

Discrimination Law Review
A Framework for fairness: proposals for a Single Equality Bill for Great Britain

Save the Children response

Save the Children

Save the Children fights for children in the UK and around the world who suffer from poverty, disease, injustice and violence. We work with them to find lifelong answers to the problems they face. Save the Children's work is centred on the commitment to making a reality of children's human rights and is underpinned by the principles of the UN Convention on the Rights of the Child (UNCRC).

Introduction

Save the Children welcomes the opportunity to submit evidence to the Discrimination Law Review. Our response focuses specifically on age discrimination affecting children and young people in England, Scotland and Wales in relation to the Government's proposals to introduce a single equality duty on public authorities (chapter 5) and legal protection from negative discrimination in the provision of goods, facilities and services (chapter 9).

- **A Single Equality duty on public authorities**

Question 29 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? Should there be one single public duty relating to equality?

Question 39 Do you think that a single public sector duty should be extended to cover age?

Save the Children is supportive of a single equality duty as long it does not dilute current duties in any way. A single duty must build upon current provisions and obligations rather than water them down.

We would very much welcome an extension to a single public duty to include age as long as it covers children and young people.

Age, as an equality issue, is generally synonymous with older people. The instances where children and young people are treated differently or discriminated against are often forgotten and in many instances are actually seen as legitimate. Children and young people have no real political or social power, are economically dependent on adults, are subject to rules that do not apply to other social groups and are particularly vulnerable to ill treatment by adults and those more powerful than themselves.

Children and young people grow up aware that they have an inferior status to other social groups and age discrimination is a reality for many:

Recent research carried out by the Department for Children, Schools and Families asked children and young people whether that have been treated unfairly because of their age, gender, special needs or disability, the amount of money their family has, the colour of their skin, their religion or culture, beliefs, language or sexual orientation or the beliefs or behaviour of their parents or carer.¹ Of the 3,900 respondents 43% reported that they had been treated unfairly because of their age. This was overwhelmingly the most common form of discrimination experienced by under-18s.²

Similarly, recent Save the Children research with 50 children and young people, aged between 9 and 19 in Scotland, found that a large majority were treated unfairly because of their age. Only 6% of those consulted did not think this was so.³

In 2002, the UN Committee on the Rights of the Child raised concern that the principle of non-discrimination is not fully implemented for all children in all parts of the UK.⁴ It is crucial that any proposed legislation is compatible with the UN Convention on the Rights of the Child (UNCRC) and other relevant international human rights instruments as well as the Human Rights Act and European Community law.

In its Concluding Observations, the UN Committee urged the UK Government to “develop comprehensive strategies containing specific and well-targeted actions aimed at eliminating **all** forms of discrimination.”⁵ A Single Equality Duty which is extended to age and includes under-18s would be a key step forward in implementing this recommendation.

Children and young people are key recipients of services provided by public authorities yet the difficulties experienced by under-18s in accessing age appropriate services, which treat them with respect and take them seriously, are well documented. Age specific mental health services are a particular problem: The final report of the National Inquiry into Self-Harm found a need for a UK-wide initiative to develop better responses to young people who self-harm⁶ and nearly one in five Child and Adolescent Mental Health Services do not provide services for over-16s.⁷

In addition to the lack of age-specific services for children and young people a wealth of evidence also shows how children and young people feel that they are negatively stereotyped and do not believe that they are taken seriously, for example:

¹ Willow, C; Franklin, A; 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*, Department for Children, Schools and Families

² The next two commonest forms of discrimination experienced by children and young people was gender (27%) and beliefs (18%)

³ Save the Children (2006) *Children and young people in Scotland talk about discrimination*

⁴ Committee on the Rights of the Child (2002) *Concluding Observation on the United Kingdom of Great Britain and Northern Ireland*, Paragraph 22.

⁵ Committee on the Rights of the Child (2002) *Concluding Observations on the United Kingdom of Great Britain and Northern Ireland* Paragraph 23.

