

A Single Equality Bill for Northern Ireland

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**Response to
OFMDFM's Discussion Paper on
options for a Bill to harmonise, update and
extend, where appropriate, anti-discrimination
and equality
legislation in Northern Ireland**

submitted by

Children in Northern Ireland

November 2004

1. Background

- 1.1 Children in Northern Ireland (CiNI) is the representative organisation for the voluntary childcare sector in Northern Ireland, providing leadership and support to its members and working to enhance the lives of all its children.
- 1.2 CiNI has consulted with its members in the preparation of this response and it represents the views of a sector, who believe strongly that anti-discrimination / equality legislation on the grounds of age is essential to ensure fair treatment of children and young people in society. The proposals for a Single Equality Bill provide an appropriate opportunity to harmonise, update and extend the legislation in this area.
- 1.3 CiNI would refer to the submission it made earlier this year in response to the OFMDFM's consultation on Prohibiting Age Discrimination in Employment and Training. Many of the comments made in that response are also of direct relevance to this consultation.
- 1.4 CiNI recommends that for the Single Equality Bill to be effective and to seriously tackle discrimination throughout society, it must specifically address discrimination against children and young people. Discussions on discrimination on the grounds of age have tended to concentrate to date on discrimination against older people in employment; new equality legislation must recognise not only discrimination against people of all ages in their work and in accessing work, but also in the manner in which they are more generally treated in society when receiving goods and services.
- 1.4 CiNI believes that there are many examples of unfair treatment against citizens on a range of personal grounds which are totally unacceptable. It believes that there must be effective legal measures in place to deal with these – although it is recognised that some of these may be dealt with under appropriate human rights legislation. However the model of protected equality categories has already been developed through s75 of the Northern Ireland Act 1998. Age and dependency status are the two grounds which do not enjoy current anti-discrimination protection, but which public bodies must take account of in developing public policy. Since the s75 obligation requires all public bodies in the process of equality proofing to decide whether their policies are discriminatory, it is strongly argued that not to extend discrimination law to cover age and carers in terms of direct and indirect discrimination, harassment and victimisation is inconsistent and confusing, as well as morally indefensible.

2. Introduction

- 2.1 Children in Northern Ireland welcomes many of the developments in recent years to secure a greater recognition of the rights of children and young people, in particular through the proposed Bill of Rights, the appointment of the office of Commissioner for Children and Young People and the development of a Strategy for Children and Young People.
- 2.2 It welcomes the inclusion of age – specifically including children and young people - as an equality ground under the mainstreaming requirements on public bodies (s75 of the Northern Ireland Act 1998). However CiNI is concerned that as yet there are no provisions for children and young people to enjoy the same protection against discrimination that is provided to individuals on the grounds of religious belief, political opinion, sex, marital status, disability, race and sexual orientation.
- 2.3 In welcoming the proposals to introduce anti-discrimination law on the grounds of age in Northern Ireland as outlined in the ‘Prohibiting Age Discrimination in Employment and Training’ consultation (in accordance with the EU Employment Framework Directive) CiNI expressed its grave concern that the process of implementation through Regulations would restrict protection against age discrimination to employment and training issues. A major source of unfair treatment for children and young people is in relation to how they are provided with goods, facilities and services – ranging through education, health, social services, the provision of goods and the criminal justice system. CiNI therefore welcomes the SEB proposals as an opportunity to rectify this anomaly.
- 2.4 CiNI believes that a Single Equality Act in Northern Ireland must ensure that all the various grounds of equality accord the same level and breadth of protection for our citizens. This is explicitly acknowledged in the consultation paper’s remit to ‘harmonise, update and extend the legislation’. So, just as people of different religious belief, political opinion, sex, marital status, disability and race enjoy protection against discrimination in how goods and services are provided, similar protection must be available to people of different age. This is particularly important for children and young people who are not in employment, but who are often treated less fairly than other citizens simply because of their age.
- 2.5 Similarly other anomalies must be addressed. There is no justification for not including provisions protecting disabled people against indirect discrimination, nor for sexual minorities not to have protection in accessing goods and services. It is important that these groups enjoy protection against unfair treatment in whatever form. Children and young people should enjoy a level of protection at the same level. The benefits in terms of a ‘level playing field’ for those whose rights are

