

# Government response to the consultation on the draft Equality Bill

## Appendix 2

### Consolidated responses to the consultation document questions

(Please note: "No Comment" responses have generally been omitted)

Question	Response
<b>Q1</b>	<b>Do you have any comments about comprehensively dealing with discrimination in the Island?</b>
	<p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch believes that it is time that we comprehensively dealt with discrimination in all forms.</p> <hr/> <p><b>Chamber of Commerce</b> Members of the Chamber of Commerce support the principles behind the proposed Equality Bill. However, members feel that no adequate cost/benefit analysis has been carried out by the Government in relation to its introduction. IQE state: "Equality for all is a laudable aim that we support. However, the impact on business must be considered, particularly if opportunities for businesses to succeed are adversely affected. The benefits of the introduction of equality legislation must be considered alongside potential negatives to business and consequential impacts on the economy and society as a whole. If this implementation of equality legislation is not carefully planned and managed, this could result in issues such as lower tax revenues, fewer job opportunities and skills shortages".  The majority of members echoed IQE's stance in that concern was expressed that little consideration appears to have been given to the impact on business and consequential impacts on the economy.  Smeale Farm Cottages recognise that there are potential benefits to disabled people having better access to goods and services:  "Any business that the general public need access to will ultimately benefit by taking reasonable steps to ensure it is accessible to all. As the numbers of less able people increase with the demographic curve, the Isle of Man needs to adapt to encourage this age group to continue to visit the Island, and local residents to remain socially active, fully integrated in the community and spending money whilst using local facilities."  However, members have commented that, whilst it may be a difficult exercise, no attempt has been made to try and quantify the potential benefits in terms of costs and this is a fundamental exercise that must be undertaken before any decision to proceed with the legislation is taken at this current time.  Canada Life state:  "Although morally there can be little question that action should be taken to address discrimination where it exists, as an Isle of Man business employing around 159 staff we do have some serious concerns as to the proposed timescales for implementation, the associated costs and ultimately the proportionality of the proposed</p>

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<b>Q1</b>	<b>Do you have any comments about comprehensively dealing with discrimination in the Island?</b>
	<p>Equality Bill”          “There is no room for bigotry within our society and we as an employer would not seek to condone any form of discrimination nor to the best of our belief have we ever carried out discrimination on the grounds of any of the protected characteristics.</p> <p>If we assume that the vast majority of employers act as we do and that our society is not wilfully and inherently discriminatory then, given the size of the Island’s population, it would be expected that there is a relatively small number of individuals who feel that they currently suffer discrimination on the grounds of any of the protected characteristics. We would have expected information relating to this to have been included within the consultation documentation to help the public determine the proportionality of the proposal.          To enable effective consultation on this issue we feel that realistic information should be provided as to the costs of implementation and the number of people who feel that they are currently impacted by discrimination. Without this information it is impossible for the public to carry out any form of cost benefit analysis to determine whether the proposed Equality Bill is proportionate to the Island’s requirements.”</p> <p>One member states:</p> <p>“This complex legislation would appear to be disproportionate to the level of discrimination in the Isle of Man and is being rushed through for political purposes without a meaningful impact assessment”.</p> <p>Standard Bank also expressed serious concern over the cost to implement the legislation and lack of clarity on this issue.</p> <hr/> <p><b>Ballamona Association for Mental Health</b>          As a Mental Health Charity we know and understand the trauma people suffer when they have been treated in an unfair way due to discrimination or harassment in the community or in the workplace and the distress and suffering that it causes and so we welcome the Bill. It must be remembered that when people suffer discrimination of whatever kind, it can unduly affect their mental health and well-being.</p> <hr/> <p><b>Prospect</b>          It was recognised that similar legislation already on the statute book required sorting out now.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b>          We are totally supportive of the introduction of legislation which will comprehensively address matters of discrimination on or in the Isle of Man. We are pleased to take this opportunity to applaud the Chief Minister and all members of Tynwald Court for their commitment to, and support of, this Bill and we hope that our politicians will ensure no unreasonable delays are permitted to stifle the passing of this bill into statue within the current Parliament.</p> <hr/> <p><b>Royal College of Nursing</b>          The RCN welcomes the introduction of the Equalities Bill 2015 which provides a comprehensive framework for protection from discrimination in the workplace and in the provision of services.</p>

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<b>Q1</b>	<b>Do you have any comments about comprehensively dealing with discrimination in the Island?</b>
	<p><b>Jacqueline Yates</b>  I support the introduction of this legislation and consider it to be long overdue. The legislation will simplify, modernise and harmonise existing legislation and bring the Isle of Man in line (in most regards) with jurisdictions with the most developed human rights approaches.</p> <p>It is entirely appropriate that all of the Protected Characteristics should be dealt with under one piece of legislation and that all forms of discrimination in all settings should be considered together.</p> <p>Furthermore a person can demonstrate more than one of these protected characteristics so they should be dealt with together.</p> <p>The introduction of the Public Sector Equality Duty is a particularly powerful section of the legislation and is very much to be welcomed because we it will empower those who do not have a voice or who are not prepared to complain.</p> <hr/> <p><b>UNITE – the Union</b>  This is a very positive step towards equality and addressing discrimination.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society supports the comprehensive approach to dealing with discrimination in the Island with a single Equality Act. A single Equality Act will simplify matters for a wide range of people and will help the Isle of Man Government fulfil its international human rights obligations as described in the following human rights instruments:</p> <ul style="list-style-type: none"> <li>• International Covenant on Civil and Political Rights 1966 (ICCPR)</li> <li>• International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR)</li> <li>• Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)</li> <li>• United Nations Convention on the Rights of the Child 1989 (UNCRC)</li> </ul> <p>It is entirely appropriate that discrimination against all people with protected characteristics should be dealt with under a single Equality Act on the Isle of Man. The phenomenon of 'intersectionality' illustrates how deaf and hard of hearing people can suffer discrimination in more than one way; they may be women, they may be black, they may be a child, they may be gay and/or they could experience other impairments beside a hearing impairment. Circles of discrimination can overlap and a single comprehensive Equality Act is required to remove or reduce the disadvantage experienced.</p> <hr/> <p><b>Office of Human Resources</b>  We agree it needs to be addressed</p> <hr/> <p><b>Office of Fair Trading</b>  Training and precedent from the UK which will be valuable. If the Island were to develop a distinct framework, every matter would have to be addressed as a new</p>

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	<p>issue which would be very inefficient.</p> <hr/> <p><b>Department of Education and Children</b> DEC fully supports this in principle</p> <hr/> <p><b>David Carter</b> The Equality Bill is to be welcomed as a piece of progressive legislation that brings the Isle of Man into line with the UK and will enhance its reputation as a good place to live, work and carry on a business. I sincerely hope that it will be passed by Tynwald.</p> <hr/> <p><b>Jeffrey Ellis</b> The equality bill is unnecessary and adds a further level of bureaucracy and costs to business. Instead the government should be encouraging employment not stopping it with petty rules and regulations</p> <p>People and animals are not all the same and making up hundreds of pages of rules will not make any difference. If an employer does not want to employ some body because of their age for example then they won't. By banning adverts stating a given age will only result in people applying, going for an interview for a vacancy they have no hope of getting. The employer can always find several reasons for not giving someone a job. So it would be better from the applicants view point to see in an advert they are too old or young for a job and not waste time applying.</p> <p>The country that has to most equality is North Korea where everyone is imprisoned in a poverty stricken country. While the ruling elite has absolute power, like a feudal monarchy. That is because to only way to make everyone equal is bring everyone down to the lowest level.</p> <p>This will only give more work to overpaid parasitic advocates.</p> <hr/> <p><b>Leonard Cheshire Disability</b> We strongly welcome this draft Equality Bill for the Isle of Man, which should simplify and strengthen existing disability discrimination law, making it easier to understand and apply for disabled people, others with protected characteristics, and individuals and organisations required to comply with this legislation.</p> <hr/> <p><b>Peter Murcott</b> The need to do so has not been proven.</p> <hr/> <p><b>Canada Life International</b> Although morally there can be little question that action should be taken to address discrimination where it exists, as an Isle of Man business employing around 150 staff we do have some serious concerns as to the proposed timescales for implementation, the associated costs and ultimately the proportionality of the proposed Equality Bill.</p>

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	<p>To elaborate on each point in turn:</p> <p><u>Timescale</u> As stated within the background and introduction to the consultation documentation, an Equality Bill has been on the legislative programme for several years but has not been progressed until now because of resource issues and competing priorities within Government.</p> <p>Given that the Island's economic climate has shown no significant improvement and that far reaching cost savings are being progressed across the public sector as a whole, it is difficult to understand why it has been decided that now is the time to give priority and divert resources into this area, particularly given the expected additional costs that implementation will impose on the Island's businesses.</p> <p><u>Implementation Costs</u> To date the only information that has been quoted regarding costs of implementation has been a figure of circa £70 given in respect of the average cost of necessary workplace adjustment to accommodate disability.</p> <p>From experience within our own group, this figure seems wholly unrealistic; our UK sister company employs circa 1000 staff and approximately 20% of these now have some form of workplace adjustment in place. The most basic and common adjustment is a combination of wrist rest/document holder/foot rest costing circa £70. These costs then rise to accommodate increasingly common request for specialist Orthopaedic chairs – circa £600 fully fitted – to the more extreme cases where the 'reasonable adjustment' have cost circa £2000. Costs for adjustment to fabric of premises are clearly very much higher.</p> <p>On this basis we feel that cost of workplace adjustment will be considerable higher than the estimate given.</p> <p>Overlying the cost of physical adjustment will be the administrative costs associated with the implementation of the Bill – these will be high and do not appear to have been factored into the discussions as to whether now is the right time to implement.</p> <p>Companies such as ourselves will be required to undertake a comprehensive review of all policies and procedures (costly in terms of both time, resource and legal costs) with an expectation that we will be required to make some significant changes to our benefits package that will not only incur additional cost but will also have a negative impact on many of our staff.</p> <p>A good example of this is our staff pension scheme that was designed to replicate the benefits of a DF scheme via age related contributions from the employer. We anticipate legislation on age discrimination will render this scheme inoperable with the resultant legal and administrative costs to re-design the scheme estimated at circa £10k plus a likely requirement to compensate older staff for a reduction in their overall remuneration package.</p> <p>Building on the anticipated costs of implementation within the private sector, has the likely cost of implementing the proposed Bill within the public sector itself been assessed or decisions made as to how these will be funded? If implementation costs within the public sector will need to be balanced with further cost savings elsewhere in the government budget then these choices need to be made clear when the Island is being asked to make a decision regarding the introduction of this Bill.</p> <p>To summarise, we believe that the vast majority of the Island's employers will face significant additional costs to comply with the Equality Bill at a time when most continue to feel the effects of a recessionary climate.</p> <p><u>Proportionality</u> There is no room for bigotry within our society and we as an employer would not seek to condone any form of discrimination nor to the best of our belief have we ever carried out discrimination on the grounds of any of the protected characteristics.</p>

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	<p>If we assume the vast majority of employers act as we do and that our society is not wilfully and inherently discriminatory then, given the size of the Island's population, it would be expected that there is a relatively small number of individuals who feel that they currently suffer discrimination on the grounds of any of the protected characteristics. We would have had expected information relating to this to have been included within the consultation documentation to help the public determine the proportionality of the proposal.</p> <p>To enable effective consultation on this issue we feel that realistic information should be provided as to the costs of implementation and the number of people who feel that they are currently impacted by discrimination. Without this information it is impossible for the public to carry out any form of cost-benefit analysis to determine whether the proposed Equality Bill is proportionate to the Island's requirements.</p> <p>In summary then, we as an employer are left unable to determine the impact of the proposed Bill but with no doubt that we would face significant additional costs to implement.</p> <hr/> <p><b>Sean Young</b> this legislation has been a long time in coming to the island and is long overdue, especially as the UK act was enabled in 1996. Will this act be given an absolute priority within tynewald sittings so that it isn't further delayed.</p> <hr/> <p><b>Hon Juan Watterson MHK</b> <u>Scope</u> I support the intention of the Bill to promote fairness in society and to encourage all people to be treated equally. ... I would argue that despite the good intentions of the mover of the Bill to promote fairness, this will not actually happen. The legislation, like human rights, is good intention wrapped up in bad legislation. It is a mix between the thought police, a blunt instruments and using a sledgehammer to crack a nut. It will have a number of unintended consequences, which can easily be drawn from UK case law which I will address later.</p> <hr/> <p><b>Peter Denton</b> I believe there is a big difference between tolerance and respect of each other's viewpoints and freedom of having your own beliefs, values and knowledge of right and wrong.  This act, as is similar in the case of the UK version of the same, puts too much on a legal footing that could hinder an individual and organisation's ability to act on their own convictions.  It is right that no person or organisation should value anyone any differently due to their beliefs, race, disability, sexual orientation, family status etc. we are all created equal and entitled to be respected for who we are. However at the same time it is wrong that the law could be used to bind someone to act contrary to their own beliefs in areas where it is valid to have the right to disagree such as marriage. I believe this act, as has been seen with the similar one in the UK, runs the risk of being open to restrict the freedom and right to hold their own beliefs of individuals who disagree with the decision of another and used to force them to act against their own convictions.  For example most people would agree that disability in any form should be no barrier to access were reasonably possible and therefore it is right to expect publically</p>

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	<p>accessible buildings and places to be open to all as far as possible whilst realising that in some cases it may not be viable retrospectively. Similarly a persons practiced sexual orientation or religion should not preclude them from any public services, shopping opportunities etc. and they should be respected as a person. However with something like Homestay if a person is not happy with a same-sex couple sharing a bed in their home they should be entitled to respectfully say so and it be there right to hold that belief. Similarly someone hiring a nanny or child for their children may want traditional family values to be present and only a married person or abstaining single, they should be able to make that decision, even if others may not agree with it, without fear of sanctions as a result of their convictions.</p> <p>This equality bill as proposed is too complex and as in the UK runs the danger of rather than fostering respect of each other and each other’s viewpoints of enforcing certain view-points on others enabling groups traditionally marginalised to effectively do to others what they accuse others of having done to them – enforce their viewpoint.</p> <p>There is also a difference between areas were we all have a choice verses those that we cannot do anything about. For example disability and race are examples of things which we cannot change and should never be a barrier unless perhaps something can’t reasonably be accommodated. While some may argue as to if sexual-orientation is a choice, behaviour of a sexual nature or public displays of affection for both heterosexuals and homosexuals is a choice and as such it is reasonable to request such behaviour does not take place in any given environment. Similarly views are a choice and there should be freedom to express views for or against without fear of prosecution unless such views are clearly targeted at intimidating a particular individual.</p> <p>Age is an odd-ball as while we have no control over it and it should not be a barrier to employment etc. on its own, it is something we all grow in and out of and as such legislation on age discrimination needs to be careful. I believe it is very confusing in this bill and open to interpretation the full extent of what that means with too much complexity and reliance on future case law and precedent (which thus far in the UK has been highly divisive). For example allowing a child fare could be considered discrimination to an adult who has to pay more but in reality as it is normally an adult paying for that child in addition to themselves it is actually a bigger barrier to the child whose parents may find it harder to afford paying both fares. Pensioner days or discounts in a shop could be considered discrimination against those who have to pay more but may provide a service to those pensioners worse of in affording services and promoting use of a shop in a quieter period for the working population and opportunities to mix with others who may be lonely during the week. Yes, that same could apply to younger people out of work or on low incomes with no family around but other groups or shops might target them. I’m not saying this act makes any of these a problem but it runs the risk in similar situations of making such things subject to legal analysis rather than an individual or organisations judgement. Age is also targeted whereas family size is not, for example it could be argued that larger families are increasingly discriminated against as costs go up and are often per child (e.g. passports, transport fares, entry) etc. and discounts rarely cater for those with more than 2 children. Now those having made the choice to have a larger family may be happy to accept the sacrifices that go along with that, but it is one example of how having specific legal areas of discrimination over one thing can simply lead to the question as to why not something else. We are increasingly bound by legislation rather than common-sense and as well as losing diversification of viewpoints and lifestyle, it becomes increasingly an issue as to where you draw the line in law.</p> <p>I believe we need to respect the Islands Christian heritage, and traditional values, which many still hold. There shouldn’t be any compulsion to have to present any particular view in schools or elsewhere with traditional values being continued to be taught as long as that is alongside a general awareness and respect of others. No act should seek to impose a certain viewpoint or hold anyone open to prosecution for acting in accordance with their beliefs as long as they hold a respect for others with whom they may not agree with as equals to themselves. We run the risk of turning the tables with those who have criticised others for forcing their views on them in the past now forcing their own views on others through legislation and therefore achieving nothing other than reversing or avenging past wrongs instead of neutralising them. Certainly there have been cases in the UK were individuals with certain viewpoints have been deliberately targeted or entrapped by those who knew their viewpoints, even when those viewpoints were expressed respectably. This was done not out of need but in order to gain a victory in the courts against someone else’s deeply held convictions with no respect for the individuals viewpoint that they have fought against.</p> <p>In summary I can understand the reasons why we are seeking to introduce such an act on the Island. However disability and race legislation should not all be rolled up with everything else and the problematic UK act should not merely be transferred. I understand the issues with the Islands reputation but we should be able to</p>

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	<p>stand firm as an Island and rather than giving knee-jerk reactions to any criticism, project the Island as a caring society which respects each other's views including minorities while the majority have traditional viewpoints, all are free to express their views and make their own decisions on employment, who they allow to stay in their property etc. as long as they respect those whose lifestyle choices they may or may not agree with.</p> <p>In summary I strongly disagree with this act in its current form believing it is not the best way to foster mutual respect, appropriate freedom and responsibility for those who reside on the Isle of Man.</p> <hr/> <p><b>Keith Fitton</b></p> <p>Although I have given detailed thoughts, my primary concern is that the Act must be enforced all at the same time. The delay in the Disability Discrimination Act must not be allowed in this legislation. I would urge government to actively engage the community at this time to ensure that they are prepared for the legislation ahead of its enactment and not use the lack of discussion as a reason to prevaricate, while only implementing certain areas or only addressing people who have particular characteristics and ignoring others.</p> <p>Beyond the potential for delay, I very much welcome this piece of important legislation that will go a long way towards reducing discrimination in our society.</p> <p>...</p> <p>I believe that the Equalities legislation could and indeed should, incorporate access to housing. By continuing to build housing that is not 'fit for life' our society is making it more difficult for physically disabled people to live in satisfactory property. The result is people who are excluded from being full &amp; active members of the community (which is surely the purpose of this legislation?) If a minimum of one in ten new build properties had level access and accessible shower rooms on the same floor as the bedroom, this would have a substantial impact upon the availability of property that is suitable for people who have physical disabilities. While it may be argued that existing planning could meet this need, enshrining it in legislation would ensure that developers work to this standard. This will also meet the growing needs of an ageing population. The UK Liberal Democrats recently launched a policy proposal featuring a similar demand. By covering access to housing in this legislation the IoM could be leading the way. As a way of describing why improvements are required, the 'over 50's' housing at Saddle Mews was constructed in such a manner that it is not possible to safely fix grab-rails in the bathrooms.</p> <p>If we ensure the provision of suitable 'long term' homes, this will have the knock on effect that elderly people will be more likely to remain at home for longer, which will reduce the need for residential care, a central element of the government's policy.</p> <hr/> <p><b>Alistair Kneale</b></p> <p>In responding to this draft bill I need to say from the onset that I find people who hold discriminatory views small minded and to be honest a bit stupid.</p> <p>However, I would like to register my opposition to the proposed Equality Bill. I think legislation to prevent people expressing their views on a variety of issues is discriminatory in itself. It is a lazy approach in that if you find someones views on something are distasteful then you should have the ability to challenge them by discussion and argument. To resort to law is quire reactionary and suggests that you do not have the ability to put a contrary view point.</p> <p>The experience of the UK on which this proposed law is based is negative. Surveys actually show there has been an increase in those who think that it is acceptable to hold discriminatory views. This, I think, is because people see that some will use such legislation for entirely spurious reasons. Such as those who might be bad at their job and are dismissed from employment, but will resort to false claims of discrimination as the factor for their loss of employment. Or against those that make any comment that challenges religious beliefs.</p>



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<b>Q1</b>	<b>Do you have any comments about comprehensively dealing with discrimination in the Island?</b>
	You really should be able to air your views without being discriminated against for doing so. If you don't like what someone says then have the guts to challenge it and not hide behind legislation. This kind of bill is only good for lawyers back accounts!

