



Government
Equalities Office

Putting equality at the heart of government

**UK Consultation on the
European Commission
Proposal for an Equal
Treatment Directive**

**Consultation
Document**

May 2009

Contents

| | |
|--|----|
| Introduction | 3 |
| Purpose of consultation | 3 |
| Timing | 3 |
| Responding to the consultation | 3 |
| Freedom of Information | 4 |
| Background | 5 |
| Article 13 Directives | 5 |
| Unanimity | 6 |
| UK Context | 7 |
| Government approach | 7 |
| Equality Bill for Great Britain | 8 |
| Position in Northern Ireland | 8 |
| Impact on UK law | 9 |
| Detailed explanation of the specific provisions together with an analysis of relevant UK law | 11 |
| Introduction | 11 |
| Article 1 – Purpose | 11 |
| Article 2 – Concept of discrimination | 12 |
| Article 3 – Scope | 17 |
| Article 4 – Equal treatment of persons with disabilities | 19 |
| Articles 5 – 18 | 22 |
| Annex A: Text of European Commission Proposal for an Equal Treatment Directive as published July 2008 | 26 |
| Annex B: Related Documents and links | 41 |
| Annex C: BERR Code of Practice on Consultation | 42 |

Introduction

Purpose of the Consultation

This consultation document seeks your views to inform the UK Government's further consideration of a proposed European Commission (EC) Directive to prohibit discrimination on the grounds of religion or belief, disability, age and sexual orientation outside the areas of employment and vocational training.

The UK Government wishes to consult in particular on the impact of the draft Directive in those areas where its proposals are, or might be, at variance with the current and proposed law, and on the impact of the proposals on individuals, business and others.

Timing

Since the publication of the draft text in July 2008, there have been two EPSCO councils and several working parties to discuss the proposal. The UK government has contributed positively to these discussions.

Most Member States have adopted a similar position to us and have welcomed the fact that the Directive aims to complete the existing legal framework by addressing the remaining four grounds of discrimination.

There are many issues still to be resolved; most delegations have expressed concerns in relation to the scope, the extent of Community competence and the proportionality and subsidiarity of the proposal. Requests have been made from many delegations for clarifications concerning the practical, financial and legal impact of the proposal.

Because of these factors the UK Government does not envisage the transposition and therefore any associated costs coming in to force before 2011.

Responding to this consultation

You can view this consultation document and related documents online at: www.equalities.gov.uk/international/eu_directive.aspx

The consultation period is from **5 May to 28 July 2009**.

Responses can be emailed to: EUDirective@geo.gsi.gov.uk Please make clear in the email if your response is from Northern Ireland.

Hard copies can be sent to:

EU Directive Consultation Responses
Government Equalities Office
9th Floor, Eland House
Bressenden Place
London SW1E 5DU

If you are responding from Northern Ireland hard copies can be sent to:

Equality legislation 2
Room e 307
Castle buildings
Stormont
Belfast BT4 3SR

When responding, please indicate whether you are responding as an individual or representing the views of an organisation and indicate which questions you are responding to. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

Freedom of Information

The information you send us may need to be passed to colleagues within the Government Equalities Office and may be published in a summary of responses received.

All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000 or the Data Protection Act 1998. If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. 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.

The department will process your personal data in accordance with the Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Background

Article 13 of the EC Treaty was introduced in 1997 as part of the reforms made to the European Community Treaty as laid out in the Treaty of Amsterdam.

Article 13 permits the European Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation when acting unanimously on a proposal from the Commission and after consulting the European Parliament.

Previous Directives have provided comprehensive protection against discrimination in employment and vocational training on grounds of sex, racial or ethnic origin, age, disability, sexual orientation and religion or belief. There is no comprehensive protection on these grounds outside employment and vocational training. Such protection exists only on grounds of sex and racial or ethnic origin.

The Race Directive¹ was transposed into UK law in 2003. The religion or belief and sexual orientation provisions of the Framework Employment Directive² were transposed into UK law in 2003 and the age and disability provisions were transposed into UK law in 2006. The Equal Treatment Amendment Directive³ was transposed in 2005. The Gender Directive⁴ was transposed in April 2008.

The draft Directive would extend protection against discrimination outside employment and vocational training on grounds of age, disability, sexual orientation, religion or belief so that there is comprehensive protection both in and outside of employment.

The draft Directive would build on, and develop, the approach and concepts of the existing Directives such as:

Direct discrimination
Indirect discrimination
Harassment
Reasonable accommodation⁵ for disabled people
Victimisation
Burden of Proof

¹ 2000/43/EC.

² 2000/78/EC.

³ Directive 2002/73/EC, which amended Directive 76/207/EC. These Directives have now been recast into Directive 2006/54/EC.

⁴ 2004/113/EC.

⁵ Reasonable accommodation is known as 'reasonable adjustment' in the UK.

Unanimity

This Directive will be agreed by the European Council when unanimity has been reached. This means that there must be consensus amongst all 27 Member States in order for the proposal to be adopted.

UK Context

Government approach

The UK Government is supportive of the aims of the Directive to extend protection against discrimination on the grounds of religion or belief, disability, age and sexual orientation across the EU. The Government believes that the Directive can contribute to a fairer and therefore stronger Europe through consistent minimum protection across all Member States.

The UK Government will wish to draw on its experience of existing domestic discrimination law, which already goes much further than EU law currently requires, to work with its partners to develop a Directive that is strong and workable and that avoids unintended consequences.

The UK's equal opportunities policy is generally a reserved matter under the UK's devolution settlement in relation to Scotland, and is generally non devolved in relation to the Welsh devolution settlement. The Scotland Act 1998 gave the Scottish Parliament power to encourage equal opportunities, particularly the observing of equal opportunities requirements. The Government of Wales Act 2006 placed a duty on Welsh Ministers to make appropriate arrangements with a view to securing that their functions are exercised with due regard to the principle that there should be equality of opportunity for all people.