being protected, as well as those with responsibilities under the legislation, are evident in terms of consistency and clarity. It is important that similar levels of protection are available for people of multiple identities; for example a young disabled person should have the same legal protection to prevent unfair treatment because they are young as they have because they are disabled. Differential standards of protection have no legitimacy in moral terms, and are likely to be legally challengeable.

- 2.6 This response will now address those issues raised in the consultation report of specific relevance to children and young people, but it should be remembered that these comments must be seen in light of the necessity, as an issue of priority, to implement effective, comprehensive provisions outlawing discrimination against children and young people in the provision of goods and services, as well as in employment and training.

3. Grounds

- 3.1 CiNI notes from the consultation documentation that age discrimination is already regarded as a 'compulsory' ground, as it is due to be implemented as a result of the EU Employment Directive by December 2006. It is therefore a requirement to include this in any new Single Equality Bill (SEB). CiNI welcomes this, and will address its concerns about the scope of coverage of the legislation in relation to age in the next section.
- 3.2 CiNI's comments in this section address other possible grounds for anti-discrimination protection. The most obvious omission from the 'compulsory' grounds is 'caring or dependency status'. This ground is specifically accorded protection under s75 of the Northern Ireland Act 1998, and is the only 's75' ground not proposed for the SEB. This anomaly should be addressed. Discrimination against those with caring responsibilities can have a major bearing on the lives of children and young people with caring needs and can radically affect their quality of life.
- 3.3 CiNI believes that there is a rich diversity of family status and dependency relationships which all have a major impact on the experiences of children and young people. It does not believe that protection against discrimination should only be defined in relation to married couples with dependants. Co-habiting couples and same sex parents (civil partners) should also be specifically covered. CiNI would emphasise that many children and young people are also carers, who are often treated unfairly because due account is not taken of the additional responsibilities placed on them. It is crucial that the definitions of 'family status and dependants' specifically include young carers and are as broad as possible, because not all people cared for

will be younger than the carer or be disabled, as defined in the Republic of Ireland's Employment Equality Act 1998.

- 3.4 CiNI notes the other grounds suggested for inclusion in anti-discrimination legislation: socio-economic status, past convictions, victims, language, gender identity, genetic predisposition and other status. CiNI believes strongly that taking account of irrelevant personal factors in an unfair way on any ground is totally unacceptable and should be contrary to the law of the land. It notes that unfair treatment on many of these grounds, or inadequate provision for promoting equality on any of these grounds can have a profound impact on children and young people. In particular in Northern Ireland this has been the case in relation to socio-economic status, victims and past convictions. CiNI notes that there is already some protection on some of these grounds through specific legislation, or indeed that protection may be proposed under the new Bill of Rights. CiNI believes that the challenge in introducing new protection is to do this in a way that deals with the specific issues, without undermining existing provision in other categories. CiNI therefore believes that there should be protection against discrimination and provision for the promotion of equality on all these grounds but does not hold a definitive view on whether this should be through the SEB or legislation specific to those areas.

Scope

- 4.1 CiNI has already indicated in this response at Section 2 that its primary concern with proposals is that the 'compulsory' inclusion of age in an SEB, if it is based only on the EU Directive proposals, does not extend to protection from discrimination in the provision of goods, facilities and services. For young people and children not in employment or training this is the issue that has the major impact on their lives and its non-inclusion in a SEB would significantly undermine any stated goal of protecting children against discrimination.
- 4.2 Whilst the proposals for implementing the EU Directives specify that protection against discrimination on the grounds of age will apply to employers, providers of vocational training, and providers of most degrees and many Higher and Further Education institution qualifications, it is explicitly proposed that there will be no protection against age discrimination in the services provided by schools.
- 4.3 Differential treatment on the ground of age at school can place individual children at significant disadvantage, and CiNI fails to understand how such an exclusion can be justified. It already notes that the failure to designate schools under s75 of the Northern Ireland Act 1998 has denied children and young people, and those representing their interests, a consultative role in the development and review of their policies. It therefore argues that such arbitrary exemptions which could result in highly ineffective legislation in an area

that has a major impact on children's experiences should be removed and the legislation extended.