Question	Response
<b>Q2</b>	<b>Do you have any comments about the Island's Equality Bill being based on the UK's Equality Act 2010?</b>
	<p data-bbox="315 595 775 619"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 624 1845 647">We believe that lessons should be learnt from what has happened in England and appropriate responses made in the light of these experiences.</p> <hr data-bbox="315 671 687 679"/> <p data-bbox="315 711 517 735"><b>Jonathon Kermode</b></p> <p data-bbox="315 740 1279 764">The UK act does not take into account other workers working with people with a disability.</p> <p data-bbox="315 799 2047 855">Example: Disabled member of staff seen to be doing less work, other staff become annoyed and work rate slows. Management and human resources are fearful of what to do, as they agree it is unfair the disabled member of staff is being treated differently. Even though they are being paid the same wage, how is that FAIR?</p> <p data-bbox="315 887 2018 943">I do not wish to see our economy suffer as consequences of holding onto members of staff who are not efficient at carrying out their job. My main concern is in manual work.</p> <p data-bbox="315 975 2009 1031">(B) This act is suitable for working to European Union rules. Will the United Kingdom still be in the EU then? Might they change this act? , perhaps forcing us to change ours in the near future.</p> <p data-bbox="315 1062 1641 1086">(C) The UK has different economic competitors to ours. Has it been looked into that our competitors have similar legislation?</p> <hr data-bbox="315 1110 687 1118"/> <p data-bbox="315 1150 562 1174"><b>Chamber of Commerce</b></p> <p data-bbox="315 1179 1845 1203">As ever, Chamber's view is that it should be carefully examined as to whether the legislation is proportionate and appropriate for a small Island.</p> <p data-bbox="315 1238 2078 1406">It must be remembered that the UK introduced all of its discrimination legislation on a piecemeal basis over the course of several decades. By the time that the Equality Act came into being, the UK had already had years to get to grips with each kind of discrimination law which had been introduced individually. There is no acknowledgement of the significance of this and how this places the Isle of Man in a different position in the Consultation Document. Other small jurisdictions such as Jersey and Guernsey have specifically acknowledged that to introduce an equivalent to the UK's Equality Act 2010 would be a step too far for a small jurisdiction and as such, they are introducing certain types of discrimination one at a time. The Consultation Document does not even suggest a piecemeal alternative which suggests that a lazy approach has been taken and no effort has been employed to consider the appropriateness for the Isle of Man.</p>

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<b>Q2</b>	<b>Do you have any comments about the Island's Equality Bill being based on the UK's Equality Act 2010?</b>
	<p>Canada Life state:</p> <p>"The UK's Equality Act built on a number of pieces of legislation introduced over several years whereas the proposal put before the Island's public is to mirror this Act with a single, comprehensive piece of legislation. We know from the example of our own group that each stage of implementation of the various parts of UK legislation required considerable investment in time, money and resource and, as such, we feel that the Government must ensure that any Equality Bill proposed for the Island is proportionate to our requirements and is implemented over timescales manageable to business rather than taking the approach of whole-scale adoption of the UK Equality Bill as a single implementation."</p> <p>Ronaldsway Aircraft Company Limited states:</p> <p>"We agree that where necessary that equality is catered for - but also in a proportionate way. Does seem to be a heavy handed approach to deal with the actual inequality issues that exist. The impact analysis is limited - it is presumptive and/or subjective - the monetary side cannot be deemed representative, either for costs or benefits. Impacts for business very limited and wrong - seems worse for impact on government itself. Relying on a huge UK piece of legislation and the reasoning given does not necessarily assure anything - witness the UK with high youth unemployment whilst retirement is now 'flexible'. The document provided does not relay what research has resulted in this view of using UK - nor does there seem to be much Manx context?"</p> <p>Hamblin state:</p> <p>"The UK has brought in this legislation in at a steady pace rather than all at once...the negatives of this are it's a massive change to undergo all at once". Many members have highlighted that there appears to be little to no attempt in the proposed legislation to tailor it so that it is proportionate for the Isle of Man.</p> <p>Island Aggregates state:</p> <p>"Considering the draft bill in its entirety, I feel that the Isle of Man is in a good position in that the UK legislation has been in place for a number of years and the experiences in that jurisdiction, test cases etc. can be taken into account when tailoring our own legislation to suit the Island. While any legislation protecting people from discrimination can only be broadly welcomed, individual aspects of it should be examined thoroughly in terms of the potential costs to IOM Government and the business community versus any benefit which may be derived. Essentially the Island should seek to cherry pick the UK model to produce a piece of legislation which does what it is designed to do, but is tailored to the Isle of Man".</p> <p>Colas state:</p> <p>"We are very individual and unique on the Island and they have completely failed to recognise the uniqueness of our Island. The proposed IOM Bill is very similar to the UK Bill, however have the government really looked into the implications of implementing certain areas of the UK bill and considered the differences between the UK and the IOM."</p> <p>_____</p> <p><b>Ballamona Association for Mental Health</b></p> <p>If this Bill is based on the UK Act why are there deficiencies in it? However we have no objection to it being based on tried and tested legislation.</p> <p>_____</p>

Question	Response
<b>Q2</b>	<b>Do you have any comments about the Island’s Equality Bill being based on the UK’s Equality Act 2010?</b>
	<p data-bbox="315 264 1234 320"><b>Royal College of Nursing</b> It seems sensible to us to base the Island’s Equality Bill on the UK’s Equality Act 2010.</p> <hr data-bbox="315 343 687 347"/> <p data-bbox="315 379 2058 496"><b>Jacqueline Yates</b> The UK legislation provides an invaluable template for the development of the Manx Bill and will enable case law to be drawn upon in the settling of disputes. Drawing on UK legislation obviates the need to draw up legislation from scratch and will enable organisations and individuals to learn from the experience of the UK in implementing the law.</p> <p data-bbox="315 520 1218 547">Companies which have UK bases will already be used to working with this legislation.</p> <p data-bbox="315 571 2007 627">To draw on the legislation of any other jurisdictions than the English will force the need for new case law which will prove costly to litigants. Manx Employment Tribunals already draw on UK case law and the Island can learn from the experience of the UK.</p> <p data-bbox="315 651 1140 678">We would welcome looking at the UNCPD which has been ratified in the IOM.</p> <hr data-bbox="315 700 687 705"/> <p data-bbox="315 737 2078 967"><b>UNITE – the Union</b> The Isle of Man can show leadership and include what is missing from the Equality Act 2010 making it a more comprehensive and forward looking piece of legislation. There needs to be inclusion of a Purpose Clause; promotion of equality, rather than just addressing discrimination after it has occurred; a statutory requirement to carry out equal pay audits; statutory rights for union equality representatives with rights to paid time off, information and training; Equality Duty on both the public and sector sectors; no exemption for religious organisations; rights for married same sex couples, same-sex and opposite-sex couples to have the choice of a religious, humanist or civil marriage; allowing restoration of marriage to trans people who had had their marriage annulled in order to undergo gender reassignment and not having the spousal veto on gender recognition in equal marriage and same rights to survivors benefits for same sex couples.</p> <hr data-bbox="315 989 687 994"/> <p data-bbox="315 1031 1962 1114"><b>Manx Deaf Society</b> The Society has carefully considered this question and has looked at legislation in other jurisdictions (US, New Zealand and Canada) where protection from discrimination is offered to deaf and disabled people. The Society has sought Legal Opinion in the recent past on a related matter.</p> <p data-bbox="315 1137 1998 1198">Though MDS recognised that UK legislation is not always appropriate for the Isle of Man we do believe that in this case the UK’s Equality Act 2010 provides an invaluable template for the development of the Manx Equality Bill.</p> <p data-bbox="315 1222 2058 1345">MDS strongly welcomes the concept of ‘reasonable adjustments’ to remove substantial disadvantage experienced by deaf and hard of hearing people. We recognise that the origins of ‘reasonable adjustments’ lies in the American disability rights movement and the resulting Americans with Disabilities Act (ADA). The ADA is a landmark civil rights legislation for deaf and disabled people around the world. The ADA in turn influenced the UK’s Disability Discrimination Act 1995 (DDA) and subsequent single Equality Act 2010. This presents a good international civil rights foundation for the Isle of Man to build on.</p> <p data-bbox="315 1369 2047 1401">Also MDS recognise that the deaf community (the sign language using community in particular) is a community of interest rather than of geographical location and</p>

Question	Response
<b>Q2</b>	<b>Do you have any comments about the Island's Equality Bill being based on the UK's Equality Act 2010?</b>
	<p>that no deaf man (or woman, or child) is an island.</p> <p>Drawing on the UK Equality Act will enable UK case law to be referred to when settling disputes. This will help avoid having to build a bank of costly Manx case law.</p> <hr/> <p><b>Office of Human Resources</b> We agree with this approach</p> <hr/> <p><b>Office of Fair Trading</b> Training and precedent from the UK which will be valuable. If the Island were to develop a distinct framework, every matter would have to be addressed as a new issue which would be very inefficient.</p> <hr/> <p><b>Department of Education and Children</b> This is sensible in order that reference may be made to comparable case law</p> <hr/> <p><b>Boal &amp; Co</b> We are generally supportive of the Bill but only to the extent that it does <u>not</u> introduce the possibility of back-dated claims for discrimination which precedes its enactment into Manx Law</p> <hr/> <p><b>Douglas Borough Council</b> Douglas Borough Council's Executive Committee has considered the draft Equality Bill and directed that on behalf of the Council, the Cabinet Office be advised that the Council is in general support of the proposals and principles within the consultation document, and already has a fair and consistent approach to all its employees.</p> <hr/> <p><b>Leonard Cheshire Disability</b> ... we welcome the intention of the Isle of Man government to mirror the provisions of the existing UK equality legislation which we welcomed when they came into force in 2010.</p> <p>At Leonard Cheshire Disability we work for a society in which every person is equally valued. We believe that disabled people should have the freedom to live their lives the way they choose - with the opportunity and support to live independently, to contribute economically and to participate fully in society. This draft Bill will provide an essential framework to help realise this vision for disabled people on the Isle of Man.</p> <hr/> <p><b>Peter Murcott</b> It should <i>not</i> be used.</p>

Question	Response
<b>Q2</b>	<b>Do you have any comments about the Island's Equality Bill being based on the UK's Equality Act 2010?</b>
	<p>_____</p> <p><b>Canada Life International</b>  The UK's Equality Act built on a number of pieces of legislation introduced over several years whereas the proposal put before the Island's public is to mirror this Act with a single, comprehensive piece of legislation.</p> <p>We know from the example of our own group that each stage of implementation of the various parts of UK legislation required considerable investment in time, money and resource and as such we feel that the Government must ensure that any Equality Bill proposed for the Island is proportionate to our requirements and is implemented over timescales manageable to business rather than taking the approach of wholesale adoption of the UK Equality Bill as a single implementation.</p> <p>_____</p> <p><b>Sean Young</b>  the UK act is a well established basis and the information available is good. Many of the large employers on the island are also UK based, as such they are well aware of the legislation.</p>

Question	Response
<b>Q3</b>	<b>Do you have any comments on the list of "protected characteristics"?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The list is comprehensive.</p> <p>_____</p> <p><b>Chamber of Commerce</b>  No comments as to the list of protected characteristics as such.  Areas that have caused the most concern amongst Chamber members are in relation to age and disability as these are the areas that members feel will have the most impact from a cost perspective on organisations.</p> <p>_____</p> <p><b>Ballamona Association for Mental Health</b>  We are very concerned that Mental Health is not mentioned in the list of "protected characteristics" the discrimination that is suffered by persons with an illness of this nature cannot be quantified, not only do they suffer before any breakdown but trying to return to the workplace can be very problematic with staff refusing to work with them or the returnee being given a lone position away from other workers. This is the time when a "mentor" would make all the difference between the person successfully reintegrating in the workplace or not being able to continue working at all.</p> <p>_____</p> <p><b>Royal College of Nursing</b>  The list of protected characteristics is comprehensive and reflects the protected characteristics contained within the UK's Equality Act 2010.</p>

Question	Response
<b>Q3</b>	<b>Do you have any comments on the list of "protected characteristics"?</b>
	<hr/> <p data-bbox="315 320 495 347"><b>Jacqueline Yates</b></p> <p data-bbox="315 352 1843 379">This seems comprehensive in so far as it covers those characteristics where there is evidence of discrimination and unfairness in many contexts.</p> <p data-bbox="315 411 2074 523">I am disappointed that the Disability Discrimination Act 2006 was never implemented and to include Disability here and thus postpone the implementation of that Act is very unfortunate. There is a risk of further delay to the achievement of fairness for disabled persons occasioned by needing to wait for the passage of this Bill. I would urge that implementation of this legislation, should it be passed, not be delayed any further. This is, perhaps, the area where we the Island is particularly far behind its neighbours and where we should seek to ensure swift action, not least, to give real energy to the Government's commitment to 'Protect the Vulnerable'.</p> <p data-bbox="315 555 2067 667">The Island should however, give consideration to how this legislation can contribute to the general principles of fairness, dignity and respect in all aspects of Island life. This proposed legislation represents an opportunity to inculcate the principles of meritocracy and objectivity both in employment and in the provision of services. For this reason, I would urge the Government to ensure widespread debate and discussion both during the passage of the Bill and on its enactment to ensure that there is both compliance with the Bill and a deep level of understanding of the importance of fairness, dignity and respect in all aspects of Island life.</p> <hr/> <p data-bbox="315 730 517 758"><b>UNITE – the Union</b></p> <p data-bbox="315 762 2074 810">In order to be inclusive of all trans people, the Bill needs to include Trans Identity and not only those who want to and have gone through reassignment. Instead of listing the "protected characteristics" in alphabetical order it is best to write them as gender, race, disability, sexual orientation, age, gender identity, religion or belief.</p> <hr/> <p data-bbox="315 874 517 901"><b>Manx Deaf Society</b></p> <p data-bbox="315 906 2067 986">MDS recognise that discrimination adversely impacts on the lives of many people and not just those who are deaf or disabled (or who have any degree of hearing loss). Within the broad characteristic of 'disability' the Society recognises that some disabled people (notably those with learning difficulties, HIV + status and mental health difficulties) can experience more discrimination than others.</p> <p data-bbox="315 1018 2067 1129">We recognise that not all people with long term health conditions will identify with the label 'disabled person' (research in the UK has indicated that more than 50% of 2,000 people surveyed with a long term health condition did not think themselves as being disabled). Consideration should be given to changing the protected characteristic from 'disability' to 'disability or long term health condition'. This would be a positive step forward for the Isle of Man and would be more progressive than the UK's own description of protected characteristics.</p> <p data-bbox="315 1161 1951 1189">Likewise MDS is in contact with many people on the Island who have a significant hearing impairment but who do not consider themselves to be disabled.</p> <p data-bbox="315 1220 2033 1248">Disability and long term health conditions aside; MDS considers the list of protected characteristics featured in the Bill to be fairly comprehensive and appropriate.</p> <hr/> <p data-bbox="315 1311 725 1339"><b>Department of Education and Children</b></p> <p data-bbox="315 1343 2074 1423">Whilst accepting it should be included there are concerns regarding the inclusion of 'age' particularly in relation to student awards, course access and people working later thereby reducing opportunities for younger people trying to enter the workforce. In the case of teaching, this is a demanding job and it may be that there would be a detrimental impact on young people in being taught by increasingly elderly teachers. At the same time young teachers may be struggling to enter the profession.</p>

Question	Response
<b>Q3</b>	<b>Do you have any comments on the list of "protected characteristics"?</b>
	<hr/> <p><b>Peter Murcott</b>  (i) There is adequate legislation at present on discrimination. There is no demonstrable reason to expand upon what we already have.  (ii) One was very surprised to see civil partnerships listed alongside marriage. When the Civil Partnership Bill was before the Legislature, it was repeatedly emphasised that it was nothing at all to do with marriage.</p> <hr/> <p><b>Sean Young</b>  the choice of protected characteristics is good as it mirrors those of the UK.</p> <hr/> <p><b>Chief Financial Officer</b>  ... section 7, disability, creates a protected characteristic; but is written in the most general terms. Schedule 1 rightly gives a power to make regulations to define impairment, but at this point none of us, I suspect, can see how far those definitions will need to go. The alternative would be for tribunals and courts to fill in the gaps, which is often a dangerous approach. The reference to certain conditions appears almost random. Schedule 1, paragraph 6, mentions three conditions as being disabilities: cancer, HIV infection and multiple sclerosis. The obvious question is, why these three conditions? Is Parkinson's disease not as disabling as MS?  I worry about the interpretation of the term 'mental impairment', and wonder who in the end will actually determine it. Conditions such as Asperger's syndrome and body dysmorphic disorder can cause people all sorts of issues in a work environment, and more generally in the community, but can be difficult to diagnose.  I would also make the point that including language such as, "the impairment has a substantial and long-term adverse effect on P's ability to carry out normal day-to-day activities" (s. 7 (1) (b)), almost implies that the person could not in a general sense be treated equally: although I accept that there are exemptions elsewhere in the text.</p> <hr/> <p><b>Hon Juan Watterson MHK</b>  The foreword by the Chief Minister states that "Equality, however, is not about giving preference to certain sections of society or minority groups. It sets out to ensure fair and equal treatment for all..." I do not accept that this is what the Bill is doing. It is deliberately choosing sections of society to protect, it does not protect everyone equally. Indeed the term in the legislation is "protected characteristics", which only serves to underline the point.  It does not, for example, seek to protect people (e.g. in recruitment) by virtue of their occupation (e.g. armed forces), by virtue of their appearance or circumstances such as being an ex-convict. If the intention is to truly provide for equality for all, these should be included.</p>

Question	Response
<b>Q4</b>	<b>Do you have any comments about the coverage of the Bill?</b>
	<p data-bbox="315 328 775 384"><b>Association of Teachers and Lecturers IOM</b> Again, this is comprehensive.</p> <hr data-bbox="315 408 687 411"/> <p data-bbox="315 443 566 499"><b>Chamber of Commerce</b> No.</p> <hr data-bbox="315 523 687 526"/> <p data-bbox="315 561 745 587"><b>Ballamona Association for Mental Health</b> As question 3 Mental Health requires to be added, clearly it is a condition that had been omitted for some reason , because presumably it doesn't appear in the UK Act, it was not considered worthy of mention here, however as more people are apparently suffering stress especially in the workplace it should form an individual part of the bill. Human rights includes Mental Illness within the definition of mental impairment but not in Collins dictionary which states, mental impairment: A state of arrested or incomplete development of the mind. I think many would argue over definitions but the main thrust of our argument is the for employers and more importantly employees is that people with a mental health issue need this type of legislation to protect their rights, which is an illness which is still not understood.</p> <p data-bbox="315 762 2047 818">THIS LEGISLATION REQUIRES THAT MENTAL HEALTH/ILLNESS SHOULD BE CLARIFIED AND NOT BE INFERRED TO AS BEING INCLUDED IN THE DEFINITION OF MENTAL IMPAIRMENT (which helps no one)</p> <hr data-bbox="315 842 687 845"/> <p data-bbox="315 880 734 906"><b>Trustees of Manx Blind Welfare Society</b> We recommend the addition of two further areas of prohibited conduct</p> <ol data-bbox="315 954 846 1010" style="list-style-type: none"> <li>1. Failure to make a reasonable adjustment</li> <li>2. Discrimination by association</li> </ol> <p data-bbox="315 1042 2047 1098">Whilst we recognise that these areas are alluded to elsewhere we would recommend that by placing them under the heading of "Prohibited Conduct". Such action will have the potential to reduce the possibility of misunderstanding or legal argument in the future.</p> <hr data-bbox="315 1121 687 1125"/> <p data-bbox="315 1161 577 1187"><b>Royal College of Nursing</b> Again this list is comprehensive which mirrors the coverage of the UK's Equality Act 2010.</p> <hr data-bbox="315 1235 687 1238"/> <p data-bbox="315 1273 499 1299"><b>Jacqueline Yates</b> I support the scope as it has been written.</p> <hr data-bbox="315 1347 687 1350"/> <p data-bbox="315 1388 521 1414"><b>UNITE – the Union</b></p>