This consultation is being carried out jointly with Northern Ireland where equal opportunities are a transferred matter in relation to the Northern Ireland Assembly. If you are responding from Northern Ireland hard copies can to be sent to:

Equality legislation 2
Room e 307
Castle buildings
Stormont
Belfast
BT4 3SR

Responses can be emailed to: EUDirective@geo.gsi.gov.uk. Please make clear in the email if your response is from Northern Ireland.

Equality Bill for Great Britain

The Government committed, in its 2005 General Election manifesto, to introduce an Equality Bill in this Parliament to simplify and modernise discrimination law.

In June 2008, in light of extensive consultation, the Government published *'Framework for a Fairer Future –The Equality Bill'* which outlined the proposals for a new Equality Bill. In July 2008 the Government published a response to the consultation exercise that was undertaken in 2007.

These documents explained the Government's intention to introduce a Bill which, together with its accompanying package of measures, will strengthen protection, advance equality and declutter the law.

Proposals in the Equality Bill, which was published on 27 April 2009, extend or harmonise protection in some of the same areas where the draft Directive is seeking to introduce provisions. Specific crossover areas between the draft Directive and the Equality Bill are highlighted throughout the consultation document for this reason. The government will consider its policy in light of the evidence from this consultation.

The Government will endeavour to ensure that the timetables for the implementation of the Equality Bill and adopted Directive are complementary, minimising costs of compliance. The Government will seek to minimise any changes in law that may be required as a result of the Directive.

Position in Northern Ireland

The First Minister and deputy First Minister are aware of the intended legislative developments in Great Britain and this draft Directive and will consider the potential implication of these for Northern Ireland in due course.

Impact Assessment

At this stage there remains considerable uncertainty about what impact the proposed Directive would have given the uncertainty around what sectors it would cover and the nature of the exceptions. In these circumstances, and given the absence of sufficiently comprehensive objective evidence of costs, risks and benefits of banning age discrimination, it is not possible to provide a credible assessment of the costs and benefits. The provisional impact assessment is available at: www.equalities.gov.uk/international/eu_directive.aspx

Equality Impact Assessment

A partial Equality Impact Assessment (EIA) has been carried out for the proposed EU Directive which concluded that a full EIA will be necessary as the EU Directive relates directly to four equality strands. GEO policy is to conduct EIAs beyond statutory requirements of race, disability and gender. The full EIA will be carried out during ongoing negotiations of the Directive. The partial EIA is available at: www.equalities.gov.uk/international/eu_directive.aspx

Impact on UK law

The draft Directive proposes to make it unlawful to discriminate against or harass someone on grounds of religion or belief, disability, age or sexual orientation in both the public and private sector in relation to:

- social protection, including social security and health care
- social advantages
- education
- access to and supply of goods and services which are available to the public, including housing

within the limits of the powers conferred upon the European Community.

The UK has already legislated domestically to make it unlawful to discriminate on the basis of disability, religion or belief and sexual orientation in the majority of these areas. In Great Britain this has been through the Disability Discrimination Act 1995, Part 2 of the Equality Act 2006 and the Equality Act (Sexual Orientation) Regulations 2007. The equivalent legislation for Northern Ireland is the Disability Discrimination Act 1995, the Fair Employment and Treatment (Northern Ireland) Order 1998, and the equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006.

However there are ways in which the UK's legislation differs from the proposal, including:

- The UK has not legislated to explicitly prohibit harassment on the grounds of disability, sexual orientation and religion or belief in the fields which are proposed in the draft Directive
- Current UK legislation imposes duties on landlords to make reasonable adjustments for disabled people with regard to housing. However the draft Directive would require the UK to introduce significant extensions to these duties
- The draft Directive would prohibit discrimination on the grounds of age in the provision of goods and services. However, subject to certain exceptions, notably for those aged under 18, this generally echoes the Government's intention to do so in the Equality Bill

Detailed explanation of the specific provisions together with an analysis of relevant UK law

Introduction

The UK is specifically interested in seeking views on articles 2 – 4 and 15 of the draft Directive as these are the most relevant articles to the UK Government.

You will find the consultation questions at the end of each section.

Whilst we are particularly interested in articles 2 – 4 and 15 of the draft Directive you are welcome to comment on any of the other articles or on the draft Directive as a whole.

Article 1: Purpose

The Directive's main objective is to prohibit discrimination based on religion or belief, disability, age or sexual orientation and to put into effect the principle of equal treatment, outside the field of employment and vocational training. The Directive would not prohibit differences of treatment based on sex or race as there is already protection on these grounds outside of employment and vocational training.

UK Legislation

The UK currently has domestic legislation prohibiting discrimination on the grounds of disability, religion or belief and sexual orientation in the provision of goods, facilities and services, education, the provision of public functions and the disposal and management of premises.

The UK does not currently have legislation prohibiting age discrimination outside employment and vocational training. The Equality Bill, which was published on 27 April 2009, will outlaw age discrimination against those aged 18 or over by those providing goods, facilities and services and exercising public functions in the future.

The UK Government does not think that any extension of age discrimination legislation should cover children or the provision of education in schools and therefore does not plan to extend anti-discrimination legislation to those aged under 18.

Particular consideration has been given to how legislation on age could impact on children (aged under 18). A child's age is closely related to his or her levels of development and need, something which is not generally true of an adult's age. It is almost always right to treat children of different ages in a way that is appropriate to their age and stage of development.

It is therefore 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.

The Discrimination Law Review consultation in 2007 outlined the Government's intention to exclude children from protection against age discrimination and a number of respondents to the consultation argued against this proposal which the UK government carefully considered. However, the vast majority of examples submitted as evidence would already be covered by existing human rights legislation, existing domestic discrimination legislation or more thoroughly dealt with through public sector duties. The UK government therefore continues to believe that age discrimination legislation is not an appropriate way to ensure that children's needs are met.

Article 2: Concept of discrimination

Article 2.1

The draft Directive defines the principle of equal treatment as meaning that there should be no direct or indirect discrimination on the grounds of religion or belief, disability, age or sexual orientation.

Article 2.2

Article 2.2 provides definitions of direct and indirect discrimination.