⁶ Mental Health Foundation and Camelot Foundation (2006) *Truth hurts: Report of the national inquiry into self-harm among young people*

⁷ Barnes, D.; et al (2005) *National child and adolescent mental health service mapping exercise: A summary of trends*.

- The Department for Children, Schools and Families research found that children and young people in England want to have more of a say in politics and their education and care ; ⁸
- Research by the British Youth Council and YouthNet, with nearly 750 children and young people aged between 12 and 25 years, found that 86% believed that they are seldom or never represented as a group to be trusted. ⁹
- Research by the Children's Society found that of 11,000 16 and 17 year-olds questioned just 17% believed that their local area cares about young people. ¹⁰

“I just think that every individual person should be treated fairly and with respect. I feel that they are often just as discriminatory about us as some young people are about and them and think that they may have forgotten how they felt when they were younger.”

The consultation recognises that: *“public sector equality duties support the design and delivery of personalised and responsive duties”* and are *“intended to help bring about a culture of change so that promoting equality becomes part and parcel of public authorities’ core duties”* (Paragraphs 5.2 and 5.3). A strong duty could help to challenge the entrenched negative attitudes towards children and young people.

We completely disagree with the assertion that there is a risk that a public sector age equality duty would distract attention from the important task of promoting equality for disabled children, those of different races and between boys and girls (paragraph 5.63). If a public sector age equality duty would prove a distraction from the promotion of other forms of equality then this would be just as true for older people as it would for children and young people.

We recognise that other forms of discrimination are real issues for many groups of children and must be addressed, for example, young Gypsy/ Travellers, young refugee and asylum seekers, children with disabilities and children in care. However, other forms of prejudice are compounded by age and, as demonstrated above, age discrimination is in itself a key form of discrimination experienced by children and young people.

The consultation rightly states that: *“an effective duty could have a significant impact in promoting economic and social inclusion and a more equal and inclusive society”*. It is crucial that children and young people also benefit from these wider social benefits.

- **Age discrimination in the provision of goods facilities and services**

Q 58 What instances of unfair age discrimination outside the workplace against people of any age, are you aware of?

Q 59 Is legislation the most appropriate and proportionate way of tackling harmful age discrimination?

⁸ C Willow; A Franklin and C Shaw (2007) *Meeting the obligations of the Convention on the Rights of the Child in England. Children and young people’s messages to Government*

⁹ British Youth Council and YouthNet (2006) *The voice behind the hood: Young people’s views on anti-social behaviour, the media and older people.*

¹⁰ The Children’s Society (2006) *Good Childhood? A question for our times*

Legislation is absolutely the most appropriate and proportionate way of tackling harmful age discrimination and must cover children and young people. We believe that legislation would be a proportionate response to a real problem (see below).

We welcome the consideration given to new protection from negative age discrimination in the provision of goods facilities and services. However, Save the Children is extremely disappointed that under-18s are to be excluded (paragraphs 9.6 and 9.7). The conclusion to exclude children and young people seems to be the result of a limited and flawed analysis of which groups are most vulnerable to age discrimination.

The consultation contains a number of examples which seek to justify why under-18s should be excluded by emphasising the discrimination faced by older people, for example,

- *“There is also evidence that older people in particular are not always treated with dignity and respect”* (paragraph 9.4);
- *“...an older person who makes a complaint about their treatment may be more likely to have their complaint dismissed as unfounded simply because of their age”* (paragraph 9.10);
- *“a perceived lack of priority given by local authorities and primary care trusts to the needs of older people when planning and commissioning services”* (paragraph 9.13).

While we except that age discrimination is an issue for many older people, it is also well recognised that similar age discrimination is experienced by under-18s.