Question	Response
<b>Q4</b>	<b>Do you have any comments about the coverage of the Bill?</b>
	<p>Employers or service providers should not have a free hand to contravene the Bill for the purpose of safeguarding national security. The Bill should ensure this action is proportionate for that purpose.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society strongly supports the coverage described in the new Bill. This is a vast improvement on the original proposals that were described in the Manx Disability Discrimination Act 2006 (DDA) which covered access to goods and services only.</p> <p>Equitable access to education and employment are essential before one can consider issues around access to goods and services. The Society saw this as being a major weakness in the former DDA.</p> <p>There is little point in debating access to a cinema or restaurant if a disabled person doesn't have the means to pay for the service. Economic equality comes from having access to employment opportunities.</p> <hr/> <p><b>Department of Education and Children</b>  It is appropriate that Education is covered but there are potential issues for DEC in relation to student awards, special educational needs provision and course access.</p> <hr/> <p><b>Peter Murcott</b>  'Race' is a special category on its own. That is why there is particular protection with regard to goods and services. One is not aware of a compelling demonstrable need for legal intervention beyond this.</p> <hr/> <p><b>Sean Young</b>  para 3.7 shows that the levels of protection on the island are far behind those of the UK.</p>

Question	Response
<b>Q5</b>	<b>Do you have any comments about direct discrimination?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM branch agrees with what is stated.</p> <hr/> <p><b>Chamber of Commerce</b>  No specific comments regarding the concept and the principles of direct discrimination. However, members have asked what guidance, support and training will be available in helping them to understand a complex area of the law.</p>

Question	Response
<b>Q5</b>	<b>Do you have any comments about direct discrimination?</b>
	<p>Hamblin state: "Are clients open to discrimination claims for asking staff to work on weekends (i.e. religious reasons), how do we turn down candidates that cannot do those hours due to religious reasons?"</p> <p>"Disability and age difficult subjects in some work places and it's not discrimination but ability - manual labour which people who are older often meaning less able and people with certain disabilities may effect this sort of work, and not hiring them for this reason is not discrimination but rather is choosing a suitable candidate for this role".</p> <p>The above is just one example of a member that has specific questions which the current information provided does not provide an answer for. Consultation Document does not provide any comfort for businesses that they will receive the appropriate support and guidance to provide answers to all of their questions. No plan for the practical implementation of any legislation has been provided at all. Most members feel that without more detail in this regard, it is almost impossible for businesses to be positive and supportive of the proposed legislation.</p> <hr/> <p><b>Ballamona Association for Mental Health</b></p> <p>We welcome the legislation which spells out that discrimination, harassment and victimisation of any kind is unacceptable against the law and that people can gain protection, by the introduction of this legislation.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b></p> <p>We are broadly supportive this element of the bill and the supporting explanatory narrative provided in the consultation paper.</p> <hr/> <p><b>Royal College of Nursing</b></p> <p>The RCN agrees with the comments made about direct discrimination.</p> <hr/> <p><b>Jacqueline Yates</b></p> <p>I support the proposals in this regard.</p> <hr/> <p><b>UNITE – the Union</b></p> <p>For the Bill to be specific, dual discrimination; gender reassignment discrimination; pregnancy; maternity and paternity discrimination need to be added to the list of prohibited conducts.</p> <hr/> <p><b>Manx Deaf Society</b></p> <p>The Society supports the proposals and agrees that it is appropriate that victims who are non-disabled themselves but who have experienced discrimination through association with a disabled person are afforded protection as described.</p> <p>The Coleman v Attridge Law 2008 case (European Court of Justice) clearly established that non-disabled carers of disabled people do have protection from</p>

Question	Response
<b>Q5</b>	<b>Do you have any comments about direct discrimination?</b>
	<p>discrimination under the law. It is entirely appropriate that this judgement is reflected in the Manx Equality Bill as an example of unlawful direct discrimination.</p> <hr/> <p><b>Sean Young</b>  how is sex discrimination to be handled when there is a clearly defend requirement for a person of a specific sex? i.e. security searches at the boats and airport, the prison. These must be carried out by a person of the same sex, as such an employer would have to advertise the employment specifically to one sex or another, to the exclusion of one.</p>

Question	Response
<b>Q6</b>	<b>Do you have any comments about discrimination arising from a disability?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM branch agrees with what is stated.</p> <hr/> <p><b>Chamber of Commerce</b>  Please see answer to question 10 below on reasonable adjustments.</p> <hr/> <p><b>Royal College of Nursing</b>  The RCN agrees with the comments made about discrimination arising from a disability.</p> <hr/> <p><b>Jacqueline Yates</b>  I support the proposals in this regard.</p> <hr/> <p><b>UNITE – the Union</b>  Employers and service providers should not be able to use business needs as a justification to discriminate. The Bill can ensure that equality comes first.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society supports the proposals.</p> <hr/>

Question	Response
<b>Q6</b>	<b>Do you have any comments about discrimination arising from a disability?</b>
	<p data-bbox="315 264 725 288"><b>Department of Education and Children</b></p> <p data-bbox="315 293 1151 320">This could have cost implications for DEC in relation to special needs provision.</p> <hr data-bbox="315 341 685 347"/> <p data-bbox="315 379 461 403"><b>Peter Murcott</b></p> <p data-bbox="315 408 1995 464">The illustration about the licensee of a public house is interesting. The Licensing Act 1995 contains a provision that a licensee may require anyone to leave the premises without giving a reason. One suspects that if the law becomes unduly complicated, the licensee will simply rely on that provision.</p> <hr data-bbox="315 485 685 491"/> <p data-bbox="315 528 443 552"><b>Sean Young</b></p> <p data-bbox="315 557 2047 608">the examples given are gender specific when they could apply to either a male or a female equally. This could cause confusion as to if a person could bring a claim based on sex.</p>

Question	Response
<b>Q7</b>	<b>Do you have any comments about indirect discrimination?</b>
	<p data-bbox="315 828 770 852"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 857 826 884">The ATL IOM branch agrees with what is stated.</p> <hr data-bbox="315 904 685 911"/> <p data-bbox="315 948 562 971"><b>Chamber of Commerce</b></p> <p data-bbox="315 976 898 1003">No specific comments regarding indirect discrimination.</p> <p data-bbox="315 1008 2074 1086">However, members have asked what guidance, support and training will be available in helping them to understand a complex area of the law. The Consultation Document does not offer any comfort or a plan as to how such guidance will be provided or what complete resources will be allocated to ensure that there will be the appropriate guidance and support available.</p> <hr data-bbox="315 1107 685 1114"/> <p data-bbox="315 1150 573 1174"><b>Royal College of Nursing</b></p> <p data-bbox="315 1179 1077 1206">The RCN agrees with the comments made about indirect discrimination.</p> <hr data-bbox="315 1227 685 1233"/> <p data-bbox="315 1270 495 1294"><b>Jacqueline Yates</b></p> <p data-bbox="315 1299 719 1326">I support the proposals in this regard.</p> <p data-bbox="315 1362 2058 1406">The UK Act also includes outlawing discrimination where there is negative treatment because of a perception of having a particular characteristic even if that characteristic does not apply to the person e.g. refusing entry to someone because you think they are German when in fact they are Danish. Why has this not been</p>

Question	Response
<b>Q7</b>	<b>Do you have any comments about indirect discrimination?</b>
	<p>included here?            There are circumstances where it is justifiable to discriminate against somebody with a disability but the appropriate criteria and a proper risk assessment rather than using spurious arguments such as health and safety. The onus should be on the employer to demonstrate the justifiability of their actions.</p> <p>Furthermore, organisations should ensure that disclosure of disabilities is always encouraged in order to ensure that reasonable adjustments can be made.</p> <hr/> <p><b>Manx Deaf Society</b>            The Society has considered the proposal and thinks that more guidance is needed around justification of discrimination 'as a proportionate means of achieving a legitimate aim'.</p> <p>There have been recent examples of a deaf person with a hearing dog being denied access to restaurants and coffee shops on the Isle of Man. The justification given at the time was 'health and safety' yet it was apparent that the person making this decision had no experience or training in making health and safety risk assessments.</p> <p>MDS considers that guidance is needed so that only genuine health and safety concerns are used for justifying the actions described. Spurious claims such as 'wheelchair users are a fire hazard' must not be tolerated and a clear message given out that this isn't acceptable.</p> <hr/> <p><b>Peter Murcott</b>            It has always struck me that these indirect discrimination provisions have unduly complicated the law and have led to some very expensive cases. This is yet another reason for resisting the widening of the categories of people for protection.</p> <hr/> <p><b>Sean Young</b>            para 3.17, single parent families can be for various reasons have a parent that is male of female</p>

Question	Response
<b>Q8</b>	<b>Do you have any comments about harassment?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>            The ATL IOM branch agrees with what is stated.</p> <hr/>

Question	Response
<b>Q8</b>	<b>Do you have any comments about harassment?</b>
	<p><b>Chamber of Commerce</b> No specific comments on harassment. However, members have asked what guidance, support and training will be available in helping them to understand a complex area of the law. The Consultation Document does not offer any comfort or a plan as to how such guidance will be provided or what complete resources will be allocated to ensure that there will be the appropriate guidance and support available.</p> <hr/> <p><b>Royal College of Nursing</b> The RCN agrees with the comments made about harassment.</p> <hr/> <p><b>Jacqueline Yates</b> I support the proposals in this regard.</p> <hr/> <p><b>UNITE – the Union</b> Unite believes that prohibiting third party harassment which is a common and degrading act is vital. Many of our members suffer from this humiliation from customers, service users or contractors. All workers should be fully protected from this form of harassment and employers should have the responsibility to prevent this from happening in the first place and should act promptly at the occurrence of the first incident. The Equality Bill can put this right.</p> <hr/> <p><b>Manx Deaf Society</b> The Society supports the proposals and is delighted to see that the Equality Bill will include a 'public sector equality duty' which will require positive action to eliminate disability related harassment. MDS feel that a proactive approach by public bodies is needed to combat disability harassment in public places and on public transport.</p> <hr/> <p><b>Peter Murcott</b> The introduction of 'harassment' in other areas of the law (for which there were some justifiable reasons) has led to some very wide-ranging, loosely-worded provisions, especially in the Public Order Act. Regarding the proposed clause in the Equality Bill, although there is a reference to Article 10 of the Human Rights Convention in the notes, there is no reference to its basic provisions in the proposal. Moreover, in determining the case, there should be an objective/subjective approach. The objective approach would be whether a reasonable, fair-minded person, taking into account all the circumstances, would regard the conduct as being capable of being harassment? Various relevant matters would then be considered. It would be at that point that the attention would turn to the subjective perception of the complainant.</p> <p><b>3: The Harassment Provisions (Clause 27)</b> 3.1 This needs to be considered with great care. There is the ever-present danger of responsible free speech and expression being unduly curtailed by a form of politically-correct censorship. 3.2 It is not clear what is covered by the word 'conduct'.</p>

Question	Response
<b>Q8</b>	<b>Do you have any comments about harassment?</b>
	<p>3.3 Assuming that it includes speech as well as actions, a provision needs to be made in clause 27(4) to the effect that one of the things to be taken into account is that freedom of speech and expression.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b>  Paragraph 3.20 – I have a fear of floodgates against employers. A black man may suffer some nasty abuse from a manager but chooses to turn the other cheek except for making his point to the owner but some white people who heard the abuse get the chance to gang up on the employer and make claims saying that they were offended and thus entitled to an award for harassment. Ditto re pinups in the workplace.  Is it not better that an employee’s right is to make a written complaint about overhearing abuse/seeing pinups etc to which employer must respond in writing agreeing to desist/enforce compliance among employees forthwith and only thereafter a right arises on continuation/second offence.</p> <hr/> <p><b>Sean Young</b>  harrasement, because a person has asked for reasonable adjustments to be made or makes a complaint/grievance</p>

Question	Response
<b>Q9</b>	<b>Do you have any comments about victimisation?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM branch agrees with what is stated.</p> <hr/> <p><b>Chamber of Commerce</b>  No specific comments on victimisation.  However, members have asked what guidance, support and training will be available in helping them to understand a complex area of the law. The Consultation Document does not offer any comfort or a plan as to how such guidance will be provided or what complete resources will be allocated to ensure that there will be the appropriate guidance and support available.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b>  We are of the view that the Bill has made significant accommodations which will enable a clearer understanding of what constitutes discrimination in the context of the Act.  This said we are concerned that reference within the consultation document (see page 14 para’s 3.30/3.31) which refers to the work of the Multi-Agency Forum will in no way delay the implementation of the Act.  To qualify this statement we are aware that a firm definition of reasonable will most likely never appear in this legislation and that such definitions will ordinary only</p>

Question	Response
<b>Q9</b>	<b>Do you have any comments about victimisation?</b>
	<p>be determined on a case by case basis in a court of law. We accept that the Bill provides guidance on this but we recommend that secondary legislation or codes of practice are developed (again using models readily available from the UK) to inform and guide actions or decisions in this area.</p> <hr/> <p><b>Royal College of Nursing</b> The RCN agrees with the comments made about victimisation.</p> <hr/> <p><b>Jacqueline Yates</b> In general, I support this proposal re victimisation but feel that it should be extended to include actions short of legal action which then result in someone being treated differently. For example, where an employee raises an issue with a senior manager or seeks redress through their union.</p> <hr/> <p><b>Manx Deaf Society</b> MDS supports the proposals but feel that protection should be extended to those who raise an issue in good faith without resorting to full legal action.</p> <hr/> <p><b>David Carter</b> The victimisation provisions in the bill should include the right not to suffer a detriment for membership of a trade union, either in the workplace or when applying for employment.</p> <hr/> <p><b>Sean Young</b> victimisation and harassment can and do often occur together as a result of any proceedings.</p>

Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM branch agrees with what is stated – there are a significant number of older buildings on the IOM and it may not be possible to make provision for all the adjustments. A key term is the word ‘reasonable’.</p> <hr/> <p><b>Chamber of Commerce</b> It is acknowledged that it may be difficult, if not impossible to define reasonable adjustment in the primary legislation. In the UK, the Statutory Code of Practice does</p>



Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>provide some useful guidance, which runs to about 20 pages or so, specifically on the kind of reasonable adjustments that an employer would be expected to consider in certain situations. No such regulations or guidance have been supplied yet and the Consultation Document does not mention what it is intended will be produced, adopted or followed.</p> <p>Chamber members have submitted that, without sight of the Regulations or any draft Code of Practice or official guidance (or at the very least an indication of what is intended will be adopted), it is difficult for many businesses to understand the full practical implications of the legislation in respect of reasonable adjustments. It should not be for businesses to have to second guess what the Government's plan is in this regard.</p> <p>The Consultation Document states that there will be powers to make Regulations (secondary legislation) about a range of issues relating to the reasonable adjustment duty, such as the circumstances in which a particular step will be regarded as reasonable. Until such regulations are provided, feedback on this area can only go so far. Are these Regulations going to take the form of the UK Statutory Code of Practice? If so, this information should have been provided.</p> <p>The cost implications of needing to make reasonable adjustments and the lack of guidance in this area are at the forefront of all members minds. The Consultation Document states that "in the UK it is now thought that the average cost of reasonable adjustments for a person with a disability at work is about £75". Members have, in Chamber's view quite correctly, been scathing of this statistic. It is unrealistic and, even if it is correct, the UK's position now some 4 years after the Equality Act was introduced and decades after the underlying discrimination legislation was enacted (e.g. disability discrimination legislation 1995) is completely unhelpful and incomparable. It is respectfully submitted that this is misleading.</p> <p>IQE stated:</p> <p>"Cost implications to business of changing premises for greater access could also be significant as could increased premiums for the employers in respect of Company benefits to ensure cover is provided for people over 65".</p> <p>Hamblin stated:</p> <p>"Can clarity be provided on the scope required for existing staff members for reasonable adjustments at work. If an employee were to suffer a serious accident and be wheelchair bound, what requirements would the business have to enable me to continue in this role? In the current office set up what would expectations be and how would they be enforced? The outlay in altering the business building may be £100,000+ what would the grant assistance be for small business"</p> <p>Canada Life states:</p> <p>"To date the only information that has been quoted regarding costs of implementation has been a figure of circa £70 given in respect of the average cost of necessary workplace adjustment to accommodate disability. From experience within our own group, this figure seems wholly unrealistic; our sister UK company employs circa 1,000 staff and approximately 20% of these now have some form of workplace adjustment in place. The most basic and common adjustment is a combination of wrist rest/document holder/foot rest costing circa £70. These cost then rise to accommodate increasingly common requests for specialist orthopaedic chairs – circa £600 fully fitted – to the more extreme cases where the "reasonable adjustment" have cost circa £2,000. Costs for adjustment to premises are clearly very much higher. On this basis we feel that the cost of workplace adjustment will be considerably higher than the estimate given.</p> <p>Overlying the cost of physical adjustment will be the administrative costs associated with the implementation of the Bill – these will be high and do not appear to have</p>

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	<p>been factored into the discussions as to whether now is the right time to implement.</p> <p>Companies such as ourselves will be required to undertake a comprehensive review of all policies and procedures (costly in terms of both time, resource and legal costs) with an expectation that we will be required to make some significant changes to our benefits package that will not only incur additional cost but will also have a negative impact on many of our staff.</p> <p>Building on the anticipated costs of implementation within the private sector, has the likely cost of implementing the proposed Bill within the public sector itself been assessed or decisions made as to how these will be funded? If implementation costs within the public sector will need to be balanced with further cost savings elsewhere in the government budget, then these choices need to be made clear when the Island is being asked to make a decision regarding the introduction of this Bill.</p> <p>To summarise, we believe that the vast majority of the Island's employers will face significant additional costs to comply with the Equality Bill at a time when most continue to feel the effects of a recessionary climate."</p> <p>Ronaldsway Aircraft Company Ltd states:</p> <p>"For us just the disability side could cost us in the region of £5k-£15k I would estimate, and I suspect for Government this would be a high cost too with all their facilities.</p> <p>Cost of review of legislation and deploying new controls etc. - I would estimate around 3 people for around 6 weeks of work in the first year - circa £12k."</p> <p>Isle of Man Enterprises state:</p> <p>"The uncertainty about future costs due to the lack of guidance about making "reasonable adjustment" for disabled people is a major concern and also makes it difficult to comment on the proposed implementation date".</p> <p>One small business (7 permanent staff and two part time staff) have cost based concerns:</p> <p>"To meet the requirements for an employee with a disability would require our company to undertake significant structural works. Without government assistance, we would not be able to undertake these modifications to comply with the proposed regulations. Small businesses need flexibility to do business and while recognising the principles of equality, small businesses should not be burdened with the financial cost".</p> <p>Colas state:</p> <p>"Luckily our organisation has been sympathetic and forward thinking to the Disability requirements, when looking at the design of our buildings (on the most part). However, that is because we have relatively new offices. We will, however, need to think about our customers and requirements and how we communicate to our customers - are we unknowingly discriminating against a certain person. Do all our publications and marketing comply and reach all different types of groups. What are these requirements as currently they have not been stipulated?</p> <p>I am concerned for other business with regards to the impact of costing's connected to complying with the disability stipulations and the changes they may have to make to their buildings and the practicalities to this. Just looking at the buildings in central Douglas, particularly Athol Street, there is not the space to carry out</p>

Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>adjustments and some of the buildings will be listed, will they be exempt from the Bill and if so is that not unfair and discriminatory to others who have to make changes. The requirements will be too much for some businesses and they may find their business dissolved which is not positive for the IOM economy.”</p> <p>Triumph Actuation Systems state “what constitutes ‘disability’ and ‘reasonable’ adjustments needs guidance for employers”.</p> <p>The grant system mentioned on page 15 of the Consultation Document does not seem to be actively promoted by the Government. In addition, whilst the ability of a business or a person to receive up to £10,000 over three years to assist with any modifications is most definitely welcome, whether this will be sufficient is questionable. Small businesses in particular may need much more support than this grant system can provide. There is no consideration as to whether a small employer’s exemption should be considered, which the UK Government introduced when they first brought in the Equality Bill. Alternatively, enhanced grant systems may need to be considered.</p> <p>In relation to the current grant system, no cost assessment has been carried out as to how much this is likely to cost the Government. Members believe that the cost consequences have not adequately or seriously been considered. Worse still, they may have simply been down played.</p> <hr/> <p><b>Ballamona Association for Mental Health</b>  We welcome the clarification of the support that is available, for a returnee to the workplace especially after a period of prolonged ill health but MENTAL HEALTH MUST BE INCLUDED SPECIFICALLY FOR SUPPORT TO BE MADE AVAILABLE FOR RETURNEES.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b>  In our view the definitions of what constitute a disability as laid out in the bill are satisfactory and we offer no improvement on them. The detail within the Bill which deals with the matter of making reasonable adjustments for a person with a disability is in our view “reasonable”. We would refer you back to our previous response (Q9) concerning “reasonable adjustments”.</p> <hr/> <p><b>Royal College of Nursing</b>  The RCN agrees with the comments made about what constitutes a disability and about the requirement to make reasonable adjustments for a person with a disability.</p> <hr/> <p><b>Jacqueline Yates</b>  I support the proposals in this regard. However, I do not agree that work on implementing the DDA 2006 (as claimed at 3.30 above) has been progressing. The award scheme is superficial and rewards organisations for doing what they should be doing anyway. Awards should only be given where people go beyond what they law expects.</p> <p>Implementation of the DDA has been disastrously slow and has been held up by the failure of the Government to require compliance.</p> <p>It will be vital to share understanding of the meaning of the term reasonable adjustment and to ensure lateral thinking in addressing challenges for people with</p>

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<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>disabilities. Most importantly, people with disabilities should be consulted concerning their needs and any attempt to patronise people or assume we know what they need must be avoided.</p> <hr/> <p><b>Manx Deaf Society</b></p> <p>As mentioned previously (Q3), the Society believes that careful consideration needs to be given to using the term 'disability or long term health condition' as many people with impairments do not self identify with the term 'disability'.</p> <p>The Society itself does not have a problem with the term 'disability' as long as it is used in the context of the Social Model of Disability. That is disability being a social construct rather than an inherent condition of an individual with impairment. So it follows that society can change to remove disabling barriers for people with impairments and thus eliminate disability.</p> <p>However, we recognise that many people are unaware of the 'Social Model of Disability' (more about this later).</p> <p>The Society would welcome the inclusion of 'sensory impairment' in the definition of disability ;</p> <p>'A person has a disability or long term health condition for the purposes of the Bill if the person has a physical, sensory or mental impairment .....</p> <p>MDS are aware that UK and US case law clearly indicates that deaf people and hard of hearing people (who have a substantial loss) are covered by the existing definition, however, including 'sensory impairments' will be a progressive step for the Isle of Man and will remove all traces of doubt.</p> <p>The Society welcomes the inclusion of the duty on service providers and employers to make reasonable adjustments for disabled people. MDS strongly agree that the adjustment should remove any 'substantial disadvantage' and that the cost of the adjustment (if any) should not be passed on to the individual disabled person.</p> <p>MDS are disappointed though that the Equality Bill does not mention provision of a sign language interpreter as an example of an auxiliary aid or service. The Society considers this to be a diminishment of the rights of deaf British Sign Language users.</p> <p>The Isle of Man Disability Discrimination Act 2006 Chapter 17, Part III , 6 (4 a &amp; b), Duty of providers of services to make adjustments, clearly says:</p> <p>'Where an auxiliary aid or service (for example, the provision of information on audio tape or a sign language interpreter) would - .....</p> <p>The drafting of the Equality Bill is a disappointment in this respect and MDS would urge the Government to reconsider the decision not to include a reference to sign language interpretation. The UK had no need to include such a reference in the Equality Act 2010 as the concept of sign language interpretation being a reasonable adjustment was well established during the 15 years when the Disability Discrimination Act 1995 was in force.</p> <p>The Society notes and is pleased that the public consultation document about the Equality Bill includes an example (a conference) when a British Sign Language interpreter is required as an example of the duty. However, this point could be better made by including the example in the Equality Bill itself.</p> <p>MDS urges great caution to be exercised by the introduction of a tiered award scheme. Any such award scheme needs to have the full support and endorsement from</p>

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	<p>disabled people themselves ; 'NOTHING ABOUT US WITHOUT US' is a well-known disability rights mantra that needs to be heeded in this case.</p> <p>Likewise the work on defining reasonable adjustments by the Multi Agency Forum needs to be considered most carefully. The Forum's membership needs to comprise of at least 51% disabled people if it is truly to work effectively.</p> <p>The Society considers it to be an impossible task to precisely define 'reasonable adjustments' as so much depends on the severity of the individual disabled person's impairment , the resources available and the circumstances of the particular case. An adjustment is either reasonable or it isn't depending on the circumstances and it is for the Courts and Tribunals to decide this rather than the Multi Agency Forum.</p> <p>The public consultation document mentions that the average cost in the UK of a reasonable adjustment for a disabled person in the workplace is £75 but there will be situations where greater expense is involved. MDS agree that for deaf and hard of hearing employees the costs of communication support are likely to be far, far higher; attending interviews, team meetings and training days.</p> <p>The statement about support available (£10k over 3 years) from the Employment (Persons with Disabilities) Scheme 1999 is welcome but the amount available is inadequate to meet the communication support needs of the Island's deaf and hard of hearing population who are of working age and wish to work. These people have a right to work (as described by the International Convention on Economic, Social and Cultural Rights 1966) and thus greater assistance in the form of resources from Isle of Man Government is required. If resource is not made available then the Equality Bill will not be able to prevent discrimination against deaf people in the labour market.</p> <hr/> <p><b>Office of Fair Trading</b></p> <p>The OFT supports the view that, as far as reasonable, everyone should have access to goods and services. There is considerable developing precedent in the UK as to what is and is not reasonable and this is an area where following the UK legislation will be highly beneficial.</p> <hr/> <p><b>Road Transport Licensing Committee</b></p> <p>Perceptions of what constitutes a disability are many and varied. Most people that the Committee has met with disabilities are usually well able to adapt themselves to whatever the problem is. Most seem to be able to cope with only minor adjustments to the tasks that concern them.</p> <hr/> <p><b>Prospect</b></p> <p>The proposals appear to hinge on a great deal of documentation from the United Kingdom. We believe that there ought to be extensive consultation undertaken in respect of any proposed guidance.</p> <hr/> <p><b>Department of Education and Children</b></p> <p>This could have significant cost implications for DEC in relation to its buildings and other provision for those with special educational needs depending upon the degree to which cost is taken into account in determining reasonable adjustments. In the current financial climate with great pressure on budgets and resources, what may have been considered reasonable previously, may not be possible now. There is reference to the 'reasonableness' issue being considered by the Multi</p>

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<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>Agency Forum, but it would be helpful if there was a definition from the outset.</p> <hr/> <p><b>Colin Coole – Capital International IOM</b>  <u>Reasonable Adjustments:</u>  The cost for making reasonable adjustments to a building are significant.  The timescale to make these adjustments are very tight.  Many island businesses are based in offices or locations on long term leases.  Can these landlords make the changes in time? What costs will be passed on?  Businesses that own their own property will have to factor in these significant costs.  How can they stay competitive to non-island competitors with more unforeseen costs?  Businesses providing services will also need to make very quick changes.  It is interesting to note, that only 2 hotels on Douglas seafront appear to have disabled access.  Do these hotels close and the staff be made redundant?</p> <hr/> <p><b>Multi-Agency Forum for the Disability Discrimination Act</b>  The forum is supportive of the principles behind the legislation and the proposed update in discrimination law generally.</p> <p>In particular, the members of the forum that provides services to the public which include people with protected characteristics feel that an update in the area of discrimination law, particularly disability legislation is long overdue.</p> <p>The forum notes that the consultation document refers to “regulations” which would deal with the circumstances in which a particular step will be regarded as reasonable and would welcome the publication by the Isle of Man Government of any draft regulations in this regard for further consideration. The forum hopes to engage with Government concerning the content of any regulations that are provided to assist organisations in understanding the duty of reasonable adjustments and how far this extends.</p> <p>The forum would welcome clarification as to whether the regulations that the consultation document refers to would take a similar form to the UK Employment Statutory Code of Practice in terms of providing guidance for compliance with the legislation or whether these regulations would be supplemental to any Code that the Isle of Man may also adopt.</p> <p>The forum acknowledges that it may not be possible to define in the primary legislation in a hard and fast way as what would constitute “reasonable” as this will almost certainly be highly dependent on the facts of each individual case and it is important that the legislation is flexible enough to adjust to each individual situation.</p> <p>The forum can see the benefit of the legislation on reasonable adjustments being similar to the UK so that the UK’s case law on this area can be applied for guidance. However, as with any UK legislation or statutory guidance that it is proposed is adopted, this should be reviewed for appropriateness/ applicability to the Island.</p> <p>The forum believes that central to the success of the Act will be the creation of practical supporting easy read guidance perhaps focussed on individual sectors and certain organisations. Once the Isle of Man Government has given an indication of the form and content that the supporting regulations/code of practice/ any other official guidance will take, the forum would in turn strive to provide practical support and further guidance in order to assist in educating others in relation to the legislative obligations and how to comply in practice.</p>

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<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<hr/> <p><b>Ms Isabel Miller, Advocacy Service Manager, United Response</b></p> <p>In replying to the consultation, I would like first of all to welcome the Equality Bill as a piece of legislation which is much needed. My particular area of interest is learning disabilities. I am pleased that it is more wide ranging than the previous Disability Discrimination Act 2006 which unfortunately was never implemented. My major concern is that this Bill may take years to be enacted and implemented thus further delaying people's right not to be discriminated against.</p> <p>My concern in this regard is based on my experience with the previous act. When I asked Managers in the Department re timescales for implementation, I was told that it would take about 3 years as regulations needed to be drawn up before full implementation was possible. I was advised that the Dept intended to put this work out to tender. Each time I asked for an update, I was told essentially the same thing until at one point, I was advised that the Dept needed to carry out a Scoping Exercise which I understood to entail the costing of implementation to the Govt. I do not know if this was ever done. The next thing I heard was that the preferred option was to introduce an Equality Act which was more far reaching than the 2006 Act. While I believe this is a good way forward, I would like to be assured that the same delays will not hamper implementation of a new Equality Act. It is already almost 20 years since legislation was first introduced in the UK so I believe we should not be accepting any further delays.</p> <p>From a presentation by Ms Caren Pegg from Appleby's at the recent meeting of the Tynwald Advisory Council for Disabilities, I learnt that many companies are only doing what is necessary to adhere to the law in the particular jurisdiction they are operating within ie adherence to the principle of equality in the Isle of Man will be considerably less than in jurisdictions where there is Equality legislation. I also learnt that there are concerns within the business community with regard to the speed of possible implementation. It was difficult not to get the impression therefore that some people at least will be trying to delay implementation on the ground of cost.</p> <p>Cost I am sure is also a great concern to the Government. When the Isle of Man College decided to cease offering adult leisure and learning courses to adults with learning disabilities, I was told this was on the ground of cost. Their priority was to meet the needs of young students with learning disabilities in a new centre of excellence being built for this purpose. They however needed the staff who supported the Leisure and Learning Courses for this new project and this was the main reason given for ceasing the courses. We asked the College to consider how these young people would feel when they moved from this excellent provision which would last from 3 to 5 years to nothing at all? We pointed out that there seemed to be something wrong with a plan which offered all for a small number of years and nothing for your whole adult life. This was not listened to on the grounds of cost. We also suggested that they then make some adjustment to the courses on offer to make them more accessible to people with learning disabilities but I don't believe this happened. Many people with learning disabilities felt this was a discriminatory act but very few others seemed interested. We are fully aware that cost is important but we hope that when an Equality Act is in force, people will need to think of better outcomes than this particular one if they are to comply with their Equality duty. This happened in 2012 and is still the case now.</p> <p>We feel therefore that private and public sector alike will be challenged by Equality legislation but also feel it is too easy simply to always hold out the cost card. We hope that people will embrace the challenge of Equality and be creative in finding ways to provide greater equality within a sensible financial framework.</p> <p>In summary, we support the Equality Act but would like to see implementation within a reasonable timescale. As Caren seemed to indicate, people don't always take their human responsibility to treat their fellow man with equality unless there is legislation to insist on it.</p> <hr/> <p><b>Marown Parish Commissioners</b></p> <p>The Commissioners considered the consultation ... They resolved to make no comment. They do, however, point out that any requirement to make alterations to buildings must be proportionate and that clear guide-lines must be produced.</p> <hr/>

Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p><b>Mrs M.I Kerruish</b></p> <p>The Isle of Man Government should be congratulated for deciding to introduce the Equality Bill 2015 which generally follow the guidelines of the U.K. equality Act 2010 with some exceptions.</p> <p>Although this document seeks to ensure equality for all it gives special mention to the relevant protected characteristics of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation.</p> <p>I feel that the Bill has indeed strived to protect and enhance the quality of life of the above.</p> <p>However, as a member of the "Manx Deaf Society" for over thirty years, and the President of The Manx Muscular Dystrophy Society I must declare that my main concern and interest is related to the deaf and disabled members of our society and my desire is that they should not be discriminated against in the field of education, in the workplace, and socially. I feel as the Bill state that "reasonable adjustments should be made to accommodate such persons" and it is right that "failure to comply with the duty to make reasonable adjustments will constitute unlawful discrimination on the grounds of disability"</p> <p>I consider it is particularly important that when commencing employment that deaf and disabled persons should be given a written statement of their terms and conditions to avoid misunderstandings, and thereby reducing the possibility of disputes, I also feel that in the workplace and other situations that disabled persons should not be put at a substantial disadvantage compared to non-disabled persons and that reasonable measures should be put in place to ensure the same. I also believe, that, as stated in the document, disabled people's dignity should not be violated, or that they should not be subject to intimidating, hostile, degrading, humiliating, or offensive behaviour.</p> <p>Service Providers must not victimise a disabled person requiring service by not providing them with the same level of service that they would to other members if the public.</p> <p>Trade organisations should not discriminate against disabled people by denying them membership, or by not offering the same opportunities, benefits facilities or services as they would to nondisabled persons, This criteria should also apply to education facilities for students and pupils. In my opinion the main consideration should be that disabled persons should not be treated unfavourably or unfairly because of something arising from a consequence of their disability.</p> <p>I do believe that the Equality Bill has made an attempt to address the above issues which I hope will enable the Isle of Man to create a fair and equal society.</p> <hr/> <p><b>Margaret Brown</b></p> <p>For 20 years I worked for Manx Blind Welfare Society until my retirement 4 years ago. Fairly early in my time at the Society, on their behalf I attended a meeting where ideas were being put forward for the drafting of a Disabilities Discrimination Act. I would estimate that must have been at least 20 years ago so it is devastating that nothing has yet been brought in, even though the aforementioned Act got as far as the Statute books. It is probably sensible that it has been widened in to the Equality Bill to include other types of discrimination but I do think on the disability side it has been weakened and attention should be given to this. Whereas nobody would expect Victorian or Georgian buildings to have to be knocked down so that they could be modern and accessible, there should be adjustments made so that in the reception area of any building that has to be accessed by the general public there are means whereby if anyone was physically disabled, blind or deaf they could have a means of attracting a staff member's attention. Even Government buildings aren't accessibly friendly to all types of disability and they should definitely lead by example. I think a lot of people fear that Act coming in, thinking it will cost a fortune but it is just establishing in the Bill what adjustments are "reasonable" to make the world accessible in all the different areas for people with a disability. As far as blind and partially sighted people are concerned, sometimes just relatively small adjustments can make a big difference to their lives, ec restaurants having menus in a simple font with bold large</p>



Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>print (easily done on a photocopier) or a recorded version for a totally blind person. I am sure Manx Blind Welfare Society would be happy to help with the latter. Another problem for blind people with guide dogs is that taxi drivers often won't take the dog in the car or restaurants won't allow them in. In those cases the guide dog is their eyes so they can't manage without them which then precludes them going in the taxi or restaurant. They struggle enough with disability without making it harder but at present there is nothing that can be enforced. Hopefully, therefore, the sooner this Act comes in the better and please let it be within this House as if it doesn't, there will be a huge hold up until after the election.</p> <p>I hope I am a measured person and an example is that when I was at Manx Blind Welfare Society, many years ago a blind person had approached Douglas Corporation and asked for no street furniture because it was an obstacle for blind people and it wasn't safe. Douglas Corporation came to Manx Blind Welfare Society and asked their opinion. We did an audit and concluded that if cafes or restaurants had street furniture out, provided it was sectioned off and still left sufficient room for blind people; people in wheelchairs; mothers with prams etc to get through without going on the road, it was a compromise. If you completely took away street furniture you could say you would be discriminating against sighted people. Equally at that time there were cafes who had tables and chairs taking up far too much of the pavement and people were having to go in the road to get past and the same with some displays from shops. That was not acceptable but it is about getting the balance right and this is what is going to be important in the Equality Bill.</p> <p>Currently I chair a charity called CIRCA which runs the Shopmobility scheme. It is schemes like this that will hopefully help when the Equality Act comes in because it provides a service which can help people to be independent and access the shops; have a day out with a friend etc. Therefore whether the disability has been caused by illness or injury, anyone with impaired mobility can be helped with the Shopmobility service. Hopefully by working with Government, charities like this can assist in facilities like this being offered. CIRCA also have a service which recruits volunteers for numerous Island charities including many who support vulnerable and disabled people who would be covered by the Equalities Act.</p> <hr/> <p><b>Sean Young</b></p> <p>The wording needs to be changed to "all" reasonable adjustments are made. A few relatively minor adjustments can add up to a far larger impact on a person. I feel that at the moment the current wording doesn't offer enough protection as an employer could reasonably say that they have made an (single) adjustment and therefore complied with the legislation.</p> <p>All capability, disciplinary proceedings should be stopped whilst an adjustment is made and time given for it to settle in. Only once they have all been made could such proceedings begin again, though they must be from scratch. Also they must seek to identify any further adjustments that could be made. I feel it would be good to give some further examples of such adjustments in the act, to include hours worked, breaks, productivity targets.</p> <p>How with the reasonableness of an adjustment be assessed before going to a tribunal? Many adjustments such as hours, productivity are free to make and as such automatically reasonable to have to make.</p> <p>What protection will be in place to protect a reasonable adjustment once it is in place. To prevent an employer from placing pressure on an individual to forego that adjustment. For example a reasonable adjustment is given to allow a person to work 9 till 5. However others work overtime. But the employer repeatedly applies pressure for the protected person to work overtime, allows other employees to apply pressure, comments etc whilst not doing anything to stop it. These could be shown to be bullying, discrimination, harassment or victimisation.</p> <p>How will a persons disability be established?</p> <hr/> <p><b>Keith Fitton</b></p> <p>The expectations of some businesses to meet the requirements of 'reasonable adaptations' must be explained, as much of the fear is unfounded and misunderstood.</p>

Question	Response
<b>Q10</b>	<b>Do you have any comments about what constitutes a disability or about making reasonable adjustments for persons with a disability?</b>
	<p>For example, a small shop in an old Victorian building that has steps at the entrance does not need to make expensive structural changes to enable access for wheelchair users. They could simply fit a doorbell at wheelchair height and serve the customer at the door. This is a 'reasonable adaptation' and would comply with the legislation. However, the Island needs this Act to compel some businesses to operate in a non-discriminatory manner. For example, there is a brewery owned pub that has been known by three different names since the Disability Discrimination Act was enacted but not enforced. It had a refurbishment prior to each 'relaunch'. Despite having level access, the brewery chose not to instal a wheelchair accessible toilet during either of the refurbishments. This sends a clear message to wheelchair users on the Isle of Man that they are not wanted and the brewery do not want their money. Making relatively small adjustments that enable disabled people to spend their money actually makes good business sense. It is a shame that so many businesses on the Island would rather continue to discriminate than to take advantage of the financial opportunities.</p>

Question	Response
<b>Q11</b>	<b>Do you have any comments about PPV accessibility regulations?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch agrees with the sentiment behind this but if this is to be introduced then it should be over a time period as vehicles are being replaced or as firms are newly registered, with some level of access guaranteed immediately.</p> <hr/> <p><b>Jacqueline Yates</b>  I support the proposals in this regard.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society supports the proposals in this regard.</p> <p><i>Do have any comments about taxi accessibility regulations?</i>  The Society supports the proposals in this regard.</p> <p><i>Do you have any comments about a requirement for drivers of taxis and private hire vehicles to assist wheelchair users unless exempted?</i>  The Society supports the proposals in this regard.</p> <p><i>Do you have any comments about the requirement for drivers of taxis and private hire vehicles to carry assistance dogs unless exempted?</i>  The Society supports the proposals in this regard.</p> <p><i>Do you have any comments other about the accessibility of the Island's transport for disabled persons?</i>  No other comments.</p> <hr/>