Direct discrimination occurs when someone is treated less favourably solely because of their age, disability, religion or belief or sexual orientation. Less favourable treatment cannot be justified apart from in certain circumstances in relation to age discrimination (see Article 2.6 below)

Indirect discrimination occurs where a rule or practice which seems neutral, in fact has a particularly disadvantageous impact upon a person or a group of persons having a specific characteristic. Such discrimination is not unlawful where it can be justified by a legitimate aim and the means of achieving that aim are proportionate. This is known as objective justification.

Article 2.3

Harassment is recognised as a form of discrimination and prohibited under this article. Harassment would occur when unwanted conduct related to religion or belief, disability, age or sexual orientation takes place with the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment.

Article 2.4

The draft Directive specifies that any instruction to discriminate on the grounds of religion or belief, disability, age or sexual orientation will be classed as discrimination.

Article 2.5

A denial of reasonable accommodation (known in the UK as reasonable adjustment) is for the first time in a European Directive defined as a form of discrimination. This is a stronger approach than the Framework Employment Directive, which gave Member States the option of addressing indirect discrimination through the implementation of reasonable adjustments.

In the UK the failure to implement reasonable adjustments is already well established as a form of discrimination.

Article 2.6

Like the Framework Employment Directive, the draft Directive permits direct age discrimination to be objectively justified as is the case for indirect discrimination.

Article 2.7

In the provision of financial services, the draft Directive allows for Member States to permit proportionate differences in treatment. This is in circumstances where the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data.

An insurance company charges higher premiums for drivers below the age of 25. If this decision is based on a risk assessment of relevant and accurate statistical data which shows that age group to be at a higher risk of accidents than drivers over the age of 25 this would be permissible.

Article 2.8

The draft Directive would not affect national measures based on public security, public order, and prevention of criminal offences, the protection of health and the rights and freedoms of others.

UK Legislation

Domestic discrimination legislation generally prohibits direct discrimination, indirect discrimination, victimisation and harassment on the relevant grounds.

There are though no statutory harassment provisions outside of employment and vocational training on grounds of religion or belief or sexual orientation.

The position for disability discrimination is different, but generally speaking, domestic legislation prohibits disability related discrimination (which differs somewhat from the usual form of indirect discrimination), and the failure to make reasonable adjustments, as well as victimisation. The recently published Equality Bill will introduce provisions to prohibit harassment on the grounds of disability.

Because the structure of the UK's disability legislation does not follow the 'classic' direct and indirect model of discrimination legislation, the Directive as drafted would require significant changes to be made to the legislation. However, in the context of a recent ruling in the House of Lords and in preparing for the Equality Bill, the Government has recently conducted a consultation on the proposal to adopt the concept of protection from indirect discrimination for disability in the Bill. Responses to the consultation expressed the view that adopting indirect discrimination would not, in itself, provide the degree of protection from discrimination that the Government seeks for disabled people. Having considered the responses, the Government has decided to include a provision in the Equality Bill for protection from discrimination arising from the disabled person's disability, in addition to introducing indirect discrimination to provide an adequate level of protection.

Current UK legislation is subject to a number of exceptions which have been considered necessary in order to balance the potentially conflicting fundamental rights of different groups. For example, domestic legislation has been constructed in order to achieve a balance between the European Convention on Human Rights (ECHR) Article 8 rights (the right to respect

for private and family life) of gay, lesbian and bi-sexual persons with the Article 9 rights (freedom of thought, conscience and religion) of others, including service providers with a religious ethos, together with the Article 10 rights (freedom of expression) of both groups.

During negotiations the UK government will seek to ensure that the Directive is compatible with the rights of Member States to balance these Convention rights.

This Directive proposes to eliminate harassment based on age, disability, sexual orientation and religion or belief. In Great Britain this proposal was previously considered as part of the extensive consultation for the Equality Bill. Its potential inclusion based on sexual orientation and religion or belief was rejected as the consultation did not highlight that there was a need for such protection, in addition to the protection already provided from direct and indirect discrimination.

The Equality Bill will outlaw unjustifiable age discrimination against those aged 18 or over by those providing goods, facilities and services and those carrying out public functions. Direct age discrimination will be capable of objective justification. There will also be further consultation on the exceptions that may be required to ensure that justifiable age-based practices, such as the following, can continue without risk of challenge

- free bus passes for the over-60s
- discounted rail travel for young people
- different treatment on grounds of age in the provision of financial services, where justified
- different treatment on grounds of age in respect of the sale of social housing, where justified to maintain a stock of properties suitable for specified age groups

In negotiations, the UK government will seek to ensure that these kinds of exceptions will be compatible with the Directive.

Domestically, age specific exceptions to the new law will be set out in Regulations made under a power in the Equality Bill (the Regulations will amend the Equality Act). In order to give service providers time to address the practical and organisational issues there will be a transition period before these prohibitions are brought into force.

Question:

The UK Government is not currently planning to extend freestanding protection against harassment on the grounds of religion or belief and sexual orientation outside the areas of employment and vocational training. The government sought, but was not provided with, evidence of need for this during the previous public consultation on the proposals for a new Equality Bill in Great Britain in 2007. However we would be interested in seeking views if there is any new, additional evidence which points towards a need for this legislation.

- 1) What recent evidence do you have of harassment that would be prohibited by virtue of the Directive that would not currently be prohibited by UK discrimination law on the grounds of a) religion or belief and b) sexual orientation?
- 2) Do you support the proposal in the Directive to extend protection against harassment on the grounds of a) religion or belief and b) sexual orientation? Please explain why.
- 3) Do you have concerns about the proposal? Please explain why.

The UK Government is committed to banning age discrimination against adults following the Discrimination Law Review consultation. The Government believes that different treatment on grounds of age in the provision of financial and other services should be permitted where justified.

The Government Equalities Office will be consulting during this summer on the principles and policy to tackle unjustifiable age discrimination for those aged 18 and over. In advance of determining domestic policy, which will be formed after the age consultation, we are seeking preliminary views for the purpose of informing discussions with partners in Europe.

- 4) What different treatment on grounds of age is justifiable in the provision of services generally and financial services in particular? Please provide evidence to support your answer.
- 5) How do you think the Directive could best reflect the intention to eliminate unjustifiable age-based discrimination in services generally and financial services in particular?

