

PROFORMA FOR AGE CONSULTATION RESPONSES

The consultation closes on **25 May 2011**. Please let us have your response by that date.

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

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

Contact details:

Please supply details of who has completed this response.

Response completed by (name):

Position in organisation (if appropriate):

Name of organisation (if appropriate):

Address:

Contact phone number:

Contact e-mail address:

Date:

Confidentiality

Under the Code of Practice on Open Government, any response will be made available to the public on request, unless respondents indicate that they wish their views to remain confidential. If you wish your response to remain confidential, please tick this box and say why. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

I would like my response to remain confidential (please tick if appropriate):

Please say why

You or your organisation

Q(i) In what capacity are you responding?

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

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

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

Other (please specify)

Q(ii) Is your organisation

(please tick the boxes that apply to your organisation)

A local authority (including health authority) / organisation

An equality lobby group or body

A statutory body

An organisation representing employers

An organisation representing financial institutions

A professional association

A university

A college of further education

A trade union/staff association

Other – please specify

The governing bodies for men's and ladies' amateur golf in Scotland

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

Between 1 and 14 employees

Between 15 and 49 employees

Between 50 and 249 employees

250 employees or more

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

Legal services

Construction and/or building design

Communications

Wholesale and retail trade

Leisure – hotels, restaurants, pubs

- Leisure – cinemas, theatres, museums
- Leisure – other
- Distribution/transport
- Financial and/or business services
- Electricity, gas and water supply
- Advice and/or information services
- Public administration
- Education/training
- Health and social work
- Charity/voluntary work

Other (please tick box and specify)

Note:

- In addition to the completed proforma, you can also send other supporting information if you so wish.

Completed forms should be e-mailed to the following address:-

age@geo.gsi.gov.uk

If you are posting the form please send to:-

Age Discrimination Consultation Responses
C/O Mark Reed
Government Equalities Office
Zone J10, 9th Floor Eland House
Bressenden Place
London SW1E 5DU

Thank you for completing this response form.

Health and social care

Question 1: Are there any other ways that age is used as a criterion to determine access to and eligibility for health and social care services that we have not considered?

Please place a cross in the appropriate box

Yes No Not
sure

Please explain why -

Question 2: Do you think implementing the ban on age discrimination in relation to health and social care without exceptions will have a negative or positive impact on people of a particular age? If you consider that it will have a negative impact what action could be taken to minimise this?

Please place a cross in the appropriate box

Positive Negative Unsure

Please explain why -

Question 3: Are there any areas in health and social care in Scotland or Wales where you believe that there may be differences in approach to the use of age in decision making compared to England?

Please place a cross in the appropriate box

Yes No Not
sure

Please explain why -

Financial services

Question 4: Does exception 2 (financial services) in the proposed draft Order in Annex 1 adequately achieve the policy intent described in paragraphs 6.1 to 6.10? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not
sure

Please explain why -

Question 5: Do you agree that a service level agreement signed by both the ABI and the Government showing how age is used when assessing risk and pricing products is an effective way to achieve improved transparency?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

Question 6: Do you agree that a service level agreement signed by BIBA, ABI and the Government, agreeing that a signposting/ referral system should be set up so that those refused an insurance product, because of their age, are referred to a supplier that can help them; is an effective way to achieve improved access?

Please place a cross in the appropriate box

Agree Disagree Not sure

Please explain why -

Question 7: Are there any instances where the *customer experience* of people of different ages in accessing financial services (apart from questions of design, delivery, transparency, access already addressed) causes concerns? Are existing safeguards adequate? If not, what would be a helpful and proportionate way to address these?

Are there any instances where the *customer experience* of people of different ages in accessing financial services (apart from questions of design, delivery, transparency, access already addressed) causes concerns?

Please place a cross in the appropriate box

Yes No Not
sure

Are existing safeguards adequate?

Please place a cross in the appropriate box

Yes No Not
sure

Please explain why -

General services, public functions and private clubs or associations

Question 8: Does exception 3 and 6 (concessionary services and associations - concessions) in the proposed draft Order in Annex 1 adequately achieve the policy intent described in paragraphs 7.3 – 7.9 for both service providers and associations? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not sure

Please explain why –

It seems to the SGU & SLGA that exceptions incorrectly make use of the term "requiring".

For example, in Exception 3:

"(3) Sub-paragraph (1) applies only in so far as the concession, or more favourable term--

(a) does not have the effect of preventing persons of other age groups from requiring the service..."

The word "requiring" is used in the same context in Exception 6.

The Government's objective is to prevent service providers and associations from using concessions which either deter people who do not qualify for them, or which unreasonably inhibit access to the service concerned by those outside the target age group. This provision does not achieve this.