Question	Response
<b>Q11</b>	<b>Do you have any comments about PPV accessibility regulations?</b>
	<p><b>Road Transport Licensing Committee</b>  The proposed PPV accessibility regulations would appear to be very reasonable. Problems usually only occur when more than one person using a wheelchair wishes to travel on the same vehicle. Similar problems can occur when prams are carried. One situation that can cause concern is when larger than average wheelchairs or prams are on board, gangway access can be compromised which therefore presents a health and safety hazard. The driver of the vehicle should therefore have some control regarding the size and number of wheelchair /prams that he/she is asked to carry.</p> <hr/> <p><b>Prospect</b>  Question 11 – 15 - Given the age of the transport is question this is pretty much accepted, however, our comments are that it would be preferable if IOM Transport introduced disabled access where it is possible.</p> <hr/> <p><b>DOI</b>  <u><b>Equality and accessibility for PPV vehicles and Infrastructure.</b></u></p> <p>Isle of Man Transport Public Transport has taken reasonable steps to offer bus services to ensure access is open to all people with disabilities. We are able to implement internal accessibility policies, procedures and practices. However, if there is to be universal legislation on equality we will require assistance from other Government Departments to improve the accessibility for people with reduced mobility. It will be difficult to translate any new legislation into action without the necessary budgets and within a realistic time scale. In addition, because of public transport uniqueness in certain areas, we would not want any legislation to constrain us from increasing ridership for all sections of our community.</p> <p><u><b>Current situation.</b></u>  All our stage carriage fleet are low-floor buses and meet the current requirements and standards of the European Disabled Discrimination Act, which lays down stipulations on:</p> <ul style="list-style-type: none"> <li>• Wheel chair ramps</li> <li>• Wheelchair chair space and restraint</li> <li>• Priority seats for disabled customers</li> <li>• Space for assistance dogs</li> <li>• Contrasting colour grip rails</li> <li>• Compliant step heights</li> <li>• Compliant destination displays</li> <li>• Bus stopping signs</li> <li>• Palm press bell pushes and audible devices.</li> </ul> <p>(For clarification a wheelchair in the context of being able to be carried on a bus is understood not to include a large powered wheel chairs or mobility scooters).</p> <p><u><b>Buses.</b></u>  For buses that are used on registered stage carriage services and Government Departmental contracts, we should adopt best practice and follow the current European statutory instrument for Road Vehicles Construction &amp; Use Legislation, which will incorporate Disability Discrimination Act requirements. Any future amendments can be reviewed and adopted if necessary. Given that all buses and coaches have to comply with this legislation the Department questions whether the</p>

Question	Response
<b>Q11</b>	<b>Do you have any comments about PPV accessibility regulations?</b>
	<p>section of the Bill relating to PPV is really necessary. There needs to be further consideration given to second hand buses or coaches. The Department suggests that this could possibly be covered by tying up with the European Whole Vehicle Type Approval Rules for Certification.</p> <p>With regard to dedicated and permanent Ronaldsway airside buses it is our understanding that they will be exempt from any new legislation. Confirmation is required with regards to who is going to be held responsible for breaches in any parts of the DDA policy for example in the UK a driver can be held accountable for not assisting a disabled person by not deploying a manual ramp.</p> <p><b><u>Preserved Vehicles.</u></b></p> <p>The cost of converting historic vehicles to be fully accessible is totally cost prohibitive and the vehicles would lose their authenticity. In addition, any conversion would not be totally safe in an emergency evacuation situation. The Department suggests that there should be an exemption for heritage vehicles (buses and coaches) which were manufactured prior to 1/1/1970 which can be used for private charter, leisure and tourism. A certificate of exemption for each bus would be issued by a government office.</p> <p>For special events where disabled access is relevant a historic vehicle could be used on a registered service if it is shadowed by a fully compliant accessible bus.</p> <p><b><u>Road Passenger Transport Infrastructure.</u></b></p> <p>There are a number of significant barriers to social inclusion and equality. The Department would need to provide infrastructure that is supportive of operating fully compliant DDA buses across the Island. The Department is currently considering how best to achieve this.</p> <p><b><u>Equality and accessibility on IoM Government Railways.</u></b></p> <p>The Department aspires to maintain the highest standards in accessibility and tries to make the railway as inclusive as possible whilst still respecting the original fabric; however, the operating rolling stock and stations which over one hundred years old which reflects the Island's rich and preserved transport heritage. There have been huge improvements on the railways in many areas, further improvements in facilities would open up the railway to a wider range of people, generating increased ridership giving disabled locals and tourists a greater opportunity to enjoy our scenic railways and to do so more regularly. Sections of the railways should be outside the scope of any new legislation, however there could still benefit from more investment funding in rolling stock and infrastructure to open up more of the railway to disabled and less able bodied people.</p> <p>There is a commitment to working towards the provision of a more accessible rail network. Wherever possible, and the Department will continue to do the utmost to assist passengers whose mobility is impaired.</p> <p><b><u>Workshop &amp; Locomotive, Tram &amp; Carriage Shed Infrastructure.</u></b></p> <p>The engineering sites are not wheelchair friendly. Physical access to workshops and railway sheds is a challenge as there are numerous constraints posed by the loose surfaces, rails, pits and machinery. The Department is concerned that expensive and major alterations could potentially destroy the historical environment of the properties and compromise their integrity. In relation to employment of disabled people the Department would adopt the reasonable practical approach to any new legislation.</p> <p><b><u>Public Infrastructure.</u></b></p> <p>Staff are trained to assist and are available to attend to customer requirements, but the majority of our rural stations are not staffed. A full access audit for properties which are open to the public (including museums) has not been undertaken. To protect the heritage railway infrastructure, a possible way forward to improve our railway infrastructure would be for the Department to have a Code of Practice outside of any legislation. Therefore when properties are being renewed or replaced, sensitive and creative design solutions should be found to respect the needs of less abled bodied people. Delivering such a large project will be dependent on how much financial resource is deployed and that will dictate the time it takes to complete the project.</p>

Question	Response
<b>Q11</b>	<b>Do you have any comments about PPV accessibility regulations?</b>
	<p>_____</p> <p><b>Sean Young</b>  should there be some exemptions or limited exemptions for the heritage transport system. The horse trams, steam and electric railways. This would be on a practical and expense basis. As such i feel this would need careful consideration/  PPV, most if not all new larger buses are already built with ease of access from the start. They are certainly being currently upgraded as each bus comes up for replacement. I believe that bus vannin are already doing a good job in this regard. There are however a number of smaller mini bus type vehicles. Shuttle buses used in the governors hill area during the TT races etc that are perhaps not as suitable in relation to the act.  Bus vannin, frequently asked questions on they're website state that only manx registered dogs are only free. Other wise arrangements would need to be made. This may just be a wording issue on the website. But an assistance dog, is needed, so this could be changed to all dogs not just the Manx ones.</p>

Question	Response
<b>Q12</b>	<b>Do you have any comments about taxi accessibility regulations?</b>
	<p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch agrees with the sentiment behind this but if this is to be introduced then it should be over a time period as vehicles are being replaced or as firms are newly registered, with some level of access guaranteed immediately.</p> <p>_____</p> <p><b>Jacqueline Yates</b>  I support the proposals in this regard.</p> <p>_____</p> <p><b>Manx Deaf Society</b>  The Society supports the proposals in this regard.</p> <p>_____</p> <p><b>Road Transport Licensing Committee</b>  Most wheelchairs accessible taxi and private hire vehicles are of the minibus type and are equipped with either ramps or lift. These loading facilities are more than adequate for the majority of wheelchairs. Large wheelchairs can be very difficult to load and in some cases they are so long and wide that they will not fit on the loading arrangement. Electric powered wheelchairs can also on occasion be a problem due to the size and weight.</p> <p>_____</p> <p><b>Prospect</b>  Question 11 – 15 - Given the age of the transport is question this is pretty much accepted, however, our comments are that it would be preferable</p> <p>_____</p>

Question	Response
<b>Q12</b>	<b>Do you have any comments about taxi accessibility regulations?</b>
	<p data-bbox="315 264 360 288"><b>DOI</b></p> <p data-bbox="315 293 2056 376">With regards to the question on taxis accessibility regulations (q12), the Department is concerned due to the fact that as vehicles are not manufactured on the Island, if legislation is introduced limiting what is considered suitable it could well have a detrimental effect on the number and type of vehicles' which could be used by Taxi operators therefore potentially limiting future service.</p> <hr data-bbox="315 400 680 405"/> <p data-bbox="315 440 510 464"><b>Ian Maule, Taxi.im</b></p> <p data-bbox="315 469 1043 493">I respond to the above as it affects PPV (taxi) operations as follows:-</p> <ol data-bbox="315 512 2047 791" style="list-style-type: none"> <li data-bbox="315 512 2047 568">1. As stated, the draft bill is based on equivalent UK legislation. It is worth noting that regulations affecting taxis have not been implemented. As such, I would suggest that there is little point in including such a provision in the Bill.</li> <li data-bbox="315 587 2047 675">2. The RTLC had a policy for a while in issuing new licences for ply for hire with stipulation that a wheel-chair equipped vehicle be provided. A study undertaken for the RTLC has revealed that there is no demand for these vehicles on any rank. Many ambulant disabled people have difficulty entering or leaving a wheel-chair equipped Vehicle and other passengers may prefer to travel in a proper saloon or estate car.</li> <li data-bbox="315 694 1760 718">3. There is a limited demand for pre-booked vehicles to be wheelchair equipped; but this demand is more than met by current provision.</li> <li data-bbox="315 737 2047 791">4. If there is a perceived need for more wheel-chair fitted vehicles, this can be met by the issue of further private hire licences with that stipulation. Regulations for the format of such vehicles would not be unreasonable.</li> </ol> <hr data-bbox="315 815 680 820"/> <p data-bbox="315 855 600 879"><b>Leonard Cheshire Disability</b></p> <p data-bbox="315 884 2063 967">We are pleased to see the issue of taxi accessibility for disabled people addressed in the draft Bill mirroring the approach taken the UK version of this legislation. However, we hope to see these regulations enacted at the earliest opportunity after the Bill passes into law, something that has not so far happened in the UK which has had a significant negative impact on many disabled people seeking to travel in taxis.</p> <hr data-bbox="315 991 680 995"/> <p data-bbox="315 1031 779 1054"><b>Ray Teare, Chairman, Manx Taxi Federation</b></p> <p data-bbox="315 1059 1995 1083">We write on the above draft regulations contained in the sections on PPV designated wheelchair vehicles, at this stage we agree to the regulations in principle.</p> <p data-bbox="315 1102 2029 1158">In addition we would make the following comments on section 3-43 it would be good practice to specify a condition that drivers of these vehicles have recognised training courses when handling wheelchair users. Also there could be an issue with operators having the correct insurance to carry out this type of hire.</p> <p data-bbox="315 1177 2063 1260">Vehicle identification is important there should be a requirement that wheelchair accessible PPVs to display the recognised disable signs on the front near side and of side doors this is to ensure a more positive statement that the vehicle can be hired from a rank or telephone bookings for the purpose of transporting wheelchair users. Finally we note with interest section 3-45 the UK 2010 act to make taxi accessibility regulations is not yet in force.</p> <hr data-bbox="315 1284 680 1289"/> <p data-bbox="315 1324 443 1348"><b>Sean Young</b></p> <p data-bbox="315 1353 2018 1409">Current RTLC regulation, code of conduct for drivers, requires that assistance is given. I'm fairly sure that there was a case were a disabled driver wanted a taxi licence and it was refused for him not being able to offer assistance. Many people with disabilities rely on a taxi as they're means of independence and transport.</p>

Question	Response
<b>Q12</b>	<b>Do you have any comments about taxi accessibility regulations?</b>
	<p>Would the current RTLC regulations in their current form therefore be discriminatory?            There are many taxis on the island that when they have been replaced they have been replaced with more accessible vehicles. Not necessarily a black cab type, but one that offers, steps, ramps and internal space.            A taxi company could have a specified percentage of vehicles available that were fully accessible available, with suitable drivers. Those drivers should not have any form of exemption as they are there to provide a service to the passenger. I would not expect them to have to physically lift a person, but certainly assist with ramps for wheelchairs etc.            All airport taxis should be fully accessible as a condition/requirement to operate. This would mean that a person arriving to the island would not have any issues in trying to arrange transport.</p>

Question	Response
<b>Q13</b>	<b>Do you have any comments about a requirement for drivers of taxis and private hire vehicles to assist wheelchair users unless exempted?</b>
	<p><b>Jacqueline Yates</b>            I support the proposals in this regard.            _____</p> <p><b>Manx Deaf Society</b>            The Society supports the proposals in this regard.            _____</p> <p><b>Road Transport Licensing Committee</b> The proposed requirement for the driver to provide assistance to the wheelchair user should be restricted to the loading and unloading of the vehicle. To expect a driver to provide assistance when leaving the customers home, etc., which may involve steps or other obstructions, is beyond the driver's responsibility in the Committee's opinion. If a driver wishes to provide additional assistance that should be left up to them but not be a requirement.            _____</p> <p><b>Prospect</b>            Question 11 – 15 - Given the age of the transport is question this is pretty much accepted, however, our comments are that it would be preferable if IOM Transport introduced disabled access where it is possible.            _____</p> <p><b>Association of Teachers and Lecturers IOM</b>            We would want drivers to assist where possible, but in line with relevant Health and Safety regulations.            _____</p> <p><b>DOI</b>            In relation to q13 which asks whether there should be a requirement for drivers of taxis and private hire vehicles to assist wheelchair users unless exempted, the Department is not aware of any issues with this requirement. However it is suggested that a view on this matter is sought from the Road Transport Licensing</p>

Question	Response
<b>Q13</b>	<b>Do you have any comments about a requirement for drivers of taxis and private hire vehicles to assist wheelchair users unless exempted?</b>
	<p>Committee. The same applies to q15 about the requirement for the drivers of taxis and private hire vehicles to carry assistance dogs unless exempted.</p> <p><b>Keith Fitton</b>  <i>Page 16 3.45</i> The regulation for taxis to assist wheelchair users is "<i>mostly not in force</i>" in the UK. This should be irrelevant. Taxi drivers should be given 'fair warning' that there vehicles should be accessible by a set date.</p>

Question	Response
<b>Q14</b>	<b>Do you have any comments about the requirement for drivers of taxis and private hire vehicles to carry assistance dogs unless exempted?</b>
	<p><b>Trustees of Manx Blind Welfare Society</b>  Q11,12,13,14 We have no comments on those questions.  _____</p> <p><b>Jacqueline Yates</b>  I support the proposals in this regard.  _____</p> <p><b>Manx Deaf Society</b>  The Society supports the proposals in this regard.  _____</p> <p><b>Road Transport Licensing Committee</b>  There should be a requirement that PPVs carry assistance dogs. The ability for the driver to have a medical exemption is also very desirable. Exemptions on religious grounds is a "bag of worms", most other places do not allow such an exemption.  _____</p> <p><b>Prospect</b>  Question 11 – 15 - Given the age of the transport is question this is pretty much accepted, however, our comments are that it would be preferable if IOM Transport introduced disabled access where it is possible.</p>



Question	Response
<b>Q15</b>	<b>Do you have any comments other about the accessibility of the Island’s transport for disabled persons?</b>
	<p><b>Trustees of Manx Blind Welfare Society</b>  We would restrict our comments to simply highlighting general planning and operational concerns regarding the location of bus stops, taxi pickup and collection points and adequate protection from the elements at such stops and points, regularity of service and on board address systems.</p> <hr/> <p><b>Jacqueline Yates</b>  All public transport should be adaptable for disabled people. Changing attitudes. This is hearts and minds legislation and it is not simply about physical things. For example, organisation should be encouraged to introduce ‘Carer goes Free’ arrangements because if someone could not attend unless their carer does too then the carer should not have to pay. This is difficult to institute through legislation but the legislation can have a major effect on people’s attitudes.</p> <hr/> <p><b>UNITE – the Union</b>  Unite has been campaigning for accessible transport to ensure disability equality.</p> <p>We believe that disability access should be standardised in all areas of travel e.g. on buses, trains, taxis and air. Government and local authorities must take financial responsibility and must invest money so disabled access points for all modes of transport are made easier. Also, health and safety should never be used as an excuse to discriminate against disabled passengers.</p> <p>We believe that making the necessary reasonable adjustments following regular risk assessments and consultation with trade unions and disabled groups will allow disabled people to travel at short notice although the notice period to address the needs of disabled passengers can be essential in some circumstances.</p> <p>Information on specific security checks in the airports and some train services e.g. removing shoes for scanning, should be posted prior to reaching the designated area with ample notice so that the disabled passenger can be organised and prepared.</p> <p>Disability access should be included in contract compliance in all modes of transport.</p> <p>Accessible taxis are an essential for many disabled workers and Unite believes that one size does not fit all. There is no one definition of a disabled person and the needs of wheelchair using passengers are different from those of someone who can’t get up the step that is usually required for the ramp to get a wheelchair user on or who is blind. Therefore, Unite supports a mixed fleet and a government incentive system for taxi drivers. Again Unite believes that education is the best route for improving driver behaviour and attitudes. We believe that increased government funding for education courses would obviously be the most effective technique, with its already proven track record.</p> <p>From a taxi perspective ramps for wheelchair passengers should be put in at all key transport points such as airports, train and bus stations, ports, hospitals, doctors, shopping centres and places of entertainment or public interest, for example. Location of ranks, the provision of sheltered seating close to a rank, information provision, curb heights and pavement widths are all in need of investment from the Government and local authorities. By simply installing some disabled ramp points at some major pick up and drop off points, then disabled access can be made a lot easier.</p> <p>Encourage formation of Local Taxi Boards that include disabled groups, the taxi industry, trade unions, and local authorities would take joint responsibility for letting disabled people know what they can expect from traveling in a taxi. If this is going to be done then all stakeholders must work together in producing material that will give confidence to disabled passengers.</p>

Question	Response
<b>Q15</b>	<b>Do you have any comments other about the accessibility of the Island’s transport for disabled persons?</b>
	<p data-bbox="315 292 707 320"><b>Road Transport Licensing Committee</b></p> <p data-bbox="315 323 2063 435">The Committee’s thoughts on the Island’s transport system are that, in the main, it is very good. The buses are very good and are able to carry wheelchairs along with those with restricted mobility without difficulty. The railways tend to be less accessible but this is due to their age. Wheelchairs assessable taxi and private hire cars are obviously a problem as there are less of them than ordinary taxis. Therefore these taxis are generally booked well in advance for both out and return journeys.</p> <p data-bbox="315 451 2074 507">One comment that a member of the Committee has heard from an operator of a wheelchair accessible taxi was that it cost him between 20 to 30 percent more to run than an ordinary taxi. In addition the time taken to load/unload can at times be significant which can cause him to miss out on additional work.</p> <hr data-bbox="315 528 685 536"/> <p data-bbox="315 568 409 596"><b>Prospect</b></p> <p data-bbox="315 600 2051 655">Question 11 – <b>15</b> - Given the age of the transport is question this is pretty much accepted, however, our comments are that it would be preferable if IOM Transport introduced disabled access where it is possible.</p> <hr data-bbox="315 676 685 684"/> <p data-bbox="315 716 768 745"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 748 2011 804">The ATL IOM Branch believes that it is a fundamental human right for disabled people to access transport. This equally applies to pupils, as we are an education union, who should be able to experience the wider community including using transport.</p>

Question	Response
<b>Q16</b>	<b>Do you have any comments about the introduction of equal pay for work of equal value?</b>
	<p data-bbox="315 1043 562 1072"><b>Chamber of Commerce</b></p> <p data-bbox="315 1075 2074 1131">Yes. Some members have expressed concern that the concept of equal value is so wide and open to interpretation which will make it difficult for any business to have certainty. Triumph Actuation Systems state:</p> <p data-bbox="315 1134 2051 1219">“Another area of concern here is the clause 56 relating to Equal Work. Whilst we would agree that employees doing the same job/role should be paid equally regardless of sex, the work of ‘equal value’ is a major trip wire from an employer view point as the definition is open to interpretation depending on your view point and would certainly be exploited in cases of a small population of employees. I’d sooner see this removed.”</p> <p data-bbox="315 1235 2029 1291">There is not enough detail offered in the Consultation Document about the proper effect of equal value. This is a complex area and it will need a lot of explaining, guidance and support and there appears to be no plan for this.</p> <hr data-bbox="315 1311 685 1319"/> <p data-bbox="315 1351 730 1380"><b>Trustees of Manx Blind Welfare Society</b></p> <p data-bbox="315 1383 801 1412">We support the concept as outlined in the Bill.</p>