Article 3: Scope

The Directive prohibits discrimination based on religion or belief, disability, age or sexual orientation in the public and private sectors in relation to:

- social protection, including social security and health care
- social advantages
- education
- access to and supply of goods and services which are available to the public, including housing

Within the limits of the powers conferred upon the European Community.

This means the Directive can only prohibit discrimination in these areas to the extent that there is Community competence. Thus, for example, under Article 149 of the Treaty, Community competence is limited to contributing to the development of quality education and encouraging and supporting Member States in their own responsibility for the content of teaching, and the organisation of educational systems, including the provision of special needs education. Similarly, it is made clear under Article 152(5) of the Treaty that the organisation and delivery of health services and medical care is a matter for Member States.

In terms of access to goods and services, only professional or commercial activities are covered, whether provided by the private, public or voluntary sectors. The draft Directive seeks to ensure that transactions between private individuals acting in a private capacity will not be covered.

Private transactions would include:

- letting a room to a lodger in a private house;
- selling privately owned goods such as cars, TVs, or household appliances.

The draft Directive allows for differences in treatment in access to educational institutions based on religion or belief.

The following areas are expressly specified as being outside the scope of the draft Directive:

- Marital, family status and reproductive rights
- Differences in treatment based on nationality
- National laws relating to the secular nature of the State and its institutions

UK Legislation

Discrimination legislation in the UK generally prohibits discrimination in the following areas: employment (and employment-related areas); vocational training (including further and higher education); education in schools; the provision of goods, facilities and services; private members' clubs; the disposal and management of premises; and the exercise of public functions (although coverage is not uniform in these areas in relation to the grounds protected by discrimination law). Specific legislation also imposes positive obligations on public authorities to promote equality of opportunity.

The UK has some concerns about the extent of Community competence in relation to some elements of the draft Directive beyond the supply of goods, facilities and services. The UK believes that it is important Member States retain the ability to determine the arrangements for providing public services.

Whilst the UK supports the aims of the Directive, we are concerned that an explicit reference to housing could have adverse implications for housing providers and could have the perverse effect of limiting people's options.

We do not propose to ban age discrimination in the disposal and management of social housing as part of the Equality Bill, as we have not seen any evidence of harmful discrimination.

Questions:

- 6) Given the limits of Community competence, and subject to the proposals being clarified in relation to housing, as described above, can you provide examples of the practical effects of the Directive in the areas of:
 - health care
 - education
 - housing

- 7) Do you have evidence of any harmful age discrimination in the provision of social housing?

Article 4: Equal treatment of persons with disabilities

This Article sets out both a general and a specific obligation to ensure equal treatment of disabled people in relation to the goods and services covered by the draft Directive.

The general obligation requires that steps, including appropriate adjustments and modifications, have to be taken in advance ('by anticipation') to ensure effective access for disabled people to social protection, social advantages, health care, education and access to and supply of goods and services which are available to the public – including housing. This general obligation is qualified where it would impose a disproportionate burden or would require fundamental changes to the product or service.

The specific obligation is a duty to take steps where needed on a case by case basis in order to ensure effective non-discriminatory access. This is termed 'reasonable accommodation' (known in the UK as 'reasonable adjustment'), and it would include the provision of appropriate adjustments and modifications. The obligation, which is qualified where it would impose a disproportionate burden, provides that denial of reasonable accommodation is a form of discrimination.

The draft Directive could be interpreted as requiring adjustments and modifications to new and existing premises, including housing and could therefore have a far reaching impact on housing providers including those in the private sector.

Article 4 lists a number of factors that should be taken into account for the purpose of assessing whether the measures required above (anticipatory access and reasonable accommodation) would impose a disproportionate burden. These are the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods, and services, and the possible benefits of increased access for disabled people. The list is not exhaustive.

UK Legislation

The Disability Discrimination Act 1995 (DDA) provides comprehensive protection against discrimination for disabled people and includes, in most cases, a duty to make anticipatory reasonable adjustments for disabled people. In respect of premises, the duty to make reasonable adjustments is not anticipatory. It only applies in respect of an individual disabled person and where the adjustment has been requested. Furthermore, the duty does not require landlords and controllers of let premises to make physical alterations to those premises.

The DDA does not apply to the manufacture and design of products because they do not involve the provision of services directly to the public. The UK would have concerns about any requirements to apply the provisions of the Directive, in particular the duty to make reasonable adjustments, to manufacturers of goods or products. There would be difficulties in identifying reasonable adjustments which would make a manufactured item accessible to a range of people with a variety of different impairments. It would also risk putting UK manufacturers at a competitive disadvantage compared to those in non EU states.

The DDA provides that reasonable adjustments for transport vehicles do not include steps which involve the alteration or removal of a physical feature of a vehicle. This is because the DDA provides for specific accessible design standards to be established for transport vehicles. Accessibility regulations are in place for buses, coaches and rail vehicles and end dates have been set by when all vehicles have to comply with these regulations. European Technical Standards on accessibility have now replaced the UK standards for heavy rail vehicles. The accessibility of other transport vehicles, such as taxis, aircraft and ships, is not currently regulated.

Article 4.3 of the Directive states: 'this Directive shall be without prejudice to the provisions of Community law or national rules covering the accessibility of particular goods or services.' This would allow UK or EU accessibility standards to co-exist with the Directive. In implementing this Directive, the UK Government would wish to ensure that the current approach taken by the DDA is maintained so that compliance with these standards is sufficient to comply with Article 4 of the Directive.

Questions:

Manufacture and design of products

- 8) Should the manufacture and design of products be covered by the requirements of the Directive?
- 9) What difficulties could you foresee?

Transport vehicles

- 10) Do you support the proposal that transport vehicles not currently covered by specific accessibility regulations should be subject to Article 4?

- 11) Do you have concerns about the proposal? Please explain why.

The proposal could be interpreted as meaning that accessibility by anticipation should apply in respect of new and existing premises.

- 12) Do you support the proposal? Please explain why.

- 13) Do you have concerns about the proposal? Please explain why.

