should be widened – but the same rules should apply to us all.

Chapter 5: Public Sector Equality Duties

Q29 Do you agree that the race, disability and gender duties should be replaced by a single duty on public authorities to promote race, disability and gender equality?

Yes

No

Please state your reasons:

Yes, in principle, to aid understanding and efficient implementation. However, our support for this principle is caveated by the need for the single duty to be at least as rigorous as the current Disability Equality Duty. We are concerned that the wording of this question might allow you to conclude that there is widespread support for a Single Equality Duty, when many of your respondents may share our view that the principle is sound, but only if the detail is also valid. We are also concerned that adopting one single duty, any resulting action plan could be dominated by the group that achieves most influence. At

present, with a different action plan for each group there should be some progress in all areas. Unless the regulations and codes of practice are well written, there is a risk that some issues will never be addressed in a single document.

There is also a risk that "disability" will end up as a single "group" whereas the term covers a very wide range of impairments.

Q30 Do you agree that it would be helpful to provide a clear statement of the purpose of a single public sector duty which public authorities should use as a foundation for taking action to promote equality and good relations?

Yes

No

Please state your reasons:

Everyone involved needs a clear understanding – which needs to be brief and simple so that it can be easily understood by the many millions of people involved in delivering it and who are affected by it.

Q31 Do you agree with the four areas set out in the proposed statement of purpose?

Yes

No

If not, please give your reasons and any alternative suggestions.

There is too much emphasis on "groups". We must see "individuals" as well. This is particularly true where disability is concerned – putting all disabilities into one "group" called "disability" (which is what seems to happen in para 5.29) is very much a retrograde step. One of the key points of current work by many disability organisations is to see all people as individuals and to have policies and actions that help those individuals.

Q32 Do you think that the proposed statement of purpose adequately captures the need for work to build good relations and promote positive attitudes within and between groups and underpins efforts to build integration and cohesion?

Yes

No



If not, please give your reasons and any alternative suggestions:

In addition to the answer to Q31, we emphasise the need for those providing services to promote respect for individuals and to treat individuals with respect. The concept of "groups" automatically retains the feeling of "difference" - as in, "I am in a different group to you" - and that in itself discourages a feeling of cohesion. We are individuals.

Q33 Do you agree that a single public sector equality duty should require public authorities to identify priority race, disability and gender equality objectives and take proportionate action towards their achievement?

Yes



No



If not, please give your reasons and any alternative suggestions:

Again, this is a difficult question for a yes/no answer. The principle is good, but only if there is genuine consultation with those affected when drawing up the priority lists. Otherwise, difficult issues will always remain at the bottom. Furthermore, there should really be separate priority lists for each area.

Q34 Do you agree that public authorities should be required to review their priority equality objectives at least every 3 years?

Yes



No



If not please give your reasons and alternative suggestions

Q35 Would it be helpful for strategic equality outcomes to be set by the appropriate national Government?

Yes



No



If so, what would be an appropriate way of doing this?

CEHR, working with the Office for Disability Issues (ODI) and others, will undoubtedly identify trends in equality issues. A small number of areas of concern raised by these trends could be given priority by being on the national government's strategic equality list.

- Q36 We would welcome views on the proposed new approach to supporting effective performance of a single public sector equality duty by requiring proportionate action towards the achievement of priority equality objectives, and on the four key principles we have identified. Do you prefer this approach, or an extension of the type of specific duties adopted so far in the race, disability and gender equality duties? Please give your reasons.

Specific duties make it clear to all concerned (including those affected, such as people with disabilities) what is required and what is to be achieved. Assuming the duties are clearly laid out, it is then possible for all concerned to have a meaningful input to the consultation phase, and to monitor progress. We are concerned that a shift towards proportionate action will allow public bodies to blur issues and that we will end up in endless debates about what is "proportionate". An advantage of the current system is that there are clear areas on which the public body must report and consult.

- Q37 If you prefer an extension of the type of specific duties adopted so far in the race, disability and gender equality duties, which elements of the specific duties do you think should be retained for a single public sector equality duty and why?

All the current specific duties in the Disability Equality Duty (DED) should remain. Although it is still less than a year old, and many public bodies are still getting properly to grips with it, the DED is potentially the most effective piece of equalities legislation to date. Because it requires consultation, publication of the scheme, targets and reporting back it is ensuring that there is meaningful debate on many issues that were previously glossed over. It has brought in some accountability to the people who are meant to benefit from equalities legislation. Those public bodies we work with still have a long way to go to get it fully functioning, but to stop it now would be to waste all the effort that has gone in to get us where we are.

- Q38 Do you think that the proposed single public sector equality duty should apply to all public authorities?

Yes

No

If not, please say how you think it should be targeted and give your reasons.