4.4 Discrimination against children and young people in the provision of goods and services is a major issue which affects their lives.

For children with disabilities there are many areas where they experience discrimination. For example, the facilities provided by some district councils are not open and inclusive to all children and young people in their local areas; there is a perception amongst providers that community summer schemes are not appropriate for children with disabilities and that there should be separate provision. There is a lack of understanding of what is needed to ensure that such facilities are in reality open and accessible to all, providers of such facilities and services must recognise that in order to be truly inclusive of children with disabilities extra support must be available to meet an individual child's needs where this is necessary.

Another example of discrimination in this area is provided by shopping centre baby changing areas, where there are no changing facilities for older children who are profoundly disabled.

In education there are also issues of discrimination particularly experienced by those young people wishing to access further and higher education, there are limited routes into further education and the assessment tools that are in use make it extremely difficult for these young people, compared to other young people of their age, to access appropriate further education.

There are also examples of indirect discrimination experienced by children with disabilities. All children and specifically children with disabilities are not actively included in their local communities. Children attending special schools often travel a distance to attend school outside their area, and therefore do not have the same opportunity to engage in their own communities, and there is limited outreach to overcome the barriers to the participation of these children in their own communities.

Adolescents with mental health difficulties also experience quite specific discrimination when accessing age appropriate hospital in-patient provision. Adolescents with mental health difficulties have been placed in adult wards as there is inadequate provision of in-patient beds to meet the needs of such children.

Ethnic minority and Traveller children and young people have acute experiences of discrimination, many of which are illustrated in the NICEM's (1997) 'Out of the Shadows' report. Young children have had to act as interpreters for their parents, whose first language is not English, in adult scenarios due to the lack of adequate interpreter provision across Northern Ireland.

Traveller children have also experienced discrimination in accessing education. Education does not always cater for their nomadic lifestyle and these children have experienced discrimination in the standard of education they have accessed in comparison to other children of their age.

These are only a few of the examples of areas where children and young people have experienced discrimination, there are countless other examples, all of which provide strong support for extension of the age ground to include prohibition of discrimination in goods, facilities and services.

- 4.5 CiNI is concerned at the suggested exclusion of volunteers from coverage under the anti-discrimination legislation. CiNI fully understands and accepts that some of the provisions of implementing highly transparent processes of appointment / promotion etc can incur costs which are prohibitive to voluntary sector groups. It also acknowledges, however, that the voluntary sector wishes to ensure the highest standards of fairness and protection for all who work for it. CiNI believes that voluntary sector groups are fundamentally committed to the principles and practice of equality and non-discrimination, and as such should be subject to standards of non-discrimination at law.
- 4.6 CiNI does not believe that differences in the scope of the legislation on different grounds are justifiable. If exceptions which can be justified need to be made, this can be done, but the central principle of not according greater coverage to any one ground over the other, i.e. of harmonisation upwards, will deliver clarity and a strong sense of fairness. Therefore, as with the other grounds, coverage of age discrimination should extend to employment, self-employment, occupation, membership and involvement of organisations of workers or employers, vocational guidance, vocational training, work experience, social protection (including social security and healthcare), social advantages, education, access to and supply of goods, facilities and services which are available to the public, including housing and the coverage of public functions.
- 4.7 The provisions of s75 of the Northern Ireland Act have been necessary because of many of the difficulties with previous anti-discrimination law not affording adequate protection to groups experiencing unfair treatment from public bodies. S75 requires public bodies in reviewing their policies to assess if they are discriminatory on any of the nine equality groups or if they have an adverse impact on them. This implies as broad a definition of scope as possible, and CiNI strongly believes that the principle of harmonising upwards (in this case to meet the standards of scope applicable in race legislation) must be an essential component of the SEB.