The proposal could be interpreted as meaning that the requirement to provide reasonable accommodation for disabled persons in a particular case should require landlords and controllers of let premises to make physical alterations to those premises.

- 14) Do you support this proposal? Please explain why.

- 15) Do you have concerns about the proposal? Please explain why.

Articles 5 – 18

You are welcome to comment on articles 5 – 18 which are similar to previous Article 13 Directives

We would be particularly interested in views on Article 15, detailing the proposed timescale on the implementation of the Directive.

Article 5: Positive action

Allows Member States to maintain or adopt specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age or sexual orientation.

Article 6: Minimum requirements

Allows Member States to provide a higher level of protection than that guaranteed by the Directive, and confirms that there should be no lowering of the level of protection against discrimination already afforded by Member States when implementing the Directive.

Article 7: Defence of rights

Requires Member States to ensure that judicial and/or administrative procedures (which might include conciliation procedures) are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment, even after the relationship in which the discrimination is alleged to have occurred has ended.

Member States also have to ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.

Article 8: Burden of proof

Reverses the normal burden of proof and requires Member States to take such measures as necessary to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.

Article 9:Victimisation

Requires Member States to introduce into their national legal systems measures to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 10: Dissemination of information

Requires Member States to ensure that the provisions adopted by virtue of this Directive, and previous Directives, are brought to the attention of the people affected by it.

Article 11: Dialogue with relevant stakeholders

Requires Member States to encourage dialogue with relevant stakeholders, in particular NGOs, who have an interest in contributing to the fight against discrimination.

Article 12: Bodies for the promotion of equal treatment

Requires Member States to have a body at national level to promote equal treatment of all persons without discrimination on the grounds of religion or belief, disability, age or sexual orientation.

The GB body with this responsibility and the relevant powers is the Equality and Human Rights Commission, and in Northern Ireland it is the Equality Commission for Northern Ireland.

Article 13: Compliance

Requires Member States to:

- Abolish any laws, regulations and administrative provisions that are contrary to the principle of equal treatment.
- Declare any contractual provisions, internal rules of undertakings, and rules governing profit making or non-profit-making associations contrary to the principle of equal treatment null and void or be amended.

Article 14: Sanctions

Requires Member States to lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and to take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.

Article 15: Implementation

A provision setting out the timetable for implementation is common to all Directives. This article gives the Member States a period of two years to transpose the Directive into national law and to communicate to the Commission the texts of the national law. Member States may provide that the obligation to ensure effective access for disabled persons only applies four years after the adoption of the Directive.

Article 16: Report

Requires Member States to communicate to the European Commission, by a specific date and every five years thereafter, such information as is necessary to allow the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.

It also lays out some detail of how the Commission's report should be compiled and what it should cover.

Article 17: Entry into force

States that the Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 18: Addresses

Specifies that the Directive is addressed to the Member States.

Questions:**Article 15**

The Directive as currently drafted gives Member States two years to transpose the Directive into national law, and four years in the case of effective access for disabled persons.

16) Do you think the proposed timetable is realistic?

17) What, if any, difficulties would it cause?

You are welcome to comment on any of the other articles or on the draft Directive as a whole.

Annex A

Text of European Commission Proposal for an Equal Treatment Directive as published July 2008

Proposal for a

COUNCIL DIRECTIVE

on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation

The Council of the European Union,

Having regard to the Treaty establishing the European Community, and in particular Article 13(1) thereof,

Having regard to the proposal from the Commission⁶,

Having regard to the opinion of the European Parliament⁷,

Having regard to the opinion of the European Economic and Social Committee⁸,

Having regard to the opinion of the Committee of the Regions⁹,

Whereas:

- (1) In accordance with Article 6 of the Treaty on European Union, the European Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to all Member States and it respects fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, as general principles of Community law.
- (2) The right to equality before the law and protection against discrimination for all persons constitutes a universal right recognised by the Universal Declaration of Human Rights, the United Nations Convention on the Elimination of all forms of Discrimination Against

⁶ OJ C , , p. .

⁷ OJ C , , p. .

⁸ OJ C , , p. .

⁹ OJ C , , p. .

Women, the International Convention on the Elimination of all forms of Racial Discrimination, the United Nations Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the European Convention for the Protection of Human Rights and Fundamental Freedoms and the European Social Charter, to which [all] Member States are signatories. In particular, the UN Convention on the Rights of Persons with Disabilities includes the denial of reasonable accommodation in its definition of discrimination.

- (3) This Directive respects the fundamental rights and observes the fundamental principles recognised in particular by the Charter of Fundamental Rights of the European Union. Article 10 of the Charter recognises the right to freedom of thought, conscience and religion; Article 21 prohibits discrimination, including on grounds of religion or belief, disability, age or sexual orientation; and Article 26 acknowledges the right of persons with disabilities to benefit from measures designed to ensure their independence.
- (4) The European Years of Persons with Disabilities in 2003, of Equal Opportunities for All in 2007, and of Intercultural Dialogue in 2008 have highlighted the persistence of discrimination but also the benefits of diversity.
- (5) The European Council, in Brussels on 14 December 2007, invited Member States to strengthen efforts to prevent and combat discrimination inside and outside the labour market¹⁰.
- (6) The European Parliament has called for the extension of the protection of discrimination in European Union law¹¹.
- (7) The European Commission has affirmed in its Communication 'Renewed social agenda: Opportunities, access and solidarity in 21st century Europe'¹² that, in societies where each individual is regarded as being of equal worth, no artificial barriers or discrimination of any kind should hold people back in exploiting these opportunities.

¹⁰ Presidency conclusions of the Brussels European Council of 14 December 2007, point 50.