Save the Children research¹¹ has found that children and young people are not always treated with dignity and respect because of their age. Our research found that children and young people see themselves discriminated against most heavily because of their age by being barred from shops. Children reported that it was not uncommon to see signs in shops near schools, such as local newsagents or food takeaway outlets, that say “no children“ or “no more than two children at a time.“

The young people we spoke to feel that when they enter their local shops they are either seen as a threat or possible criminal, not as a customer as an adult would be. This situation is more apparent when they enter shops in groups. Young people said that they are often stopped from entering shops when they are with their friends or they are followed by store security guards, in a way adults would not be.

“People stop us from going into shops with out mates” Young person aged 10

“In shops you are followed by security guards just because you are young” Young person aged 16

¹¹ Save the Children (2006) Children and young people in Scotland talk about discrimination

In the absence of evidence it is unclear why shop owners treat children unfairly in this way. Anecdotal evidence suggests that adults' perceptions of young people as being antisocial and involved in crime is one explanation of why adults treat children and young people unfairly. The public's fears over community safety, particularly the troublesome behaviour of a small minority of young people, and the tone of discussion surrounding this, particularly in the media, has led many adults to 'fear' young people.

We believe that legislation to prohibit negative age discrimination beyond the work place has the potential to transform the lives of children and young people as well as older people by helping to ensure that people are always treated with respect in our society whatever their age.

Children and young people also often experience difficulty in having their voices heard in the provision of goods facilities and services, for example, despite new guidance on exclusions, which slightly strengthens the voice of the child in the school exclusion process, school students continue to have less legal rights than parents have in the school exclusion process.¹² The final report by the Children's Rights Director also found that children did not think that when complaints are being investigated their view was taken as seriously as what an adult says and was not always weighed equally with evidence from adults.¹³

Legislation which protects from negative age discrimination could also have a role in promoting the role of children and young people in public life, in line with article 12 of the UNCRC.

As noted above many service providers do not consider the specific needs of under-18s, for example, transport providers frequently do not offer appropriate and safe seating for babies and toddlers and 16 and 17 year-olds are often not provided with age-appropriate mental health services leading to children and young people being placed as in-patients in adult psychiatric wards and a lack of clarity on who was responsible for their care.¹⁴

The consultation's reasoning behind the decision to exclude children from protection from negative age discrimination states that: *"It is important that services for children are tailored in an age appropriate way – a child of three is very different from a child of ten or a teenager. The basic principle of age discrimination legislation, that people should not be treated differently on the basis of their age, is therefore rarely appropriate to the treatment of children"* (paragraph 9.26).

This statement is not convincing. We accept that it is important to tailor services to the needs of children but this does not provide a basis on which to exclude all children and young people from protection against age. It is difficult to see how any such proposal could adhere to article 2 of the UNCRC, which relates to non-discrimination.

New legislation could be drafted in such a way so that it does not have negative consequences for services and benefits, which are aimed at helping children and

¹² Department for Education and Skills (September 2006) *Improving behaviour and attendance. Guidance on exclusion from schools and pupil referral units*

¹³ Children's Rights Director (2007) *Policy by children: A children's views report*

¹⁴ Office of the Children's Commissioner for England (2007) *Pushed into the shadows: Young people's experiences of adult mental health facilities.*

young people, for example youth clubs, play groups and transport cost concessions. The consultation states that any proposed legislation would “*exclude a significant number of justifiable activities, which legitimately treat people differently because of their age*” (paragraph 9.6) and we see no reason why this should not apply to under-18s as well as older people.

In the absence of legislation that protects children and young people from negative age discrimination many current discriminatory practices are simply not questioned or addressed. Negative age discrimination against under-18s has no place in today’s society and we fear that it will continue to be tolerated unless the Government takes action. Canada and Australia have already led the way in legislating to protect children and young people from age discrimination in the provision of goods, facilities and services and we urge the UK Government to do likewise.¹⁵

Save the Children recommends:

- **The proposed single public sector duty is extended to cover age and include under-18s.**
- **The proposed new protection from negative age discrimination in the provision of goods, facilities and services includes children and young people.**

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¹⁵ Australia: Age Discrimination Act 2004; Canada: Human Rights Act 1996