5. Definitions of discrimination

- 5.1 CiNI acknowledges the considerable protection afforded on other grounds against the main forms of disadvantage cited under existing anti-discrimination provisions: direct discrimination, indirect discrimination, harassment, victimisation and reasonable adjustments. It believes that these provisions should remain – although with a number of suggested amendments to existing definitions – and should apply across all the specified grounds.
- 5.2 The current definition of direct discrimination has suffered in the past from the need to find a comparator of a different sex etc who has been treated differently; often this is not essential to show disadvantageous treatment. CiNI therefore favours the definition ‘Direct discrimination shall be taken to occur when A has caused disadvantage to B on the basis of any of the protected grounds’.
- 5.3 CiNI favours the definition of indirect discrimination in the Framework / Race / Equal Treatment Directives definition i.e. ‘where an apparently neutral provision, criterion or practice would put persons of a particular age etc at a particular disadvantage compared with other persons unless:

that provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary’. CiNI has, however, one concern about this definition – namely the reference to a ‘legitimate’ aim. This is considered too loose, and CiNI favours the tighter justification of a ‘necessary’ aim specified in EU gender employment equality law. Indirect discrimination provisions should be extended to all categories (including disability).
- 5.4 CiNI also favours the Framework / Race / Equal treatment Directive definition of harassment i.e. ‘unwanted conduct relating to age etc takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment’. This is particularly important for children and young people who are frequently targeted on grounds of their age eg initiation ceremonies.
- 5.5 CiNI considers that the current definition on victimisation is appropriate, and as in all definitions should not require a comparator.
- 5.6 CiNI considers that the concept of ‘reasonable adjustment / accommodation’ could usefully be applied across all grounds. This provision currently exists under the Disability Discrimination Act. CiNI believes it is a useful concept which requires those employing or providing services to take specific measures to accommodate groups whose specific needs are often overlooked. It is clear that this could have a particular resonance for children and young people. For

example it may be beneficial to put in place obligations on providers of services to ensure that there is appropriate protection for children or young people. CiNI therefore recommends the inclusion of an anticipatory duty for reasonable adjustments in the provision of employment and goods, facilities and services. Whilst it may be more relevant for disabled people, young people and older people, in line with the principle of harmonisation of provisions across all grounds, CiNI believes it should apply to all specified grounds.

6. Exceptions

- 6.1 The issue of exceptions is central to a Single Equality Bill – i.e. circumstances where it is lawful to discriminate in favour of a certain group of people and treat them differently. For example it may be appropriate to take age into account where seeking to recruit people who can work in a peer capacity with other young people.
- 6.2 CiNI notes that the issue of exceptions was a key element in its response to the ‘Prohibiting Age Discrimination in Employment and Training’ consultation earlier in the year. Under the EU provisions on age discrimination grounds for exceptions were specified. CiNI noted these provisions would permit practices within the proposed legislation that otherwise would amount to direct discrimination, provided they were objectively justified by reference to specific aims which are appropriate and necessary.
- 6.3 However exceptions are dealt with under the SEB, CiNI welcomes the suggestion in the former consultation that any such exceptions be indeed exceptional, and should only be seen as possible grounds for moving away from strictly competence-based decisions in the most exceptional of circumstances. CiNI would comment on the specified exceptions cited in the age discrimination consultation as follows (6.4-6.14).