Question	Response
<b>Q16</b>	<b>Do you have any comments about the introduction of equal pay for work of equal value?</b>
	<hr/> <p><b>Chartered Institute of Personnel and Development</b></p> <ul style="list-style-type: none"> <li>• Concern about the introduction of new terms and conditions for new starters and differences. What happens if someone has protected pay – eg., if you had protected pay for 10 years would this be an issue due to impact on others? What allowance for grandfather rights?</li> <li>• Is there a timeframe on how long employers would have to put their 'own house in order' as the issues would take time to sort through?</li> <li>• How do we reward employees for 'experience' if they do the same job? Concerns about the reward system and implication for existing practise and what would be deemed as acceptable as this may conflict with legislation. Guidance would be required for employers at the earliest opportunity.</li> <li>• How would bonus amounts paid on length of service be dealt with under the Equality Bill?</li> </ul> <hr/> <p><b>Royal College of Nursing</b></p> <p>The RCN welcomes the introduction of the concept of equal pay for work of equal value in the Equalities Bill 2015 but believes that interest should be payable on any pay award to reflect the actual loss sustained.</p> <hr/> <p><b>Jacqueline Yates</b></p> <p>This is an essential provision of the Bill. The IOM lags behind the UK in terms of equal pay even though the UK picture demonstrates considerable discrimination and unfairness.</p> <hr/> <p><b>UNITE – the Union</b></p> <p>As stated in the consultation, tackling unequal pay is vital. The pay gap is the result of devaluing women's work and it traps women in low wage jobs and increases poverty. Publishing information and discussing pay is a way to prevent unequal pay and can challenge and remedy this form of sex discrimination. Unite has been calling for mandatory equal pay audits as the way forward for tackling the gender pay gap, in our view, enabling this important workplace issue to be addressed through negotiations rather than the legal route. The UK government decided not to enact section 78 of the Equality Act 2010, ignoring massive opposition and the call for the FULL implementation of existing legislation, particularly Section 78(1). This will require private sector organisations to carry out equal pay audits as well as publishing data. The evidence of voluntary publication of data in the private sector showed only a negligible number of employers complying. The Equality Bill can put this right.</p> <hr/> <p><b>Manx Deaf Society</b></p> <p>The Society supports the proposals.</p> <hr/> <p><b>Office of Human Resources</b></p> <p>We support this in principle, as we recognise the Island has committed to it internationally. But has big consequences that have not so far been highlighted. See attached covering letter for further observations.</p> <p>In respect of 3.52, is there any reason why the Manx Industrial Relations Service could not fulfil the role of appointing a "qualified person"? They do this already for</p>

Question	Response
<b>Q16</b>	<b>Do you have any comments about the introduction of equal pay for work of equal value?</b>
	<p>arbitration cases.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b>  Question 16 - Paragraph 3.52 - I have some concerns about the cost of the Qualified Person to advise on "equal pay" although I can see the sense (even inevitability?) in having someone. I cannot imagine that a Tribunal Chair would be able to deliver a fair result without guidance. Do we need a possible cap on fees or at least competitive tenders? Experts' fees can be a gravy train, especially on something like this.</p> <hr/> <p><b>Prospect</b>  Question <b>16</b> &amp; <b>17</b> - As regards the arrears of pay and the proposals that mean a claimant could not achieve the full arrears until 6 are passed, we would urge a change to this proposal to bring in the full entitlement within two years of the enactment of the Bill.</p> <p><b>Department of Education and Children</b>  At a time of serious financial pressures in the Isle of Man introducing equal pay for work of equal value is likely to drive up salary costs and involve extensive additional job evaluation work, incurring further costs. This provision is likely to have implications for sessional, supply and bank staff and those on protected arrangements in relation to parity of terms and conditions and pay. There is evidence from other jurisdictions that this can prove costly, for example Birmingham City Council's £1.1 billion expenditure in meeting equal pay claims in respect of comparable jobs.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch believes that this is only fair. It may mean that some schools need to look at the roles that support staff are expected to undertake, along with unqualified teachers.</p> <hr/> <p><b>Leonard Cheshire Disability</b>  We believe that accrued interest should be added to pay arrears awards in line with UK legislation and like to see the possibility of this explored as part of this legislative exercise.</p> <hr/> <p><b>Sean Young</b>  16 and 17 equal pay, no lead in timescale as i believe that this would continue any discriminatory practices that the act is designed to prevent. This is a relatively straight forward part of the act and it should remain so. To use a lead in time introduces another level of uncertainty to and complicates any proceedings.</p> <hr/>

Question	Response
<b>Q17</b>	<b>Do you have any comments about the proposal to bring (over a number of years) the maximum amount of pay arrears that can be awarded by the Tribunal in successful equal work cases into line with the amount under the UK Act?</b>
	<p><b>Chamber of Commerce</b>  Members have expressed concern over the back pay arrears and feel that going back 6 years with interest is excessive. This cost could seriously endanger businesses. It is also submitted that claimants should be encouraged to make claims promptly in order to create certainty for employers and this goes against this principle. The fact that there will be no retrospective claims is mentioned as though this will give great comfort to businesses. It would be unfair for any retrospective claims to be made for a time when no such legislation existed.  Chamber strongly submits that the Isle of Man Government should not follow the UK in this regard.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b>  We would suggest that there should be parity with the UK.</p> <hr/> <p><b>Royal College of Nursing</b>  The RCN agrees with the proposal to bring the maximum amount of pay arrears that can be awarded by the tribunal in a successful equal pay work case into line with the amount that can be claimed under the UK Act.</p> <hr/> <p><b>Jacqueline Yates</b>  I consider that the Manx legislation should directly mimic the UK on this and there should, therefore, be no grace period for implementation. This is for the following reasons:  1) The concept of equal pay for work of equal value is long established and should come as no surprise to employers.  2) Many organisations on the Island already take steps to ensure that there is equal pay for work of equal valued including the IOM Government (the Island’s largest employer) and many companies which are part of wider groups in the UK and elsewhere where these practices are the norm.  3) There is a vital principle at stake here and addressing it should not be compromised by delays in the timescale for introduction.  4) The proposal is over-complex.  5) There should be no half-measures in this important matter.  I consider that interest accrued <b>should</b> be included in the pay-outs for retrospective settlements.</p> <hr/> <p><b>Office of Human Resources</b>  We feel it may be better to limit the pay arrears to the date of the claim. It is the immediate additional cost and future cost that matters.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b>  Question 17 - Paragraph 3.53/54 - Even allowing for the transitional period, I have real concern about going back six years to compensate (plus even simple interest</p>

Question	Response
<b>Q17</b>	<b>Do you have any comments about the proposal to bring (over a number of years) the maximum amount of pay arrears that can be awarded by the Tribunal in successful equal work cases into line with the amount under the UK Act?</b>
	<p>let alone compound). The cost could be prohibitive. I appreciate that an employer who is in the wrong needs to pay compensation but to me, going back even 3 years plus interest could be a large sum / potentially an unpayable burden if even just 7 or 8 employees have claims. Thus to me 3 years is less expensive than Scotland, much more than Jersey and significantly less than the UK which may even assist the island to attract much needed new business. I don't like that Jersey is able to avoid a comparable law which may make the Isle of Man less attractive to a potential employer.</p> <p>Jersey / Guernsey are our direct competition in attracting new business. I am also concerned about driving an employer into the ground because I doubt that affordable insurance cover would be available to indemnify the employer. We have an opportunity to compete with the UK by being more attractive to bring new employment here without providing potentially huge feather-bedding for employees.</p> <p><b>Department of Education and Children</b> It is recommended that arrears should only be backdated to the date of the claim being made in order to limit costs.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch believes that this should be introduced and the maximum payment be 6 years rather than staggering it. Employers would need to ensure that they got their house in order to ensure that this is effectively introduced otherwise they would face consequences. To prevaricate may mean they dally.</p> <hr/> <p><b>Peter Murcott</b> I am most alarmed at the implications for employers at the prospect of eventually raising the arrears of pay from two to six years. The law should stay as it is.</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p><b>Chamber of Commerce</b> Yes – this is one of the main areas of concern that Members flagged during the consultation sessions. Chamber members are very concerned that retirement issues have not been quantified and the ramifications of the legislation have not been properly detailed in the Consultation Document, only 2 pages are dedicated to this and in reality this is one of the most complex areas. The potential knock on effect to the job market should not be underestimated. If people work longer, there are likely to be less jobs and less opportunity for younger workers to progress. It would be disastrous if the result of the legislation was that younger workers simply decided that the Isle of Man, as a small jurisdiction, simply did not offer them the opportunities that they may find in the UK or another jurisdiction.</p> <p>IQE stated: "Primary concern is the impact of dispensing with the retirement age. Whilst this will have cost implications, there are also wider socio-economic considerations, for example the impact on new entrants to the job market and the potential limitation of opportunities for those workers due to the non-retirement of more senior staff.</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p>We would also be concerned that having no retirement age may adversely affect businesses implementing as effective succession plan. These types of issues could have a detrimental impact on the Isle of Man's economy as a whole".</p> <p>Isle of Man Enterprises have recognised that if a retirement age cannot be set then it is likely that organisations will have to turn to capability procedures to resolve the issue. They state:          "It will be easier for claimants to bring disability related discrimination cases from the management of sickness absence and pay polices e.g. capability/disciplinary action for a prolonged absence arising from a disability. With having to use capability procedures for older members of staff, there are likely to be more such cases"</p> <p>One small business states:          "We believe there should be a default retirement age as at present".</p> <p>Standard Bank state:          "Implication of inability to set a retirement date for staff and therefore only dismiss on capability is worrying".</p> <p>Standard Bank also expressed concern on the lack of clarity of the impact of the age discrimination proposals on long term benefits in particular "not being able to reward loyal employees".</p> <p>Island Aggregates have stated:          "In relation to retirement age, it is imperative in the construction industry to have fit people who are able for what are often physically demanding jobs. The consequences of accidents can be very serious in our industry.          As a responsible employer, we would accept that there is no substitute for experience and would not wish to retire anyone from a job they are capable of. However, we would have to reserve the right to carry out periodical assessments of fitness for work when dealing with older employees. Even then, though an older employee's last assessment might have been satisfactory, human nature and personal circumstances might mean that they are unwilling to admit to any frailty or deterioration of ability and carry on working, with the risk that they become a hazard to themselves and others"</p> <p>Colas state:          "The abolishment of the retirement dates is a major change for businesses as is the implications of dealing with an ageing workforce. Will there be a sliding introduction like the UK initially introduced or will this just be implemented? Businesses will have to face dealing with increased capability cases, which the staff will need to be trained and competent in, this will put strain on HR departments and the IOM Industrial Relations Service, it will also leave businesses open to increased unfair dismissal claims. We are likely to see an increase in Settlement Agreements (formally compromise agreements) Settlement Agreements are not widely or generally used, they are more of a loop hole to deal with a difficult situation, I don't feel comfortable as a HR professional in using these documents as a form of dealing with every 'retiree'. It's a back door approach to dealing with a problem. All contracts of employments will need to be updated. Will certain individuals be ring fenced and be able to retiree as their current Contract stipulates or will this affect all employees and replace current rules. There are also the humanistic implications. An employee who has been respected in their position and been with the company potentially a very long time (which is commonplace on the IOM), or perhaps a very senior member of staff who has been pivotal in the organisation, instead of being celebrated, is managed out through the company's Disciplinary process. This could have very negative effects and consequences on individuals and organisations."</p> <p>Mannvend state:          "Eliminating the retirement age is a massive concern and I fear will result in considerable cost to businesses in the form of redundancy, along with increased cases of unfair dismissal claims."</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p>Chamber believes that the Consultation Document ignores the fact that the UK had a much more gradual introduction to the abolishment of the retirement age beginning with the age discrimination legislation that predated the Equality Bill 2010. The Consultation Document states without any sources or back up that “the UK has had no significant impact on businesses”. Even if this is correct, it cannot be automatically assumed that this will be the same in the Isle of Man. This is another example of lack of application of the legislation to the Isle of Man. We are a small jurisdiction with limited business opportunities and limited jobs on offer. Anything that stifles job opportunities on the Isle of Man will be much more magnified in a small jurisdiction.</p> <p>The comment about more people working longer will contribute to paying tax and NI may be of benefit appears one-sided, have not been quantified and is not balanced by the reality that there is a legitimate fear that there may well be less opportunities for younger people and less jobs available overall.</p> <p>Chamber recommends that Government should instead consider raising the retirement age if appropriate (e.g. in line with any new date for receiving state pension).</p> <hr/> <p><b>Royal College of Nursing</b></p> <p>The RCN agrees with the comments made in relation to retirement but should emphasise that there are roles in the healthcare community that may require employees to retire earlier than others.</p> <hr/> <p><b>Jacqueline Yates</b></p> <p>I support the proposals in this regard.</p> <hr/> <p><b>Manx Deaf Society</b></p> <p>The Society supports the proposals with this regard and wishes to comment on the use of capability assessments on older workers. If an older worker has an age acquired hearing impairment (or any other impairment for that matter) then the right to reasonable adjustments on grounds of disability needs to be considered as part of the capability procedure to ensure fairness.</p> <hr/> <p><b>Office of Human Resources</b></p> <p>We would prefer to see retention of a default retirement age (based on state retirement age) but without all the bureaucracy the UK put in place in 2010 (later abolished). But if this is not agreed we foresee a potential need for additional resources to manage the capability procedures that may ensue.</p> <hr/> <p><b>Department of Education and Children</b></p> <p>This could increase unemployment amongst younger members of society, placing further demands on education, training and benefits.</p> <hr/> <p><b>Colin Coole – Capital International IOM Retirement Age</b></p> <p>The removal of the retirement age and replaced with the term similar to 'employers can only lawfully set a retirement age if it is a proportionate means of achieving a legitimate aim', is vague and will cause unnecessary confusion to employers and employees.</p>



Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p>Can I suggest that the retirement age is raised to 70?</p> <p>The removal of a specific retirement age will mean employers will be dismissing employees on 'Health Capabilities' as they try to work into their 70's. Employees who have experienced good working relationships for many years will face the prospect of an very stressful end to their working life. The reason for dismissal 'may' affect their employment chances elsewhere.</p> <p>The removal of the retirement age is a very clear oversight and the Isle of Man should learn from the mistakes made by the UK.</p> <p>The consultation statement in 3.67 " .. a counter argument is that any competent manager should be able to carry out capability procedures ... " has come from where?</p> <p>I believe the advice you have received in making this claim is incorrect. It was interesting to note that you have not referenced this source of information, or the statement in 3.68.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b></p> <p>The ATL IOM Branch believes that there should be a normal retirement age for teachers – we cannot see that the vast majority of the teaching workforce would be in a position to go racing around after primary schoolchildren aged 68 or sitting down on small chairs at that age or coping with adolescent children at that age, for example, but that if a member of staff wants to, feels able to and is capable of working beyond this then they should be able to.</p> <hr/> <p><b>Boal &amp; Co</b></p> <p>We wish to submit specific comments in respect of two pensions aspects of the Bill:</p> <p><b>1. Age-related pension contribution rates</b></p> <p>We are aware of a widespread myth emerging from local consultation meetings, and comments from government advisers, that the equality legislation will mean an end to the situation found in some defined contribution occupational pension schemes where contribution rates are designed to be age-specific (and increasing with age). It is being said that such scheme designs will no longer be possible after the equality legislation comes into force.</p> <p>We submit that any such interpretation is incorrect, and we would be grateful if Government could in its response to the consultation make clear the correct position.</p> <p>In this respect, we note (and approve of the fact) that Schedule 7 para 5 of the draft Bill is identical to the corresponding wording in the UK Act. Consistent with Schedule 7, this UK legislation permits age-related contributions, provided the aim is to yield broadly equal benefits; this is implied for example in the "Actuarial factors" referred to in Schedule 7.</p> <p>To the (limited) extent to which it is relevant, we also note the decision in the Court of Justice of the European Union, in <i>HK Danmark v Experian A/S</i>, that the practice whereby an employer pays pension contributions which increase with age is capable of being objectively justified. We believe that this adds to the force of the argument that the Isle of Man legislation should in no way lead to difficulty with age-related pension contributions where these are a natural result of actuarial factors or are capable of being objectively justified.</p> <p><b>2. International pension schemes</b></p> <p>We are somewhat concerned that the Bill will introduce new anti-discrimination provisions (most notably on the grounds of age) in relation to occupational and personal pension schemes, without distinction between domestic pension schemes and international pension schemes (for non-residents). The Isle of Man is now the leading centre for international pension schemes. For example, of the \$8 billion of pension assets now held by Boal &amp; Co, more than 80% relates to international</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p>schemes.</p> <p>There will be occasions in which we believe it would be inappropriate, and unhelpful, to apply the 'local' equality provisions to international pension schemes. Doing so could prove harmful to the prospects for new business, where we compete with other jurisdictions.</p> <p>In the same way therefore as the draft Bill carves out "offshore work" (section 71) and "Manx ships and seafarers" (section 163), we respectfully request that similar consideration and exemptions are provided for in respect of "international pension schemes" (being s50B &amp; 50C ITA1970 tax-approved schemes along with ITA1989 schemes for non-resident members).</p> <p>We will be very pleased to be afforded the opportunity to consult further with Government in respect of these matters, and we are at your disposal in this regard.</p> <hr/> <p><b>Debs Cripps</b></p> <p>Having worked in civil service recruitment whilst the civil service retirement age increased from 60 to 65 I can assure you that an increase in retirement age does have a direct impact on youth unemployment, I saw it first hand. A large proportion of staff wanted to work past 60 which resulted in less job vacancies.</p> <p>Outside of government, those who have inadequate life savings, pension plans, those who use their work as their social life or just feel they may get bored without a job, may all wish to continue working past 65.</p> <p>Vacancies at the top of the job market filter down through the job market which eventually leads to vacancies in 'entry level jobs' which are those that school leavers apply for. If you have a reduced number of top level vacancies then you will obviously get a reduced number of entry level vacancies.</p> <p>Simply put, there are a finite amount of jobs on the island and if you remove the retirement age then each year you will increase the number of people wanting to work. An ever increasing number of people of 'working age' and a finite number of jobs being available will inevitably lead to increased unemployment year on year. The unemployed will be the younger generation because the older generation will already be in jobs that they do not wish to leave.</p> <p>Why does this government wish to doom future generations of young people to either long term unemployment or the need to leave the island to seek work? We've had this situation in the past, where the young have had to leave to find work, so why are we deliberately heading back to the same situation? Please can you explain this.</p> <hr/> <p><b>David Carter</b></p> <p>The Age Discrimination section is to be welcomed, but I have some sympathy for employers who have under-performing staff who will now enjoy the right to continue working beyond state retirement age. Their only recourse appears to be capability procedures. This needs to be handled in a sensitive manner.</p> <hr/> <p><b>Peter Murcott</b></p> <p>None - because I would not introduce age discrimination even though I can see that there are some attractions.</p> <hr/> <p><b>Margaret Brown</b></p> <p>The one comment I would make is that, as it is an Equalities Bill, it should aim for fairness in all aspects. As a personal example, I work part time at the Department of Health &amp; Social Care, Family Planning and whereas currently as a receptionist I will have to retire next year at age 65, the nurses don't have to which does not</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p>seem to me to mirror equality.</p> <hr/> <p><b>Sean Young</b>  a retirement age harmonised with the state pension age is a good thing as it gives all concerned an agreed cut off point for pensions etc. Rather than an open ended arrangement. It defines pension contributions and liabilities amongst other things. But having said that it shouldn't be compulsory if all of the parties are in agreement, as is early retirement. However there should be some exceptions such as armed forces, emergency services etc. Where there are overriding requirements such as public safety. If there are positions available to allow a person to continue in a support role rather than a "front line" role then a person should be allowed to. Though in a different pension scheme if needs be.</p> <hr/> <p><b>Pam Self</b>  I would like to see the Isle of Man bring in the Right for employees to continue to work until they retire voluntarily (or are no longer capable) and to retain the same rights against dismissal afforded to them before they reach the default retirement age.</p> <p>I had my 60th Birthday in March this year - the age at which I had expected to start receiving my State Retirement pension, except 2 lots of rules changes have delayed this until first 63yr 11 months, and currently 65yr 6 months.  I understand the need for this, and whilst not being happy, can accept that it is what will happen.</p> <p>My Company Strix Ltd has a default retirement age of 63 for its IOM staff, and my contract will automatically end in March 2017 after what will be 28 years service. So what income will I have then, will I be able to get another job as a part time payroll administrator – these unknowns are so worrying. I may get a temporary contract from Strix, but all rights against dismissal will go, and always the worry of 'how long will it last?'</p> <p>After taking advice from an Independent Financial Advisor, I took my Company pension at age 60, as the fees for the fund exceeded the amount of contributions that the Company was paying in! After 26 years service, I receive a gross pension of around £120 per month. I didn't put my own money into the scheme which charges 1.5% of fund every year in fees, as I wanted a return not a charge! So I have other savings, but they won't last long if I need to draw on them from 2017!</p> <hr/> <p><b>UNITE – the Union</b>  Unite believes that workers should be able to decide themselves when they wish to retire and supports the legislation which has restricted the ability of employers to force retirement on grounds of age. Compulsory pension ages force retirement regardless of whether people can afford or wish to retire and reduces the need for employers to provide decent pensions if they want to manage their older workforce.</p> <hr/> <p><b>Chartered Institute of Personnel and Development</b>  ... there is a concern that there does not seem to be an acceptance of the problem removal of default retirement age might cause for workforce planning. This has been labelled within the consultation document as the 'lump of labour fallacy'. We have experienced within the Isle of Man issues when an employer has not been able to recruit for three years because of a change in pension retirement age and therefore this is not a fallacy but a real concern which needs to be considered at the earliest opportunity.</p>