¹¹ Resolution of 20 May 2008 P6_TA-PROV(2008)0212

¹² COM (2008) 412

- (8) The Community has adopted three legal instruments¹³ on the basis of article 13(1) of the EC Treaty to prevent and combat discrimination on grounds of sex, racial and ethnic origin, religion or belief, disability, age and sexual orientation. These instruments have demonstrated the value of legislation in the fight against discrimination. In particular, Directive 2000/78/EC establishes a general framework for equal treatment in employment and occupation on the grounds of religion or belief, disability, age and sexual orientation. However, variations remain between Member States on the degree and the form of protection from discrimination on these grounds beyond the areas of employment.
- (9) Therefore, legislation should prohibit discrimination based on religion or belief, disability, age or sexual orientation in a range of areas outside the labour market, including social protection, education and access to and supply of goods and services, including housing. It should provide for measures to ensure the equal access of persons with disabilities to the areas covered.
- (10) Directive 2000/78/EC prohibits discrimination in access to vocational training; it is necessary to complete this protection by extending the prohibition of discrimination to education which is not considered vocational training.
- (11) This Directive should be without prejudice to the competences of the Member States in the areas of education, social security and health care. It should also be without prejudice to the essential role and wide discretion of the Member States in providing, commissioning and organising services of general economic interest.
- (12) Discrimination is understood to include direct and indirect discrimination, harassment, instructions to discriminate and denial of reasonable accommodation.
- (13) In implementing the principle of equal treatment irrespective of religion or belief, disability, age or sexual orientation, the Community should, in accordance with Article 3(2) of the EC Treaty, aim to eliminate inequalities, and to promote equality between men and women, especially since women are often the victims of multiple discrimination.

¹³ Directive 2000/43/EC, Directive 2000/78/EC and Directive 2004/113/EC

- (14) The appreciation of the facts from which it may be presumed that there has been direct or indirect discrimination should remain a matter for the national judicial or other competent bodies in accordance with rules of national law or practice. Such rules may provide, in particular, for indirect discrimination to be established by any means including on the basis of statistical evidence.
- (15) Actuarial and risk factors related to disability and to age are used in the provision of insurance, banking and other financial services. These should not be regarded as constituting discrimination where the factors are shown to be key factors for the assessment of risk.
- (16) All individuals enjoy the freedom to contract, including the freedom to choose a contractual partner for a transaction. This Directive should not apply to economic transactions undertaken by individuals for whom these transactions do not constitute their professional or commercial activity.
- (17) While prohibiting discrimination, it is important to respect other fundamental rights and freedoms, including the protection of private and family life and transactions carried out in that context, the freedom of religion, and the freedom of association. This Directive is without prejudice to national laws on marital or family status, including on reproductive rights. It is also without prejudice to the secular nature of the State, state institutions or bodies, or education.
- (18) Member States are responsible for the organisation and content of education. The Commission Communication on Competences for the 21st Century: An Agenda for European Cooperation on Schools draws attention to the need for special attention to be paid to disadvantaged children and those with special educational needs. In particular national law may provide for differences in access to educational institutions based on religion or belief. Member States may also allow or prohibit the wearing or display of religious symbols at school.
- (19) The European Union in its Declaration No 11 on the status of churches and non-confessional organisations, annexed to the Final Act of the Amsterdam Treaty, has explicitly recognised that it respects and does not prejudice the status under national law of churches and religious associations or communities in the Member States and that it equally respects the status of philosophical and non-confessional organisations. Measures to enable persons with disabilities to have

effective non-discriminatory access to the areas covered by this Directive play an important part in ensuring full equality in practice. Furthermore, individual measures of reasonable accommodation may be required in some cases to ensure such access. In neither case are measures required that would impose a disproportionate burden. In assessing whether the burden is disproportionate, account should be taken of a number of factors including the size, resources and nature of the organisation. The principle of reasonable accommodation and disproportionate burden are established in Directive 2000/78/EC and the UN Convention on Rights of Persons with Disabilities.

- (20) Legal requirements¹⁴ and standards on accessibility have been established at European level in some areas while Article 16 of Council Regulation 1083/2006 of 11 July 2006 on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999¹⁵ requires that accessibility for disabled persons is one of the criteria to be observed in defining operations co-financed by the Funds. The Council has also emphasised the need for measures to secure the accessibility of cultural infrastructure and cultural activities for people with disabilities¹⁶.
- (21) The prohibition of discrimination should be without prejudice to the maintenance or adoption by Member States of measures intended to prevent or compensate for disadvantages suffered by a group of persons of a particular religion or belief, disability, age or sexual orientation. Such measures may permit organisations of persons of a particular religion or belief, disability, age or sexual orientation where their main object is the promotion of the special needs of those persons.
- (22) This Directive lays down minimum requirements, thus giving the Member States the option of introducing or maintaining more favourable provisions. The implementation of this Directive should not serve to justify any regression in relation to the situation which already prevails in each Member State.

¹⁴ Regulation (EC) No. 1107/2006 and Regulation (EC) No 1371/2007

¹⁵ OJ L 210, 31.7.2006, p.25. Regulation as last amended by Regulation (EC) No 1989/2006 (OJ L 411, 30.12.2006, p.6)

¹⁶ OJ C 134, 7.6.2003, p.7

- (23) Persons who have been subject to discrimination based on religion or belief, disability, age or sexual orientation should have adequate means of legal protection. To provide a more effective level of protection, associations, organisations and other legal entities should be empowered to engage in proceedings, including on behalf of or in support of any victim, without prejudice to national rules of procedure concerning representation and defence before the courts.
- (24) The rules on the burden of proof must be adapted when there is a *prima facie* case of discrimination and, for the principle of equal treatment to be applied effectively, the burden of proof must shift back to the respondent when evidence of such discrimination is brought. However, it is not for the respondent to prove that the plaintiff adheres to a particular religion or belief, has a particular disability, is of a particular age or has a particular sexual orientation.
- (25) The effective implementation of the principle of equal treatment requires adequate judicial protection against victimisation.
- (26) In its resolution on the Follow-up of the European Year of Equal Opportunities for All (2007), the Council called for the full association of civil society, including organisations representing people at risk of discrimination, the social partners and stakeholders in the design of policies and programmes aimed at preventing discrimination and promoting equality and equal opportunities, both at European and national levels.
- (27) Experience in applying Directives 2000/43/EC and 2004/113/EC show that protection from discrimination on the grounds covered by this Directive would be strengthened by the existence of a body or bodies in each Member State, with competence to analyse the problems involved, to study possible solutions and to provide concrete assistance for the victims.
- (28) In exercising their powers and fulfilling their responsibilities under this Directive, these bodies should operate in a manner consistent with the United Nations Paris Principles relating to the status and functioning of national institutions for the protection and promotion of human rights.
- (29) Member States should provide for effective, proportionate and dissuasive sanctions in case of breaches of the obligations under this Directive.