Q39 Do you think that a single public sector duty should be extended to cover:

- a) age Yes No
- a) sexual orientation; and/or Yes No
- b) religion or belief; Yes No

Please state your reasons, including examples of the types of disadvantage you believe are experienced by people because of their age, sexual orientation or religion or belief which could be addressed effectively through such a duty.

As stated in your paras 5.67 and 5.72, if local authorities understand the make-up of their communities better, then they can better target their efforts towards cohesion. The legislation, or perhaps the Codes of Practice, could make clear that the duty need not be as onerous for all the strands covered and that there needs to be a split between attitudinal and physical barriers. This is an area where proportionality needs to be used.

Q40 Might there be disadvantages in extending the duty to any of these groups?

- Yes
- No

If so please give examples

There will always be a risk of accusations of groups, or individuals, being given "special" or "favourable" treatment, and there is also a risk that those that shout loudest get heard first. There are also individuals who will not wish to co-operate with data collection – including some who will resent being recorded as being in a group that is seen as "disadvantaged". Provided that the legislation and codes of practice are carefully worded, that there is an effective means of educating people of the need for such actions and that any resulting actions are proportionate then the disadvantages will not outweigh the advantages. There must be a methodology to ensure that action is proportionate – and this may need to include allowing those who are not in a disadvantaged group to appeal proposed action in some circumstances.

Q41 Over what timescale do you think a single public sector duty and any extensions to it should be implemented to ensure we have learned as much as possible from recently introduced duties on disability and gender?

We believe it would be a mistake to make any decision on which model to follow until we have had a chance to see which of the current three models works best. We would therefore recommend delaying a decision until 2012 (i.e. until after an assessment can be made of the first 5 years of the new models). There should then be a further 3 years to adjust. Therefore, no new duty should be compulsory until 2015.

Q42 Do you think public authorities should be given the option to implement any new approach in advance of it becoming a legal requirement, enabling these authorities who have already taken an integrated approach to build on existing work?

Yes



No



Please explain:

The change-over should be phased, allowing those who wish to get ahead to do so.

Enforcements of Public Sector Duties

Q43 Do you think that there should be a single enforcement mechanism for the proposed single equality duty, enabling the commission for Equality and Human Rights to issue a compliance notice with or without an assessment, as appropriate in the circumstances, enforceable in the county court or Sheriff's court in Scotland?

Yes



No



If not, please give your reasons

Public Service Inspectorate

Q44 What do you think should be the role of the public service inspectorates in assessing compliance with public sector equality duties?

There is a clear need for consistency between the many commissions/inspectorates/regulators/executives and others that any organisation has to deal with and this is, in a number of areas, sadly lacking with different commissions issuing conflicting guidance in some cases. There is also, as highlighted in para 5.90, a danger of wasting resources on a paper chase of checking policies, whilst ignoring the need to actually do something practical. It should be for the Inspectorates to decide priorities in individual instances – health & safety, standards of nursing and medical care, cleanliness and waiting times are examples which may have top priority in some instances and so it is not sensible that CEHR or an Equality Act should try and tell the Inspectorates what should be given priority. Consistency in enforcement is also important. We would therefore suggest that the Inspectorates be given a duty to report any contraventions that they note, or suspect, to the appropriate authority but that enforcement be left to that authority. In the case of Equality, the authority would be the CEHR. This will ensure consistency and minimise confusion.

Q45 What issues would you like to see included in practical guidance on how public sector procurement can be used to achieve equality outcomes in the delivery of public services by the private sector, whilst ensuring that the guidance works well for business?

It needs to be clearly stated whether or not the public authority's duties and obligations are included as part of contracts. For example, is a private company that is delivering a public authority's services subject to the same obligations as the public authority? Hopefully, the answer is "yes", but at present there are conflicting views.

Public authorities should also be required to take account of any previous offences or breaches. We support the view in para 5.94 that a single offence should not automatically lead to permanent disqualification; however, it would be proportionate for the public authority to seek evidence that matters had been put right. It may also be proportionate to take account of the size of an organisation when seeking and reviewing data.

Public authorities should make clear in the tendering process that they require their contractors to promote all the authority's relevant policies (safety, equality and so on) and that their performance will be taken into account when assessing future tenders.

Guidance should allow authorities to take performance in specific areas into account when awarding contracts, as well as the proposed costs.

Chapter 6: Promoting good equality practice in the private sector

Q46 Do you think that an "Equality Standard" would be beneficial to businesses, employees and customers?

Yes

No

Please give reasons for your answers

Employment law and equality law are complex and confusing, particularly for small businesses without an HR department. Simple interactive checks and standards would be helpful in assessing the company's performance. If there was a clear distinction between legal obligations and voluntary enhancements, this would also help. Ideally it will be free and easy to use.

If yes, would you prefer an accredited or a non-accredited good practice and compliance tool?