Question	Response
<b>Q18</b>	<b>Do you have any comments about the proposals in the Bill relating to retirement?</b>
	<p data-bbox="315 264 734 288"><b>Public Sector Pensions Authority (PSPA)</b></p> <p data-bbox="315 293 936 317">The PSPA provides the following feedback on the draft Bill:</p> <p data-bbox="315 352 1016 376"><b>1. Retirement – Question 18 of the consultation document</b></p> <p data-bbox="315 411 2065 464">The PSPA supports the right of individuals to continue to work until they either retire voluntarily or they are no longer capable of carrying out their employment to an appropriate standard, unless imposing a retirement age can be objectively justified as a proportionate means of achieving a legitimate aim.</p> <p data-bbox="315 499 2058 608">In a world where people are living longer, compelling employees to retirement at a relatively early age will place an increasing burden upon Government finances, in particular the state pension and public service pensions. The PSPA, as the administrator and manager of the majority of public service pensions in the Island, is in favour of encouraging people to work longer in the public service in order to better manage the future costs of contributing to and thereafter taking public service pension benefits.</p>

Question	Response
<b>Q19</b>	<b>Do you have any comments about the proposals to promote and explain the legislation when it is introduced?</b>
	<p data-bbox="315 857 560 880"><b>Chamber of Commerce</b></p> <p data-bbox="315 885 2065 968">Chamber does not think that the Consultation Document even tries to adequately address proposals to promote and explain the legislation when it is introduced. It is respectfully submitted that more focus should have been placed on this in the Consultation Document as this is one of the key concerns of Chamber members and it should also be a key concern for Government.</p> <p data-bbox="315 979 2074 1032">Members are concerned that Government has not properly considered or has underestimated the support that the MIRS will need and the cost that will be involved to both Government and businesses.</p> <p data-bbox="315 1037 2074 1090">It would seem critical that officers are appointed within Government in order to assist with this legislation. One temporary appointment would seem to Chamber to be unlikely to be sufficient. Chamber would also be concerned that if this is for a limited term then the burden will ultimately fall on the MIRS.</p> <hr data-bbox="315 1114 685 1121"/> <p data-bbox="315 1157 728 1181"><b>Trustees of Manx Blind Welfare Society</b></p> <p data-bbox="315 1185 2007 1238">The successful implementation of the Legislation will partly depend on good advance information. This will require the development of user guidance's for each sector supported by various medias and a first class website. It will be useful for a "task force" approach to be adopted to take the message across the Island.</p> <hr data-bbox="315 1262 685 1270"/> <p data-bbox="315 1305 846 1329"><b>Chartered Institute of Personnel and Development</b></p> <p data-bbox="315 1334 2074 1410">Can you advise when the 'Equality Officer' or equivalent is going to be advertised/in post as this is paramount for the success of introduction of the Equality Bill as the role needs to be proactive and work with employers as soon as possible. A lot of employers will not be aware of the impact this will have on their workforce and policies and procedures.</p>

Question	Response
<b>Q19</b>	<b>Do you have any comments about the proposals to promote and explain the legislation when it is introduced?</b>
	<hr/> <p><b>Royal College of Nursing</b> The RCN agrees with the comments about the proposals to promote and explain the legislation provided adequate training and support is given to promote the service.</p> <hr/> <p><b>Jacqueline Yates</b> This clarification and explanation is vital and really should include discussion and debate on what the legislation means to those parties involved. It is not sufficient to make leaflets available and someone to turn to. It should include regular presentations, forums and discussion groups to make sure that the principles are fully understood and applied in context. Furthermore, the Government should ensure that the forums and documentation are accessible to all.</p> <hr/> <p><b>UNITE – the Union</b> Clear and concise guidance on the legislation as well as Statutory Codes of Practice are a necessity for workers and employers. Also, equal pay guidance similar to the EOC's toolkit is invaluable for representatives and employers. However, we are deeply concerned about allowing the Council of Ministers a free hand to create legislation and having the Codes of Practice unchallenged. Unite believes that consultation and involvement of trade unions and other stakeholders is vital to this process.</p> <hr/> <p><b>Manx Deaf Society</b> The Society strongly feels that guidance and advice on the legislation is needed but this needs to be more than just leaflets. The suggestion of a disability officer is welcome but MDS feel that it is unlikely that the legislation will have bedded in within two years of implementation and so the need for a disability officer post will be ongoing.  It would be preferable if the officer's post was upgraded to a more senior position and covered a wider remit than just disability or giving advice. An independent Equality &amp; Human Rights Commissioner for the Isle of Man needs to be considered.  The Commissioner would provide advice, help clarify the law, support with enforcement of key strategic cases and report to the United Nations on the Isle of Man's progress towards applicable International Conventions. The Commissioner's remit could be extended to cover other British Crown Dependencies and forge links with the UK's Equality and Human Rights Commission.</p> <hr/> <p><b>Office of Human Resources</b> We note and agree with the comments. In terms of a limited term appointment, it is unclear where such a person should be based?</p> <hr/> <p><b>Prospect</b> No comment, other than to remind of the requirement to consult on guidance as submitted in respect of question 10.</p> <hr/>

Question	Response
<b>Q19</b>	<b>Do you have any comments about the proposals to promote and explain the legislation when it is introduced?</b>
	<p data-bbox="315 296 725 320"><b>Department of Education and Children</b></p> <p data-bbox="315 325 1991 381">Agree that, fundamentally, social justice would be well served by the introduction of this legislation. It is however vital that a similar role be introduced for the Equality Act as there was for the introduction of the Employment (Sex Discrimination) Act to facilitate understanding and compliance.</p> <hr data-bbox="315 400 685 408"/> <p data-bbox="315 440 768 464"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 469 2047 552">It is important that there are facilities to explain and assist with the introduction of the Equalities Act, in a variety of formats that are accessible to all. The ATL IOM Branch believes that this could be achieved by reference to the Legal and Administrative services within the DEC, providing that adequate training was given to whoever is deemed suitable to be the 'Discrimination officer'.</p> <hr data-bbox="315 576 685 584"/> <p data-bbox="315 616 443 639"><b>Sean Young</b></p> <p data-bbox="315 644 2063 700">promotion should take place sooner rather than later. This would likely prevent many cases from happening in the first place, "best practice". This would free up any tribunal etc to carry out any more pressing business. Best practice would include staff handouts/handbooks and employer policies.</p>

Question	Response
<b>Q20</b>	<b>Do you have any comments about the proposal to rename the Tynwald Advisory Council for Disabilities as the Tynwald Equality Consultative Council and expand its remit to cover all of the protected characteristics? If the remit is expanded do you have any comments about the composition of the Council?</b>
	<p data-bbox="315 951 741 975"><b>Ballamona Association for Mental Health</b></p> <p data-bbox="315 979 2018 1035">We consider that this Body, the Tynwald Equality Consultative Council should be expanded to include a mental health representative, this type of knowledge and understanding of Mental Health and Illness is necessary due to the increased prevalence in our community.</p> <hr data-bbox="315 1054 685 1062"/> <p data-bbox="315 1094 573 1118"><b>Royal College of Nursing</b></p> <p data-bbox="315 1123 2078 1206">The RCN agrees with the proposal to rename the Tynwald Advisory Council for Disabilities as the Tynwald Equality Consultative Council. The RCN also welcomes the proposal to expand the remit of the Tynwald Equality Consultative Council to cover all of the protected characteristics and to be given a role similar to the EHRC in the UK.</p> <hr data-bbox="315 1230 685 1238"/> <p data-bbox="315 1270 490 1294"><b>Jacqueline Yates</b></p> <p data-bbox="315 1299 2040 1355">The broader Tynwald Equality Consultative Council should be created but only if it contains the appropriate wider membership and representation from all relevant parties. Furthermore, it should have genuine powers to act and enable redress of grievance.</p> <hr data-bbox="315 1374 685 1382"/>

Question	Response
<b>Q20</b>	<b>Do you have any comments about the proposal to rename the Tynwald Advisory Council for Disabilities as the Tynwald Equality Consultative Council and expand its remit to cover all of the protected characteristics? If the remit is expanded do you have any comments about the composition of the Council?</b>
	<p><b>UNITE – the Union</b>  Unite believes that separate equality bodies are effective as were the EOC, CRE and DRC. However, bringing all of them under one organisation like the EHRC can be as effective but each group should keep its identity with sufficient funding so that it does not lose its specialism which in turn helps with enforcement and promotion of equality for all.</p> <p>A lot can be learnt from devolved governments and we believe consulting with Scotland on this issue would be extremely beneficial to the Isle of Man as they have organised in a creative and effective way.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society supports the proposal for a broader Tynwald Equality Consultative Council. The membership needs to be widened to include parties representing all the protected characteristics where feasible.</p> <hr/> <p><b>Office of Fair Trading</b>  Given the proposed wider scope of the Council it would be desirable to increase the non-Tynwald representation in order to widen the perspectives brought to the table.</p> <hr/> <p><b>Prospect</b>  It is felt that there is no issue with the proposed renamed Tynwald Council having this remit provided they have the required skills and knowledge to cover all the requirements within the Bill. The Membership base would need to be larger to provide the necessary cover for all the protected characteristics. The 'Council' must be independent with membership appointed through the Appointments Commission with maybe only one political member who is not necessarily appointed as Chair. Failing this, could consideration be given to seek the assistance of the Equality Commission to consider issues for the Island much as the UK Pensions Ombudsman acts on the Island's behalf in relation to occupational pension complaints?</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch would be in agreement with the renaming and expansion of the remit, especially as we subscribe to the social model of disability. We believe that it would be useful to have a trade union or equality representative, and would suggest that a position could be reserved for a representative of the IOMTUC.</p> <hr/> <p><b>Sean Young</b>  TECC, should consist of a tynwald member, legal, medical, characteristic, lay person. As such it should be matched as far as possible to the case concerned.</p>

Question	Response
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**Q21**

**Do you have any comments about civil action through the proposed Tribunal being the main way for the Bill to be enforced?**

**Chamber of Commerce**

No. Some members have commented whether we should adopt the UK process so that it is mandatory for all claims to be conciliated first so that Tribunal claims can be avoided. However, this will place an additional burden on the MIRS/OFT.

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**Trustees of Manx Blind Welfare Society**

We acknowledge the requirement for this matter to be covered within the Act. This said the issue of capability is perhaps less well applied and understood than suggested at point 3.67

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**Royal College of Nursing**

The RCN agrees with the proposal to enforce the provisions of the Bill via civil action.

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**Jacqueline Yates**

The Group is content with this proposal.

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**Manx Deaf Society**

MDS support the proposal in this regard.

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**Douglas Stewart, Deputy Chair, Employment Tribunal**

**Question 21/22**

Paragraph 3.88 and 3.91 - Is there any evidence about the effect on the workload for broadening the powers of the Tribunal to include goods and services Jersey has a unified Tribunal like this and some pointers from how this has operated in practice may be helpful. I suspect that folk on the island may be less aggressive about these rights than a cross-section of the UK. I see no need to change the constitution of the Tribunal. The present ET panels are likely to have sufficient skills and experience as a key ingredient will be life-experience plus guidance from a legally qualified Chair. However no doubt in future the Appointments Commission could include reference to the wider range of tasks to be expected. If based on experience it proves that the task is too tricky, then it is likely to be easier to create a special pool of panel members than to create one now and then need to disband. It will potentially create logistical problems within the Tribunal system generally because of shortage of hearing-rooms and staff to sit as Clerks - something that is already a problem in my experience.

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**Prospect**

Again, similar comment to the previous question where members of the proposed EET must have the required skills and knowledge required. We would indicate at this point strong opposition to any move to introduce fees for those taking a claim to an ET along the lines of the UK provisions. Statistics show that since the introduction of fees in the UK there has been a 79% decrease in the number of claims which means around 4 in 5 people are being denied access to justice, especially for those occupying low paid jobs. It is worthy of note that the Labour Party is proposing a 'fair' charge for this provision if it is successful at the next general election.

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Question	Response
<b>Q21</b>	<b>Do you have any comments about civil action through the proposed Tribunal being the main way for the Bill to be enforced?</b>
	<p data-bbox="315 292 920 347"><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch would agree with what is proposed.</p> <hr data-bbox="315 371 685 375"/> <p data-bbox="315 408 2051 491"><b>Peter Murcott</b> The Employment Tribunal is most certainly not a suitable forum for dealing with the question of goods and services. Its lay members are appointed because of their expertise in employment matters, which is quite another matter.</p> <hr data-bbox="315 515 685 518"/> <p data-bbox="315 555 2078 639"><b>Sean Young</b> civil action would always be preferential and will often clear up matters. But what is the intention towards repeat offenders, non compliance, people who refuse to pay compensation etc. Will there be more robust methods in place to prevent this from happening and to deal with it when it does happen.</p>

Question	Response
<b>Q22</b>	<b>Do you have any comments about expanding the remit of the Employment Tribunal and renaming it as the Employment and Equality Tribunal? Do you have any views on the constitution of the Tribunal?</b>
	<p data-bbox="315 852 1993 940"><b>Chamber of Commerce</b> No. The Consultation Document should have addressed the cost of training the Employment Tribunal panel members so that they are fully up to speed with a complicated area of the law. The legislation and case law is so complex that a couple of hours training will not be sufficient.</p> <hr data-bbox="315 963 685 967"/> <p data-bbox="315 1027 2007 1171"><b>Trustees of Manx Blind Welfare Society</b> We would suggest that discussion ensues around the issue of capability as to whether or not it is the most appropriate approach to determine a "performance" related retirement. We are not convinced that there is widespread support for the continuation of the TACD in its current form. We would support the introduction of a truly independent body to deal with matters of advice, assistance, conciliation and enforcement.</p> <p data-bbox="315 1187 2051 1270">We do not have a preferred view on whether this should be in addition to the TACD or a agency which accommodates the role of the current TACD. A new "agency" with powers appropriate to its purpose would have the potential to considerably enhance the workings of the Act. It may also reduce the need for costly legal argument, and assist some of the most vulnerable to bring an action that they might not otherwise be able to pursue.</p> <hr data-bbox="315 1294 685 1297"/> <p data-bbox="315 1329 2040 1415"><b>Royal College of Nursing</b> The RCN agrees with renaming the Employment Tribunal to the Employment and Equality Tribunal but would urge the IOM government to ensure that appropriate equality and diversity training is provided to Tribunal judges and panel members.</p>

Question	Response
<b>Q22</b>	<b>Do you have any comments about expanding the remit of the Employment Tribunal and renaming it as the Employment and Equality Tribunal? Do you have any views on the constitution of the Tribunal?</b>
	<hr/> <p><b>Jacqueline Yates</b> It is one thing to be confident in dealing with employment issues but to have to judge on the wider issues is a big ask and is different in nature. Members of the Tribunal will need excellent training.</p> <hr/> <p><b>Manx Deaf Society</b> The Society supports the proposal to expand the remit of the Employment Tribunal and rename it as described. Tribunal hearings involving complaints of disability discrimination will need to include members who are disabled and training on disability equality (Social Model of Disability based) provided for all Tribunal members.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b> Same answer as to Q.21</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch would be in agreement with the renaming and expansion of the remit, although we would like to ensure that adequate training is provided, if necessary.</p> <hr/> <p><b>Peter Murcott</b> The Employment Tribunal should retain its current name. Over the years, various additional matters, relating to employment, have come within its jurisdiction, without the Tribunal's name needing to be changed. There is no need to alter the constitution of the Tribunal.</p> <p><b>5: The Enforcement</b> The Bill proposes to alter the Employment Tribunal to the Employment and Equality Tribunal. Given that the legislation concerns goods and services, what expertise do the lay members of the Employment Tribunal in particular have to assist them in adjudicating on that type of case, which has nothing to do with employment?</p> <hr/> <p><b>Sean Young</b> many of the procedures will be the same as already in place at the moment. Assuming appropriate training etc is in place then this would be a practical solution.</p>

Question	Response
<b>Q23</b>	<b>Do you have any comments about the Manx Industrial Relations Services dealing with conciliation/mediation for employment related equality cases?</b>
	<p><b>Chamber of Commerce</b>  Chamber members all agree that the service provided by the MIRS is excellent. However, members have expressed strong concern about the additional pressure that this will place on the MIRS. There seems to be no suggestion that the MIRS will be provided with additional support. Please also see response to question 19.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b>  We consider the role of the Manx Industrial Relations Service to be extended to cover employment related issues as eminently sensible.</p> <hr/> <p><b>Chartered Institute of Personnel and Development</b>  This is supported by the CIPD. There needs to be additional resource included in the scope for implementation due to the impact both supporting employers and employees.</p> <hr/> <p><b>Royal College of Nursing</b>  The RCN has no objection to this proposal.</p> <hr/> <p><b>Jacqueline Yates</b>  This seems appropriate.</p> <hr/> <p><b>Manx Deaf Society</b>  Subject to disability equality training being made available to MIRS officers (Social Model of Disability based and delivered by an appropriate disabled trainer) then MDS support this proposal.</p> <hr/> <p><b>Prospect</b>  Question 23 - 25– whilst there are no real issues arising from this we do have some concerns in relation to demand as opposed to resources available. Also, will training be provided? What happens where there is more than one protected characteristic and this falls to all or 3 of the 2 bodies mentioned to resolve? Is there going to be any provision for this to be dealt with by one body and who will decide which body will deal with it?</p> <hr/> <p><b>Department of Education and Children</b>  This seems entirely appropriate.</p> <hr/>

Question	Response
<b>Q23</b>	<b>Do you have any comments about the Manx Industrial Relations Services dealing with conciliation/mediation for employment related equality cases?</b>
	<p data-bbox="315 296 770 320"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 323 2040 379">The ATL IOM Branch would be content for this to occur, providing they have the capacity to deal with this with the resources that they have and providing suitable training is given, if appropriate.</p> <hr data-bbox="315 400 685 408"/> <p data-bbox="315 440 443 464"><b>Sean Young</b></p> <p data-bbox="315 467 1375 491">MIRS, with suitable staffing/training etc, in principle then the answer to this question would be, yes.</p>