The Government's aim is not to prohibit concessions which prevent persons outside the age group from *requiring* the service. Rather, it is to prohibit concessions which unreasonably inhibit persons outside the age group from *accessing* the service. Therefore, it may be advisable that Exception 6 be redrafted to reflect this. For example:

"(3) Sub-paragraph (1) applies only in so far as the concession, or more favourable term--

(a) does not have the effect of **unreasonably inhibiting persons of other age groups from accessing the service...**"

This would comply better with the Government's policy objectives and would ensure that there is no ambiguity in the law that could create a difficulty for the SGU, SLGA or their affiliated clubs and their members.

Question 9: Does exception 4 (age related holidays) in the proposed draft Order in Annex 1 adequately achieve the policy intent described in paragraphs 7.10 – 7.14? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not sure

Please explain why -

Question 10: Does exception 1 (immigration) in the proposed draft Order in annex 1 adequately achieve the policy intent described in paragraphs 7.15 – 7.17? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not
sure

Please explain why -

Question 11: Does exception 5 (residential mobile homes) of the proposed draft Order in annex 1 adequately achieve the policy intent described in paragraphs 7.18 – 7.25? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes

No

Not
sure

Please explain why -

Question 12: Does exception 7 (sport) of the proposed draft Order adequately achieve the policy intent described in paragraphs 7.26 – 7.32? If not, or you are not sure, please explain why.

Please place a cross in the appropriate box

Yes No Not sure

Please explain why -

The SGU & SLGA understand that, broadly, the Government's position to be that:

- Age limits and age bands are used in numerous sporting events, and are often necessary to ensure fair competition, the safety of competitors, or to comply with rules determined by that sport's governing body.
- The government wants to create an exception that allows this, applying to all sporting levels. The exception will be based on the 'average' attributes of a particular age group.
- Age limits or bands which do not meet the requirements of the proposed exception would not be allowed.
- It would not be lawful for a sporting event to be advertised as if open to all, but for the age cut-offs to be revealed when competitors apply to take part - associations must therefore be up front and clear about their use of age restrictions.

Given that the Government has set out a policy objective to force associations to be up front and clear about their use of age restrictions the SGU & SLGA believe it would be helpful for Exception 7 to expressly mention this to put the point beyond doubt.

The second point is a more fundamental one. Seniors' golf is extremely popular – it is common that on most weekdays for 7 months of the year, there is a competition somewhere (i.e. at golf clubs) open only to golfers above a certain age (e.g. 50). The age criteria are published in advance of the competition meeting this requirement. Does this approach fall within the principle of ensuring "fair competition" notwithstanding that, in golf, a handicap system is also in operation? It would be helpful to receive any guidance on this point.

Question 13: Do you have any further comments about the draft Order (Annex 1), over and above any comments you have already made about the exceptions it covers?

Please place a cross in the appropriate box

Yes

No

Please explain why -

Implementation

Question 14: What would you like guidance to cover to ensure that businesses and organisations are clear about what they need and do not need to do?

Please explain why -

We would seek timely communication regarding the outcomes of this consultation.

We would also like to see clear guidance on whether the proposed exceptions are affected by linking age to duration of membership in order to qualify for concession. For example, a golf club may offer a concession (50% discount on membership subscriptions) to a member who has been a member for 30 years continuously and has attained the age of 65 whereas a member who has been a member for less than 30 years and attains the age of 65 is offered a smaller concession of 25% discount on membership subscriptions).

Question 15: What particular types of businesses or organisations do you think will need tailored guidance on how the changes affect them?

Please explain why -

The 580 golf clubs affiliated to the SGU and SLGA will need tailored guidance. Until now, we have invested in significant legal advice to provide such tailored advice to clubs in regard to the Equality Act.

Question 16: What do you see as the best way to communicate this guidance to businesses and organisations? Where would you normally go for guidance on discrimination law?

Please explain why -

As stated above (Q15), we have promulgated advice to clubs on the Equality Act through e-bulletins, web site and club seminars. This has produced a significant cost which we have deemed to be necessary and appropriate. However, clearer guidance from GEO would be helpful if it were in the form of a questions and answers paper with real-life questions, written with a minimum of legalise.

Impact assessments

Question 17: Can you provide any data on costs and benefits, which have not already been included in the impact assessment? Do you have any comments on the assumptions or estimates we have made? Please give details of the sector(s) to which you are referring.

Please place a cross in the appropriate box

Yes No

Details -

Question 18: Can you provide any further information or views to help us calculate the economic benefits of reducing discrimination? Please give details of the sector(s) to which you are referring.

Please place a cross in the appropriate box

Yes

No

Details -

Question 19: Does the equality impact assessment properly assess the implications for each of the equality target groups? If not, please explain why.

Please place a cross in the appropriate box

Yes No

Please explain why –