Accredited

Non-accredited

Q47 We would welcome your suggestions for other ways in which good equality practice could be encouraged and embedded in the private sector

In terms of disability equality, there is a need for a less bureaucratic method of providing grants to make workplaces and equipment accessible. In particular, potential employees need to know that an employer will be able to make the workplace, and any relevant equipment, suitable for them from day 1, not have to wait for a grant application to be considered and then make the adjustments. This could be achieved by making the relevant grants system deal with the individual and not the employer. For example, an person who requires specialist adaptations to use a computer that will cost £2,000 could be told that they have that grant available and that it will be paid once they have a job offer. That way, both the potential employer and that disabled person know at the recruitment stage that the equipment and the grant are available. Measures such as this will encourage better practice in recruiting.

Chapter 7: Effective dispute resolution

Promoting Early Resolution of Disputes

Q48 Can you suggest ways in which Alternative Dispute Resolution could be used more effectively or widely to resolve discrimination disputes in the field of goods, facilities, services, premises and the exercise of public functions?

No comment

Q49 Can you suggest ways in which the role of Ombudsmen might be used more effectively to resolve discrimination disputes?

No comment

Improving the handling of Discrimination Cases in the Courts

Q50 Do you have any views on our proposals for enhancing discrimination expertise in the county and sheriff courts?

No comment

Disability Discrimination Education Cases in Scotland

Q51 Do you think that the powers of the Additional Support Needs Tribunals for Scotland should be extended to include consideration of disability discrimination cases in education?

Yes.

Multiple Discrimination

Q52 Can you provide us with evidence illustrating any difficulties of gaining legal redress in cases of multiple discrimination?

No.

Q53 Are there particular issues you would want to see addressed in relation to multiple discrimination claims?

No.

Part 3 – Modernising the law

Chapter 8: The grounds of discrimination

Disability

Q54 Do you have any comments on whether we should remove the list of 'capacities' from the definition of disability?

Yes

No

Please provide:

Q55 Do you have any comments on our approach to addressing the needs of parents and carers?

Yes

No

Please provide:

A targeted approach is only satisfactory if it covers all the areas of potential discrimination. It therefore requires a large quantity of legislation. Including carers in the general provisions would be simpler and less confusing, both for carers and service providers/employers.

Married Persons and Civil Partners

Q56 Do you consider that the protection for married persons and civil partners is still needed in the absence of a "marriage bar" in employment?

Yes

No

Please give your reasons for supporting/opposing its removal?

We accept the argument in the consultation document.

Genetic Predisposition

Q57 Do you agree that there is no current justification for legislating to prohibit genetic predisposition discrimination?

Yes

No

Please say why:

We have insufficient to knowledge to agree or disagree. However, we do agree that, for the reasons given in para 8.28, disability legislation is not the place to address pre-symptomatic genetic issues.

Chapter 9: Age discrimination

Q58 What instances of unfair age discrimination outside the workplace against people of any age, are you aware of?

Please give details of any examples below:

Some service providers assume that older people have more time (based on being retired) and therefore allocate them a lower priority.

Q59 Is legislation the most appropriate and proportionate way of tackling harmful age discrimination?

Yes

No

What would be the likely costs of legislation?

Q60 Do you have any views on how, if we decide to legislate, we can target the legislation to avoid unintended consequences and disproportionate burdens on both public and private sectors?

Yes

No

Please give details below:

Q61 Do you have any comments on any of the issues which would arise with a legislative approach to tackling age discrimination?

Yes

No

Please provide:

As with disability equality, there should be guidelines that allow "positive action" as opposed to "preferential treatment".

Chapter 10: Gender reassignment

Q62 Do you agree that we should prohibit discrimination on the grounds of gender reassignment in the exercise of public functions?

Yes

No

What are your reasons for supporting/opposing this?

In the interests of achieving full equality.

Q63 Do you agree that it is unnecessary to include school pupils and education in any extension to protect on the grounds of gender reassignment?

Yes

No

What are your reasons for supporting/opposing this?

We accept the argument in para 10.12

Q64 Are there any circumstances in which you consider that it is necessary for organised religions to treat people differently on grounds of gender reassignment?

Yes

No

Please explain what they are:

We have insufficient knowledge to answer this question.

Q65 Do you agree that we should retain the existing definition of gender reassignment?

Yes

No

Please say why:

There needs to be a clear distinction between permanent gender reassignment and, for example, a transvestite.

Chapter 11: Pregnancy and maternity

Q66 Do you agree that we should make less favourable treatment of a woman on grounds of pregnancy and maternity unlawful in the exercise of public functions?

Yes

No

What are your reasons for supporting/opposing this?

In the interests of achieving full equality.

Q67 Do you agree that it is neither necessary nor appropriate to extend protection on grounds of pregnancy and maternity to school pupils and education in schools?

