

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)

X

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

X

An organisation representing employers

An organisation representing financial institutions

A professional association

A university

A college of further education

A trade union/staff association

Other – please specify

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

Between 1 and 14 employees

Between 15 and 49 employees

Between 50 and 249 employees

250 employees or more

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

Legal services

Construction and/or building design

Communications

Wholesale and retail trade

Leisure – hotels, restaurants, pubs

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

Other (please tick box and specify)

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 -

We have two main reasons. First, there seems to be no reference in the Paper to the forthcoming Directive on equality. Although the detail will probably not be known until 2012, the March 2011 ruling on the Test-Achats gender discrimination test case is likely to have an impact on any financial services industry exclusion to the Directive. It is important of course that UK position is consistent with the approach to be adopted within the EU as a whole.

Second, the exception to the provision of the Act is appropriate only in certain limited circumstances. While we accept that there are actuarial issues around age, risk and claims, where the use of age could be objectively justified, as currently drafted the exemption is too broad and too vague. It would in practice enable financial services firms to discriminate on the basis of age alone without breaching the Act. The exception should deliver sufficient flexibility for financial services firms to include reasonable and proportionate age-related factors, supported by independent data, in product design, pricing and marketing without permitting discrimination on the basis of age or commercial interest.

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 -

Measures to improve transparency would be welcomed by the Panel and the publication of relevant data could be an important tool for consumer advocates/advisers and perhaps some consumers themselves. The credibility of the information would be enhanced if it was available through independent organisations such as the Money Advice Service, rather than being based on voluntary agreement with the industry, and the requirement to provide it enshrined in legislation or regulatory requirements. In order to be useful to anyone outside the industry it would be essential for the information to be comprehensive, up to date and available in plain language form.

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 -

A signposting service could be helpful for consumers, but not on the basis proposed. Again, the provision of the service should be enshrined in legislation and firms' participation should be mandatory where an applicant is refused on grounds related to age. There should also be some form of independent overview, for example by the financial services regulator. The signposting service should be readily accessible to consumers of all ages and should not be an internet only service which many older consumers might not be able or willing to access.

It is not clear from the current proposal whether firms using the signposting service to receive applications would be obliged to quote for every referral, although we would expect this to be the case.

We also have some concerns about the limitations of an automated system. For example, if an applicant is refused cover – whether on the grounds of age or for any other reason – that refusal will have to be declared in subsequent applications and can have an adverse effect on risk profile, often leading to difficulty in obtaining cover at all. There must be scope both within the signposting service and within the industry more widely for applicants to explain the reason for refusal, particularly where the refusal is because a provider does not cater for a particular age group at all.

At least part of the cost of a signposting service is likely to be passed on to consumers. We would like to see measures in place to ensure that there is no disproportionate burden on consumers and that the charges are fair and directly related to the cost of the service.

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 -

The Panel has no specific independent research to support its view, but anecdotally is aware of difficulties experienced by both younger and older consumers in areas such as credit and banking services as well as insurance. For older consumers in particular, we are aware of instances of the cost of private medical insurance rising prohibitively on renewal. We recommend that there is a programme of mystery shopping or other consumer research to monitor the actual experience of consumers trying to access financial services and products. It is important to bear in mind that individuals who are unable to access financial services because of their age can suffer significant personal detriment which might not be obvious from market wide research.

We welcome the provisions in the Act for swift adjustments to the exceptions proposed in the Paper, although as any such adjustments would be based on crystallised detriment as opposed to potential detriment, we do not think that this provides reassurance for consumers. The Paper refers to consumers having access to the Financial Ombudsman Service for redress in the case of unfair treatment, but we question the feasibility of this given the scope afforded to financial services firms under the proposed exemption. Realistically it is possible that only a tiny proportion of consumers treated unfairly under the Act would have the means of pursuing a complaint with the Ombudsman Service. The Service is designed to deal with individual complaints rather than wide-scale detriment, which should be directly addressed through legislation or regulation.

The target date for review of the exceptions is 2015, so we would like to see active monitoring of the effectiveness of the provisions relating to financial services between implementation and review.

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 -

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 -

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 -

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 -

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 -

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 –