Health, Welfare and Safety

- 6.4 One of the potential grounds for justifying differential treatment in exceptional circumstances is health, welfare and safety. An example provided is the protection of younger workers, as already recognised in other legislation. CiNI accepts this as a potential ground for justification where the standard of protection accorded to children and young people will be higher than that which would be guaranteed under the proposed anti-discrimination legislation.
- 6.5 However, CiNI is concerned that much legislation is used as an excuse for treating young people less fairly, rather than providing them with enhanced protection. Whilst CiNI welcomes the decisions to extend coverage of the National Minimum Wage to 16-17 years, as is the case

with all other workers, it considers the practice of differential rates of minimum wage for different age groups to be indefensible and should not be capable of justification.

- 6.6 There is no justification whatsoever for differential rates of pay for those under 22 (or indeed under 18). As in all employment matters, pay should be based on competence and not age-determined prejudice. The previous consultation document attempted to justify this practice by stating that the EU Directive 'envisages that different pay rates might be set for young people in order to promote their vocational integration – the goal of helping younger workers to find jobs in competition with older workers is consistent with the Directive'.
- 6.7 CiNI believes that a policy of paying young people less than older people for the same work, broadly similar work or work of equal value is clear evidence of age discrimination and cannot be justified by the apparent argument that it is a form of positive discrimination in favour of young people, and therefore potential discrimination against older people. The differential rates of pay in the National Minimum Wage is perhaps the most overt example of age discrimination against younger people, made worse since it was introduced recently in the context of a society with a deeper understanding of the requirements of fairness and equality.
- 6.8 CiNI accepts, however, that legislation in relation to the number of hours which can be worked by children and young people – such as the 1998 Working Time Regulations - is in place to strengthen the health and safety of young people at work, and should be capable of being justified under the age discrimination provisions. It should be noted that the sector accepts the principle of such legislation because it does not treat children less favourably but rather genuinely seeks to assure a higher level of protection for them. However, all such legislation should be capable of being challenged to ensure that its application is necessary for a legitimate / necessary aim. For example the Employment of Children Regulations 1996 (made under the Children (NI) Order 1995) should be revisited to ensure that its provisions in relation to working hours are justifiable. (The current requirement is that children and young people can only work two hours on a Sunday and are not allowed to work after 7.00pm on a school day).
- 6.9 CiNI is also concerned that it seems that age discrimination legislation will be considered subordinate to other legislation which 'necessarily continues to specify age limits'. The example is provided of a road haulage contractor whose lower age limit for employing lorry drivers is linked to the age limits for obtaining a large goods vehicle licence. CiNI considers that it is essential that all such other legislation is tested against the standard of age discrimination, not least because the assessment of justifiable and necessary age limits can change significantly over time.

Facilitation of employment planning

- 6.10 CiNI does not make specific comments on this exemption beyond stating that again it should only be used in exceptional circumstances that need to be more clearly specified.

Particular training requirements of the post

- 6.11 Again the possible justification of age discrimination so that the employer may have a reasonable return on their investment during the period of post appointment training needs to be tightly defined to ensure such differential treatment on age is strictly necessary.

Encouraging and rewarding loyalty

- 6.12 CiNI is very concerned that real constraints should be placed on any mechanism to allow differential age treatment for employees in relation to rewarding loyalty. Whilst it accepts that incremental pay structures and enhanced service-related benefits have a role in rewarding and retaining employees, the more excessive these become, the more they amount to unjustifiable adverse treatment of younger employees. Again any scope for justification in this context must be tightly prescribed.

The need for a reasonable period of employment before retirement

- 6.13 CiNI does not make specific comments in relation to this potential justification for differential treatment on the grounds of age.

Financial Planning

- 6.14 It is suggested in the former consultation document that there should be an exception for the level of financial resources available and the targeting of resources on particular groups to facilitate entry into the labour market. CiNI considers that this justification allows provision for a range of positive action measures to encourage the integration of age groups underrepresented in the workforce into the labour market, and therefore is an important exception that should be introduced. It would wish to ensure, however, that training schemes and vocational placement programmes which allow trainees to be paid at differential rates should persist only as long as this can be clearly justified by work competence or output, and should not be based on age difference or persist beyond the actual period of training.