Yes

No

Please say why:

We accept the arguments in paras 11.8 and 11.9

Chapter 12: Private clubs and associations

- Q68 Do you agree that it is a positive benefit to have clubs which are set up for the purpose of offering the benefits of membership to a particular group, including single sex clubs catering for particular religions or beliefs or age ranges, along with those currently permitted under race, disability and sexual orientation law?

Yes

No

- Q69 Do you agree with the proposal to make it unlawful for private clubs with 25 or more members (other than single sex clubs or those set up for members who are a particular religion or belief) to discriminate on grounds of sex and religion or belief?

Yes

No

If you do not, please explain why:

Q70 Do you agree that private clubs with 25 or members should not be permitted to discriminate against guests on the grounds of sex, race, sexual orientation and religion or belief, as is already the case on the grounds of disability?

Yes

No

Please explain:

In the interests of achieving full equality.

Q71 Do you think that the law should address unjustified age discrimination by private clubs with 25 or more members (other than those set up to cater for a particular age range) if age discrimination is made unlawful in the provision of goods, facilities and services?

Yes

No

If you do not, please explain why:

Chapter 13 – Improving access to and use of premises for disabled people

Q72 Do you agree with our proposal for requiring disability-related alterations to the common parts of let residential premises?

Yes

No

Please say why:

In para 13.7 you state that the duty will only apply in England and Wales, because legislation in Scotland already covers some of these issues. Disability is a reserved issue, and the law relating to it should be common; your proposal leaves just "some of these issues" covered. We have had several instances where split legislation between Westminster and Holyrood has led to disabled people in Scotland being treated less favourably than those in England and Wales. This is unsatisfactory and so we would urge that all aspects of the new Act, and any subordinate legislation, be equally applicable in Scotland.

That aside, we agree with the proposal.

Chapter 14: Harassment

Q73 Can you provide examples of harassment you think is occurring or could occur on grounds of religion or belief, sexual orientation, age or disability, which would fall outside the existing protections in discrimination and other law?

Please list examples below:

Q74 Do you think that express statutory protection against harassment on grounds of:

- religion or belief;
- sexual orientation;
- age; and
- disability

should or should not be provided in any of the following:

(a) the provision of goods, facilities and services?

Yes

No

Please say why.

Existing legislation (less favourable treatment) could be used.

(b) education in schools?

Yes

No

Please say why.

Existing legislation sufficient.

(c) the management or disposal of premises?

Yes

No

Please say why.

Existing legislation sufficient.

(d) the exercise of public functions?

Yes

No

Please say why.

Existing legislation sufficient.

Q75 Were statutory protection against harassment to be extended to one or more of the above grounds in one or more of the above areas, do you think that specific exceptions would be desirable?

Yes

No

If yes, please say why and the types of exceptions, if any, you would like to see in the legislation:

It is important that freedom of speech and local custom be taken into account, to ensure that the law is seen to be common sense and proportionate.

Q76 Do you think that harassment on grounds of religion or belief should be treated differently from the other protected grounds and that a different definition of harassment would be appropriate in this case?

Yes

No

If so, please state your reasons why:

Q77 Do you think there is a valid distinction to be made between harassment in an "open" and in a "closed" environment and that the approach to its prohibition should be differentiated accordingly?

Yes

No

Please say why:

Where there is freedom to use, for example, a different pub or café where the atmosphere is more to the individual's liking, then common sense should prevail and the individual should choose a different pub. There are social reasons for this – as an example, some bars (or even streets) are known to be frequented by particular groups, and that serves a social purpose. This can be preserved by "freezing out" those who are not of that group; common sense should prevail in that situation.

Q78 Do you have any evidence of harassment by third parties in the workplace in relation to protected grounds other than sex? If so do you consider that it should be dealt with in a similar way?

Yes

No

If so, please state your reasons why:

Annex B – Implementing the Gender Directive

Q79 Do you agree with the proposals in Table 1

Yes

No

If not, please give details of those you disagree with and your reasons for doing so.

Q80 Do you have any comments on the likely impact of the Gender Directive's insurance provisions on providers and/or customers of insurance and related financial products?

Yes

No

Please provide:

Q81 Should the ban on differences due to maternity or pregnancy costs be implemented in December 2007 or deferred until December 2009?

December 2007

December 2009

Please explain

No comment

Q82 Do you think 'maternity' should be defined for the purposes of the Sex Discrimination Act provisions covering goods, facilities or services and premises?

Yes

No

Please explain how:

No comment

Costs and Benefits

Q83 Please let us have your views on the estimate of costs and benefits summarised in the Initial Regulatory Impact Assessment.

No comment

Equality Impact Assessment

Q84 Please let us have your views on the Equality Impact Assessment.

No comment

Other Comments

Q85 Do you have any other comments about the consultation documents or the consultation exercise itself?

Thank you for completing this response form.