- (30) In accordance with the principles of subsidiarity and proportionality as set out in Article 5 of the EC Treaty, the objective of this Directive, namely ensuring a common level of protection against discrimination in all the Member States, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the proposed action, be better achieved by the Community. This Directive does not go beyond what is necessary in order to achieve those objectives.
- (31) In accordance with paragraph 34 of the interinstitutional agreement on better lawmaking, Member States are encouraged to draw up, for themselves and in the interest of the Community, their own tables, which will, as far as possible, illustrate the correlation between the Directive and the transposition measures and to make them public.

Has adopted this Directive:

Chapter I

GENERAL PROVISIONS

Article 1 – Purpose

This Directive lays down a framework for combating discrimination on the grounds of religion or belief, disability, age, or sexual orientation, with a view to putting into effect in the Member States the principle of equal treatment other than in the field of employment and occupation.

Article 2 – Concept of discrimination

1. For the purposes of this Directive, the “principle of equal treatment” shall mean that there shall be no direct or indirect discrimination on any of the grounds referred to in Article 1.
2. For the purposes of paragraph 1:
 - (a) direct discrimination shall be taken to occur where one person is treated less favourably than another is, has been or would be treated in a comparable situation, on any of the grounds referred to in Article 1;

- (b) indirect discrimination shall be taken to occur where an apparently neutral provision, criterion or practice would put persons of a particular religion or belief, a particular disability, a particular age, or a particular sexual orientation 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.
- 3. Harassment shall be deemed to be a form of discrimination within the meaning of paragraph 1, when unwanted conduct related to any of the grounds referred to in Article 1 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.
- 4. An instruction to discriminate against persons on any of the grounds referred to in Article 1 shall be deemed to be discrimination within the meaning of paragraph 1.
- 5. Denial of reasonable accommodation in a particular case as provided for by Article 4 (1)(b) of the present Directive as regards persons with disabilities shall be deemed to be discrimination within the meaning of paragraph 1.
- 6. Notwithstanding paragraph 2, Member States may provide that differences of treatment on grounds of age shall not constitute discrimination, if, within the context of national law, they are justified by a legitimate aim, and if the means of achieving that aim are appropriate and necessary. In particular, this Directive shall not preclude the fixing of a specific age for access to social benefits, education and certain goods or services.
- 7. Notwithstanding paragraph 2, in the provision of financial services Member States may permit proportionate differences in treatment where, for the product in question, the use of age or disability is a key factor in the assessment of risk based on relevant and accurate actuarial or statistical data.
- 8. This Directive shall be without prejudice to general measures laid down in national law which, in a democratic society, are necessary for public security, for the maintenance of public order and the prevention of criminal offences, for the protection of health and the protection of the rights and freedoms of others.

Article 3 – Scope

1. Within the limits of the powers conferred upon the Community, the prohibition of discrimination shall apply to all persons, as regards both the public and private sectors, including public bodies, in relation to:
 - (a) Social protection, including social security and healthcare;
 - (b) Social advantages;
 - (c) Education;
 - (d) Access to and supply of goods and other services which are available to the public, including housing.

Subparagraph (d) shall apply to individuals only insofar as they are performing a professional or commercial activity.

2. This Directive is without prejudice to national laws on marital or family status and reproductive rights.
3. This Directive is without prejudice to the responsibilities of Member States for the content of teaching, activities and the organisation of their educational systems, including the provision of special needs education. Member States may provide for differences in treatment in access to educational institutions based on religion or belief.
4. This Directive is without prejudice to national legislation ensuring the secular nature of the State, State institutions or bodies, or education, or concerning the status and activities of churches and other organisations based on religion or belief. It is equally without prejudice to national legislation promoting equality between men and women.
5. This Directive does not cover differences of treatment based on nationality and is without prejudice to provisions and conditions relating to the entry into and residence of third-country nationals and stateless persons in the territory of Member States, and to any treatment which arises from the legal status of the third-country nationals and stateless persons concerned.

Article 4 – Equal treatment of persons with disabilities

1. In order to guarantee compliance with the principle of equal treatment in relation to persons with disabilities:
 - a) The measures necessary to enable persons with disabilities to have effective nondiscriminatory access to social protection, social advantages, health care, education and access to and supply of goods and services which are available to the public, including housing and transport, shall be provided by anticipation, including through appropriate modifications or adjustments. Such measures should not impose a disproportionate burden, nor require fundamental alteration of the social protection, social advantages, health care, education, or goods and services in question or require the provision of alternatives thereto.
 - b) Notwithstanding the obligation to ensure effective non-discriminatory access and where needed in a particular case, reasonable accommodation shall be provided unless this would impose a disproportionate burden.
2. For the purposes of assessing whether measures necessary to comply with paragraph 1 would impose a disproportionate burden, account shall be taken, in particular, of the size and resources of the organisation, its nature, the estimated cost, the life cycle of the goods and services, and the possible benefits of increased access for persons with disabilities. The burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the equal treatment policy of the Member State concerned.
3. This Directive shall be without prejudice to the provisions of Community law or national rules covering the accessibility of particular goods or services.

Article 5 – Positive action

With a view to ensuring full equality in practice, the principle of equal treatment shall not prevent any Member State from maintaining or adopting specific measures to prevent or compensate for disadvantages linked to religion or belief, disability, age, or sexual orientation.

Article 6 – Minimum requirements

1. Member States may introduce or maintain provisions which are more favourable to the protection of the principle of equal treatment than those laid down in this Directive.
2. The implementation of this Directive shall under no circumstances constitute grounds for a reduction in the level of protection against discrimination already afforded by Member States in the fields covered by this Directive.