Alternative approaches to exceptions

- 6.15 It is noted that the exceptions specified in the consultation on 'Prohibiting Age Discrimination in Employment and Training' do not cover goods, facilities and services. The SEB consultation specifically

asks whether with a large number of grounds there should be a specified list of exceptions including those factors relating to age listed above (6.4-6.14) or whether there should be a general exception:

‘a difference of treatment which is based on a characteristic related to any of the grounds referred to in this Act shall not constitute discrimination where, by reason of the particular occupational activities concerned or of the context in which they are carried out: such a characteristic constitutes a genuine and essential occupational requirement provided that the objective is legitimate and the requirement is proportionate’.

There is provision for both a genuine occupational requirement for employment and a genuine service requirement for the provision of goods, facilities and services.

- 6.16 CiNI feels it is important to be clear on the exceptions applicable, but to emphasise that they should be limited to very exceptional circumstances. It may be best to maintain general exceptions (as in 6.15), rather than a specific list which could become rather unwieldy. CiNI considers that it would be beneficial to illustrate exceptions in the legislation, and develop Codes of Practice in this regard as case law develops.

7. Goods, facilities and services

- 7.1 As noted above CiNI believes strongly that equality as a concept should not be seen to be divisible. For effective implementation of a legal framework of anti-discrimination the state must tackle how people are treated not just in employment, but in accessing goods, facilities and services. CiNI believes the credibility of the SEB will depend strongly on the harmonisation of scope across all grounds.
- 7.2 In particular, this will require the extension of protection against discrimination in accessing goods, facilities and services to married persons, people who have undergone gender reassignment, sexual minorities, people of different ages and carers.
- 7.3 It is clearly important that much more work is done to clarify what might be the grounds for exceptions to non-discriminatory treatment in the provision of goods, services and facilities.
- 7.4 The consultation document suggests that one option for the implementation of the SEB is that goods, facilities, and services protection on the grounds of age is introduced but ‘deferred to reflect the necessity to adjust service policy and procedures’. This is, frankly, a bizarre and inconsistent argument. The initial provisions on new disability legislation introduced goods and services and employment issues contemporaneously in 1996 with arguably more sweeping provisions than will come in under age provisions.

- 7.5 Equally the proposed timescale for introducing the SEB is sufficiently lengthy to allow implementation of all provisions at the same time. It also goes entirely against the thrust of a Single Equality Bill not to have the same level of harmonised protection across all grounds.
- 7.6 As noted above the scope of goods, facilities and services legislation should again be as comprehensive on age grounds as on all other grounds.

8. Addressing Under-Representation in Employment

- 8.1 Again the principle which CiNI supports is that the same level of protection accorded on one ground should be extended across all grounds. Under-representation in employment is unlikely to be a major factor for young people and children in the current economic climate. However at a future time of possible high unemployment, and perhaps with increasing competition for employment opportunities from older people forced to work longer because of poorer pension provisions, it is possible that a situation of significant systemic discrimination against younger people may develop.
- 8.2 Accordingly CiNI would wish to see the provisions on positive action extended to the grounds of age. The most effective model for investigations and remedial action has been in the realm of fair employment, and this should be the model for all future grounds. CiNI also believes there is scope for integrating some of the obligations from the s75 model egg equality impact assessment, mitigation and alternatives. Any such provisions should make clear that positive inclusionary measures – which may be indirectly discriminatory in favour of previously disadvantaged groups egg younger workers / recipients of services – are expressly permitted.