CHAPTER II REMEDIES AND ENFORCEMENT

Article 7 – Defence of rights

1. Member States shall ensure that judicial and/or administrative procedures, including where they deem it appropriate conciliation procedures, for the enforcement of obligations under this Directive are available to all persons who consider themselves wronged by failure to apply the principle of equal treatment to them, even after the relationship in which the discrimination is alleged to have occurred has ended.
2. Member States shall ensure that associations, organisations or other legal entities, which have a legitimate interest in ensuring that the provisions of this Directive are complied with, may engage, either on behalf or in support of the complainant, with his or her approval, in any judicial and/or administrative procedure provided for the enforcement of obligations under this Directive.
3. Paragraphs 1 and 2 shall be without prejudice to national rules relating to time limits for bringing actions as regards the principle of equality of treatment.

Article 8 – Burden of proof

1. Member States shall take such measures as are necessary, in accordance with their national judicial systems, to ensure that, when persons who consider themselves wronged because the principle of equal treatment has not been applied to them establish, before a court or other competent authority, facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the respondent to prove that there has been no breach of the prohibition of discrimination.
2. Paragraph 1 shall not prevent Member States from introducing rules of evidence which are more favourable to plaintiffs.
3. Paragraph 1 shall not apply to criminal procedures.
4. Member States need not apply paragraph 1 to proceedings in which the court or competent body investigates the facts of the case.
5. Paragraphs 1, 2, 3 and 4 shall also apply to any legal proceedings commenced in accordance with Article 7(2).

Article 9 – Victimisation

Member States shall introduce into their national legal systems such measures as are necessary to protect individuals from any adverse treatment or adverse consequence as a reaction to a complaint or to proceedings aimed at enforcing compliance with the principle of equal treatment.

Article 10 – Dissemination of information

Member States shall ensure that the provisions adopted pursuant to this Directive, together with the relevant provisions already in force, are brought to the attention of the persons concerned by appropriate means throughout their territory.

Article 11 – Dialogue with relevant stakeholders

With a view to promoting the principle of equal treatment, Member States shall encourage dialogue with relevant stakeholders, in particular non-governmental organisations, which have, in accordance with their national law and practice, a legitimate interest in contributing to the fight against discrimination on the grounds and in the areas covered by this Directive.

Article 12 – Bodies for the Promotion of Equal treatment

1. Member States shall designate a body or bodies for the promotion of equal treatment of all persons irrespective of their religion or belief, disability, age, or sexual orientation. These bodies may form part of agencies charged at national level with the defence of human rights or the safeguard of individuals' rights, including rights under other Community acts including Directives 2000/43/EC and 2004/113/EC.
2. Member States shall ensure that the competences of these bodies include:
 - without prejudice to the right of victims and of associations, organizations or other legal entities referred to in Article 7(2), providing independent assistance to victims of discrimination in pursuing their complaints about discrimination,
 - conducting independent surveys concerning discrimination,
 - publishing independent reports and making recommendations on any issue relating to such discrimination.

CHAPTER III FINAL PROVISIONS

Article 13 – Compliance

Member States shall take the necessary measures to ensure that the principle of equal treatment is respected and in particular that:

- (a) any laws, regulations and administrative provisions contrary to the principle of equal treatment are abolished;
- (b) any contractual provisions, internal rules of undertakings, and rules governing profit-making or non-profit-making associations contrary to the principle of equal treatment are, or may be, declared null and void or are amended.

Article 14 – Sanctions

Member States shall lay down the rules on sanctions applicable to breaches of the national provisions adopted pursuant to this Directive, and shall take all measures necessary to ensure that they are applied. Sanctions may comprise the payment of compensation, which may not be restricted by the fixing of a prior upper limit, and must be effective, proportionate and dissuasive.

Article 15 – Implementation

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest [two years after adoption]. They shall forthwith inform the Commission thereof and shall communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. In order to take account of particular conditions, Member States may, if necessary, establish that the obligation to provide effective access as set out in Article 4 has to be complied with by ... [at the latest] four [years after adoption].

Member States wishing to use this additional period shall inform the Commission at the latest by the date set down in paragraph 1 giving reasons.

Article 16 – Report

1. Member States and national equality bodies shall communicate to the Commission, by at the latest and every five years thereafter, all the information necessary for the Commission to draw up a report to the European Parliament and the Council on the application of this Directive.
2. The Commission's report shall take into account, as appropriate, the viewpoints of the social partners and relevant non-governmental organizations, as well as the EU Fundamental Rights Agency. In accordance with the principle of gender mainstreaming, this report shall, inter alia, provide an assessment of the impact of the measures taken on women and men. In the light of the information received, this report shall include, if necessary, proposals to revise and update this Directive.

Article 17 – Entry into force

This Directive shall enter into force on the day of its publication in the Official Journal of the European Union.

Article 18 – Addressees

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

Annex B: Related documents and links

Proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or belief, disability, age or sexual orientation:

www.eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0426:EN:HTML

Equality bill:

http://www.equalities.gov.uk/equality_bill.aspx

Useful Glossary of EU terms:

http://europa.eu/scadplus/glossary/index_en.htm

Race Directive 2000/43/EC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:180:0022:0026:EN:PDF>

Framework Directive 2000/78/EC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2000:303:0016:0022:EN:PDF>

Gender Directive 2004/113/EC:

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:373:0037:0043:EN:PDF>

Annex C: BERR Code of Practice on Consultation

This document and the consultation process have been planned to adhere to the Code of Practice on Consultation produced by the BERR, and are in line with the seven consultation criteria:

Criterion – When to consult

Formal consultation should take place at a stage when there is scope to influence the policy outcome.

Criterion – Duration of consultation exercises

Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.

Criterion – Clarity of scope and impact

Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.

Criterion – Accessibility of consultation exercises

Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.

Criterion – The burden of consultation


Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

Criterion – Responsiveness of consultation exercises

Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.

Criterion – Capacity to consult

Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.



Government Equalities Office
9th Floor
Eland House
Bressenden Place
London SW1E 5DU

Email: EUDirective@geo.gsi.gov.uk
www.equalities.gov.uk

© Crown copyright 2009

295332