9. Enforcement powers

- 9.1 CiNI believes that the Equality Commission should have responsibility for overall enforcement of anti-discrimination laws and promotion of equality provisions. It is important that in issues affecting children and young people a clear Memorandum of Understanding is agreed between the Commission and the Commissioner for Children and Young People.
- 9.2 CiNI is concerned that evidence suggests that a better understanding of equality and anti-discrimination principles has developed in the Tribunal system (employment issues) compared to the County Court system (goods and services). CiNI therefore believes that all equality and anti-discrimination cases be heard in a Single Equality Tribunal

which has developed expertise, not only in the principles of the law, but also the sensitivities and etiquette issues of the different grounds.

- 9.3 An issue of specific concern for CiNI is voluntary / statutory groups or parents being able to take actions on behalf of children / young people. This is clearly essential in many cases where the child may not be capable of appreciating the complexities of legal proceedings. It is also important that associations and organisations can bring a collective complaint to determine if the principle of equal treatment has been applied.

10. Conclusions

- 10.1 CiNI welcomes the proposals for a Single Equality Bill – including age discrimination provisions for the first time - in Northern Ireland. It has a number of explicit concerns, however.
- 10.2 A major source of discrimination for children and young people relates to how they access and how they are provided with goods, services and facilities. These issues must be progressed as a matter of priority within the Single Equality Bill.
- 10.3 The exclusion of schools from coverage in the proposed EU Regulations in relation to training will significantly impair the ability of children to tackle unfair treatment in vocational, educational and training provision and should be remedied in the Single Equality Bill
- 10.4 Many laws in society are inherently age-discriminatory. CiNI sees absolutely no justification for the retention of differential minimum wage levels depending on age, and believes that all other legislation prescribing differential treatment at different age levels should be reviewed (as presumably should already be happening under s75) to ensure that it can be justified.
- 10.5 CiNI believes that the scope for anti-discrimination protection should extend to all the categories cited in the consultation document. It acknowledges that in some cases this might be done through other targeted legislation. However it believes that as a minimum the nine s75 equality categories (i.e. including people of different ages and carers) should be specifically included in the SEB.
- 10.6 CiNI believes that equality is indivisible; no one equality ground should be seen as more important than any other. It therefore believes that the highest level of protection against discrimination in employment, goods, facilities and services, and the discharge of public functions (as currently applies only to race) should be extended across all categories. This is especially important for children and young people not in employment for whom receipt of services and the discharge of public functions are likely to be the major areas where specific

protection is required. It is totally unacceptable to delay or stage the implementation of these provisions for any group – they should be a key component of the new SEB to ensure parity of esteem for all issues and clarity for affected groups and those with responsibilities under the legislation.

- 10.7 CiNI believes that the key definitions of direct and indirect discrimination, victimisation, harassment and reasonable adjustments should apply to all the specified equality grounds, without the need to produce evidence of a comparator (who has been or would have been treated differently). CiNI has also made specific reference to the need to reflect changes to some of the definitions – generally following best practice at European level.
- 10.8 Whilst CiNI accepts the general proposition that there may be circumstances where differential treatment on the grounds of age can be justified, it is concerned to ensure that any permitted exceptions should be extremely rare and always capable of being tested on their genuine necessity at law.
- 10.9 CiNI is inclined to favour general occupational / service requirements as a means of establishing what will constitute exceptions, but accepts that clarity needs to be developed in these areas through developed case law and Codes of Practice.
- 10.10 CiNI believes that for the new law to be effective for children and young people it is important that there is a single specialist Equality Tribunal, that cases may be brought on behalf of children and young people and that groups with an interest can bring collective actions.
- 10.11 The Single Equality Bill provides an ideal opportunity to address some of the deficiencies of age discrimination law being introduced under EU Regulations. CiNI fully supports harmonising, updating and extending the law to ensure fair treatment and parity of esteem across a broad range of grounds. If a hierarchy is enshrined in any future law it runs the risk of undermining, rather than creating, a sense of cohesive justice in society.
- 10.12 CiNI welcomes the opportunity to respond on this key development to improving the rights of children and young people. It trusts that its concerns will be addressed to ensure that children and young people are treated fairly as citizens, and would be pleased to provide further specific comments on this response if this would be helpful.