Question	Response
<b>Q24</b>	<b>Do you have any comments about the Office of Fair Trading dealing with conciliation/mediation for goods and services related equality cases?</b>
	<p data-bbox="315 713 562 737"><b>Chamber of Commerce</b></p> <p data-bbox="315 740 2047 796">No, save for the fact that the Government has not carried out a cost assessment for the training and extra support that the OFT will need in terms of delivering this service which would appear critical to establishing whether this is appropriate or viable.</p> <hr data-bbox="315 817 685 825"/> <p data-bbox="315 857 573 880"><b>Royal College of Nursing</b></p> <p data-bbox="315 884 768 908">The RCN has no objection to this proposal.</p> <hr data-bbox="315 928 685 936"/> <p data-bbox="315 968 495 992"><b>Jacqueline Yates</b></p> <p data-bbox="315 995 1135 1019">No, they do appear to have the appropriate expertise to apply this legislation.</p> <hr data-bbox="315 1040 685 1048"/> <p data-bbox="315 1080 512 1104"><b>Manx Deaf Society</b></p> <p data-bbox="315 1136 1879 1160">Again subject to the provision of Social Model based disability equality training delivered by a disabled trainer, the Society will support this proposal.</p> <hr data-bbox="315 1181 685 1189"/> <p data-bbox="315 1220 539 1244"><b>Office of Fair Trading</b></p> <p data-bbox="315 1248 2069 1362">Subject to the provision of the necessary resources, the OFT would be pleased to take on the role. The OFT is already the focal point for consumer complaints about goods and services so it is natural that it would also seek to resolve complaint about (or which include) unfair treatment based on protected characteristics. The OFT already has staff trained in mediation and conciliation under the Financial Services Ombudsman Scheme. Specialist training in dealing with protected characteristic issues would be required to develop and apply existing skills.</p>

Question	Response
<b>Q24</b>	<b>Do you have any comments about the Office of Fair Trading dealing with conciliation/mediation for goods and services related equality cases?</b>
	<p data-bbox="315 296 409 320"><b>Prospect</b></p> <p data-bbox="315 325 2024 408">Question <b>23 - 25</b>– whilst there are no real issues arising from this we do have some concerns in relation to demand as opposed to resources available. Also, will training be provided? What happens where there is more than one protected characteristic and this falls to all or 3 of the 2 bodies mentioned to resolve? Is there going to be any provision for this to be dealt with by one body and who will decide which body will deal with it?</p> <hr data-bbox="315 427 687 435"/> <p data-bbox="315 470 725 494"><b>Department of Education and Children</b></p> <p data-bbox="315 499 656 523">This seems entirely appropriate.</p> <hr data-bbox="315 542 687 550"/> <p data-bbox="315 585 770 609"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 614 1962 638">Unfortunately, the OFT is possibly perceived as a weak and ineffective body and whether this is appropriate is a matter for others to make a judgement on.</p> <hr data-bbox="315 657 687 665"/> <p data-bbox="315 700 461 724"><b>Peter Murcott</b></p> <p data-bbox="315 729 2078 785">If the ambit of goods and services discrimination were to be expanded (and this is not supported), then by far the most obvious forum for dispute resolution would be conciliation/mediation by the Office of Fair Trading. Moreover, <i>that is where the matter should end.</i></p> <hr data-bbox="315 804 687 812"/> <p data-bbox="315 847 443 871"><b>Sean Young</b></p> <p data-bbox="315 876 810 900">again this would be a good fit for this purpose.</p>

Question	Response
<b>Q25</b>	<b>Do you have any comments about the Education Council having a role in trying to resolve disputes involving pupils in schools?</b>
	<p data-bbox="315 1120 562 1144"><b>Chamber of Commerce</b></p> <p data-bbox="315 1149 2040 1204">No, save for the fact that the Government has not carried out a cost assessment for the training and extra support that the Education Council will need in terms of delivering this service which would appear critical to establishing whether this is appropriate or viable.</p> <hr data-bbox="315 1224 687 1232"/> <p data-bbox="315 1267 730 1291"><b>Trustees of Manx Blind Welfare Society</b></p> <p data-bbox="315 1295 2002 1319">Response Q24/ 25 - We believe that in both cases it would be more appropriate to enable an independent body to deal with issues of conciliation in particular.</p> <hr data-bbox="315 1339 687 1347"/>

Question	Response
<b>Q25</b>	<b>Do you have any comments about the Education Council having a role in trying to resolve disputes involving pupils in schools?</b>
	<p><b>Manx Deaf Society</b> The Society supports the proposal if disability equality training is provided for the Education Council members. _____</p> <p><b>Prospect</b> Question <b>23 - 25</b>– whilst there are no real issues arising from this we do have some concerns in relation to demand as opposed to resources available. Also, will training be provided? What happens where there is more than one protected characteristic and this falls to all or 3 of the 2 bodies mentioned to resolve? Is there going to be any provision for this to be dealt with by one body and who will decide which body will deal with it? _____</p> <p><b>Dept of Education and Children</b> This would be an appropriate role for the Education Council to undertake with relevant training being provided, although in the case of children with disabilities, DEC's Services for Children propose commissioning a suitably qualified and experienced Independent Supporter to take on a similar role within the new SEN Framework. This may be a more appropriate arrangement where there is a need for specialist knowledge, or the Independent Supporter could have an advisory role to the Education Council. _____</p> <p><b>Association of Teachers and Lecturers IOM</b> The Education Council could have a role in this although whether it is seen as independent enough would be a concern. Suitable training would need to be undertaken by members of the Education Committee and if their expertise is needed then members who have no involvement in the school concerned would have to be called upon in order to be impartial. _____</p> <p><b>Peter Murcott</b> My answer to Question 24, with the appropriate adjustments, would apply to the Education Council. _____</p> <p><b>Sean Young</b> education council is the obvious choice for this, though would they be impartial?</p>

Question	Response
<b>Q26</b>	<b>Do you have any comments about the proposed public sector equality duty?</b>
	<p><b>Trustees of Manx Blind Welfare Society</b> Response We agree with the narrative supporting this question. _____</p>

Question	Response
<b>Q26</b>	<b>Do you have any comments about the proposed public sector equality duty?</b>
	<p data-bbox="315 264 573 288"><b>Royal College of Nursing</b></p> <p data-bbox="315 293 1794 317">The RCN welcomes the proposal to introduce a public sector equality duty which mirrors the position under the Equality Act 2010 in the UK.</p> <hr data-bbox="315 341 685 349"/> <p data-bbox="315 379 495 403"><b>Jacqueline Yates</b></p> <p data-bbox="315 408 1917 464">This is an absolutely essential and fundamental part of the Bill which should be enacted and implemented with integrity and enthusiasm. Once enacted, understanding and acting on this requirement should be a key part of training for all staff in the IOM public services.</p> <hr data-bbox="315 488 685 496"/> <p data-bbox="315 526 517 550"><b>UNITE – the Union</b></p> <p data-bbox="315 564 1980 588">Public Sector Equality Duty is a vital requirement and clear guidance and information will assist public sector employers to adhere fully to this important duty.</p> <p data-bbox="315 611 1294 635">As above, consulting with Scottish administration on this issue would be extremely beneficial</p> <hr data-bbox="315 659 685 667"/> <p data-bbox="315 697 517 721"><b>Manx Deaf Society</b></p> <p data-bbox="315 742 2069 823">The Society strongly supports this proposal. A public sector equality duty is absolutely essential to bring about positive changes in society for disabled people. It cannot be assumed that all disabled people will have a voice, legal representation and the capacity to make complaints when they experience disability discrimination. This is very true of people with learning difficulties and mental health problems.</p> <p data-bbox="315 845 2056 901">The public sector equality duty will encourage a proactive approach to promoting equality and reducing prejudice and discrimination without the need for individuals to make complaints.</p> <p data-bbox="315 924 2040 979">However, there are significant training needs that need to be addressed so that all public sector employees and those performing a function on behalf of the public sector will understand their duty to give due regard to equality. A programme of equality training needs to be developed and implemented asap.</p> <p data-bbox="315 1002 2063 1058">Encouraging disabled people to participate in public life is an essential and fundamental part of the duty. With disabled people represented on Tribunals, committees, Education Councils and in the MIRS there will be better and fairer outcomes for disabled people who wish to make complaints of discrimination.</p> <hr data-bbox="315 1082 685 1090"/> <p data-bbox="315 1120 607 1144"><b>Office of Human Resources</b></p> <p data-bbox="315 1149 2007 1204">It is presumed that the guidance on public sector equality duty will be undertaken by the proposed Equality Officer. If not, there may be an additional resource requirement within Government.</p> <p data-bbox="315 1209 2040 1291">Whilst it is not proposed that a legal claim could be made about this – could there still be a petition of doleance? The UK review of the PSED seems to indicate that this has just lead to management information being created so public bodies can evidence their compliance – why bring it in here when the conclusion of the UK review appears to indicate that it has not had meaningful effect yet in UK.</p> <hr data-bbox="315 1315 685 1323"/> <p data-bbox="315 1353 539 1377"><b>Office of Fair Trading</b></p> <p data-bbox="315 1382 1995 1406">Notwithstanding the absence of the proposed public sector equality legal requirement, as a matter of policy, the OFT strives to provide equality of access to its</p>

Question	Response
<b>Q26</b>	<b>Do you have any comments about the proposed public sector equality duty?</b>
	<p>services.</p> <hr/> <p><b>Prospect</b> We agree that this is a good thing.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch believes that suitable training should be put in place so that people understand what this means. We would also wish to see an accountability and monitoring mechanism to ensure compliance.</p> <hr/> <p><b>Peter Murcott</b> It can cause a crisis of conscience, especially where those in the public sector hold particular religious beliefs.</p> <hr/> <p><b>Sean Young</b> will they be protected if the need arises to evict, rehome or refuse accommodation where a person breaches they're tenancy agreement. For example rent arrears, anti social behaviour etc?</p> <hr/> <p><b>UNITE – the Union</b> Unite believes that public sector duties have been vital in raising the importance of specific areas of equality for workers and service users eg gender, race, disability and health &amp; safety. Looking at public sector policies and practices through the equality lens also assists in identifying under-representation of eg women or black workers or gaps in services. Once identified, measures to eradicate the discrimination can then be put in place. Advancing equality requires adequate information, wide-ranging involvement, clear objectives and monitoring procedures. These are not 'ends' but 'means' and of course must not be empty bureaucratic exercises, but no clear requirement mean no advancement of equality.</p> <p>A clear way of measuring the accountability of public bodies is through the information they provide. This relies on the evidence on why and how their equality objectives are set, why and how workers and service users were consulted and finally how the objectives will be put into practice and monitored. Specific duties helping public bodies meet the general duty are a benefit to the whole community.</p> <p>Unite has been calling for the public sector duty to be extended to the private sector, so that there is effective protection from discrimination across workplaces and communities. The Equality Bill can put this right.</p>

Question	Response
<b>Q27</b>	<b>Do you have any comments about positive action?</b>



Question	Response
<b>Q27</b>	<b>Do you have any comments about positive action?</b>
	<p><b>Ballamona Association for Mental Health</b> As a Mental Health Charity we welcome positive action to support any of the groups mentioned but mainly we welcome positive action to support people who are in need of this extra support whether in the workplace or the community and look forward to it being enacted into law.</p> <hr/> <p><b>Royal College of Nursing</b> The RCN welcomes the proposal around positive action to support persons who are disadvantaged because they have a particular protected characteristic which mirrors the position under the Equality Act 2010 in the UK.</p> <hr/> <p><b>Jacqueline Yates</b> This is a difficult line to tread but without it the legislation will fail to achieve its objectives.</p> <hr/> <p><b>Manx Deaf Society</b> Positive action is essential to bring about a more equal society. It must be recognised that not everyone is playing on a level playing field and sometimes a boost is needed. Just treating everyone the same does not ensure fairness or equality. Positive action needs to be substantive to ensure equality of opportunity for some minority groups and disabled people.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch believes that suitable training should be put in place so that people understand what this means.</p> <hr/> <p><b>Peter Murcott</b> In view of some of the things that have happened in the United Kingdom, I am very uneasy about it.</p> <hr/> <p><b>Hon Juan Watterson MHK</b> <u>Positive discrimination</u> The notion of equality is not just undermined by being selective of which characteristics the state chooses to protect, Part 11 of the Bill goes further to provide for, accept and promote "positive discrimination". Welcome to the work of tokenism, quotas, diversity monitoring and bureaucracy that will in perception if not reality impact on the Island's hard won reputation as a place where it is easy to do business. To support this view, the case of Hardwicke in Scotland has lead to the appointment of an assessor to support the equality act. An additional post to oversee legislation that is not required epitomises the well meaning, but poor execution of many of the ideas in the Bill. Equally the Bill prevents associations precluding individuals from membership on the grounds of protected characteristics, but Schedule 15 permits an association of people with a protected characteristic to restrict its membership. Surely this is blatant hypocrisy? ... I do not support the provisions regarding positive action, which is nothing more than tokenism and quota driven employment. Such moves are detrimental to feelings</p>

Question	Response
<b>Q27</b>	<b>Do you have any comments about positive action?</b>
	of equality in the workplace for the employee and the other employees (clause 136).

Question	Response
<b>Q28</b>	<b>Do you have any comments about the exceptions that are included in the Bill? Do you think any of the exceptions should be removed or that any additional exceptions should be included?</b>
	<p data-bbox="315 467 573 491"><b>Royal College of Nursing</b></p> <p data-bbox="315 496 1599 520">The RCN agrees with the exceptions that are included within the Bill as these generally mirror the UK's Equality Act 2010.</p> <hr data-bbox="315 544 685 552"/> <p data-bbox="315 584 490 608"><b>Jacqueline Yates</b></p> <p data-bbox="315 612 1787 636">It is vital that exceptions agreed through Orders in the Council of Ministers should be in the spirit of the Act and not used as a 'get around'.</p> <hr data-bbox="315 660 685 668"/> <p data-bbox="315 700 602 724"><b>Office of Human Resources</b></p> <p data-bbox="315 729 2078 785">Further to the comments under Q.16 above, we wonder if an exemption relating to pay protection should be included. There will be a need for service related benefits to be reviewed to avoid age related indirect discrimination claims</p> <hr data-bbox="315 809 685 817"/> <p data-bbox="315 849 557 873"><b>Chamber of Commerce</b></p> <p data-bbox="315 877 831 901">No specific feedback obtained on the exceptions.</p> <hr data-bbox="315 925 685 933"/> <p data-bbox="315 965 510 989"><b>Manx Deaf Society</b></p> <p data-bbox="315 994 1639 1018">The exceptions and examples described in the public consultation document sound reasonable and MDS would support them.</p> <hr data-bbox="315 1042 685 1050"/> <p data-bbox="315 1082 645 1106"><b>Dept of Education and Children</b></p> <p data-bbox="315 1110 2063 1189">DEC would request an exception in relation to student awards to avoid increasing student awards costs. At present, applicants must be under 60 at the start of a course. Support is restricted to means tested tuition fees only for those aged 39 or over if studying at the IOM College and for those aged 29 and over if studying off Island.</p>

Question	Response
<b>Q29</b>	<b>Do you think that any other legislation could be repealed by the Bill? Do think anything in the legislation that is to be repealed needs to be, or should be, retained?</b>
	<p><b>Chamber of Commerce</b> No.</p> <hr/> <p><b>Office of Fair Trading</b> No direct relevance to Office of Fair Trading</p> <hr/> <p><b>Hon Juan Watterson MHK</b> 10. What assessment has been made of the repeals within Schedule 24 and the extent to which the Equality Bill replaces, changes or repeals them altogether? I would like to know how this will apply to each of the items in Schedule 24.</p>

Question	Response
<b>Q30</b>	<b>Do you have any comments about any of the differences between the Bill and the UK Equality Act 2010?</b>
	<p><b>Chamber of Commerce</b> Chamber is supportive of the proposal to depart from the UK concerning the limit on compensation and on the political party issue.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b> We would disagree that compensation should be capped at £50,000.00. We would recommend the adoption of the same rules as those in the UK concerning compensation.</p> <hr/> <p><b>Royal College of Nursing</b> The RCN believes that there should be no cap on damages for discrimination in the Employment Tribunal under the provisions of the Equalities Bill 2015. In our view having a cap on damages of £50,000 for any discrimination claim will mean that victims of discrimination will not have an effective remedy to their complaint. This is why there is no cap on damages payable in discrimination claims brought under the Equality Act 2010 in the UK and throughout other EU jurisdictions. We expect the IOM government to adopt the same approach as the UK and other EU jurisdictions where there is no cap on damages in discrimination claims. The RCN welcomes the fact that Caste will be included as an integral part of the definition of race in the Bill.</p> <hr/> <p><b>Jacqueline Yates</b> Generally speaking, these proposals are logical and sensible departures from the UK position, particularly as regards to the inclusion of caste harrassment. However, there are two exceptions. The two exceptions relate to:</p>

Question	Response
<b>Q30</b>	<b>Do you have any comments about any of the differences between the Bill and the UK Equality Act 2010?</b>
	<p>a) the requirement discussed at 4.12 above under which regulations can be made to require organisations to keep information re gender pay gap. The Island has an opportunity to here to be ahead of other jurisdictions in tackling this persistent inequality. Having appropriate information will make this possible. At the moment, data on this is poor and making it a requirement to keep it would be a step in the right direction and would give women seeking redress a useful source of relevant and powerful data. Obviously the data should be aggregated so that individual people's pay is not made public but in larger organisations this should be made possible.</p> <p>b) The limits on compensation. The Group believes that compensation should reflect the levels in the UK and can so no reason for them not to.</p> <p>c) What would be the situation should political parties develop? Positive action has had a very positive impact in terms of women's representation in the national parliaments of other jurisdictions. Indeed it could be argued that the UK should be going further in this regard. Surely we should not close off this option should developing political parties in the IOM wish to consider it.</p> <hr/> <p><b>UNITE – the Union</b>  As in Q16 in regards to the gender pay gap information.  Having the socio-economic clause in the Equality Act 2010 is a significant step towards equality where inequality and discrimination is exasperated by class. The UK Government did not enforce this section which is an overarching clause addressing inequality, ignoring massive objections. The Equality Bill can out this right.  Unite believes that each case of discrimination is unique and requires an amount of compensation relevant to the outcome. Setting a maximum limit for compensation will be unfair and goes against the idea of compensating someone for the injustice they have suffered.</p> <hr/> <p><b>Prospect</b>  Question 30 – reference para 4.11 – why not refer to the UK Commission or the Tynwald Council for guidance rather than CoMin?  Ref para 4.12 - there is no excuse not to include the Regulation making power in the Bill, as information of this nature would be required by the EET. Just because it has not been brought into force in the UK does not mean that it will never be so. There is nothing to be gained by excluding the provision and there is inherent difficulty in attempting to introduce it into the Act once it has commenced. The UK has far more protective powers in place already and these are therefore more advanced than proposed IOM legislation. There is therefore little to argue that it cannot be included and not commenced with a view to reducing the minimum number of employees to better fit the IOM context.  Ref para 4.13 – a slight improvement on the UK provisions but it is felt that the inclusion of marriage/civil partnerships and maternity/pregnancy as protected characteristics is required, as failing to include them may suggest justification of discrimination.  Ref para 4.17 – Case law in this area is clear that there should be no cap as it prevents victims of discrimination from obtaining a correct remedy.  Ref para 4.20 – we are strongly opposed to this stance. The provision ought to be included here as there will then be a choice whether to commence or not. It is possible that this will be enacted in the UK at some time in the future and, again as per comment on para 4.12, it is difficult to argue its exclusion as it does not need to commence immediately and there will be difficulties in making any necessary changes to the Bill once enacted. This is an important principle which can be qualified by CoMin.  General comments on question 30 - we would refer to the statement in the 'Agenda for Change' document that states:</p>

Question	Response
<b>Q30</b>	<b>Do you have any comments about any of the differences between the Bill and the UK Equality Act 2010?</b>
	<p>“Make sure the protection of the most vulnerable remains a high priority for government. Ensure scarce public resources are targeted to those most in need by assessing an individual’s needs and their ability to pay, carefully, fairly and consistently.”</p> <hr/> <p><b>Peter Murcott</b> I wholeheartedly agree with the inclusion of 'caste'.</p>

Question	Response
<b>Q31</b>	<b>Do you have any comments about whether or not the prohibition against unlawful discrimination in respect of marriage and civil partnership should apply to schools in the Island?</b>
	<p><b>Jacqueline Yates</b> There appear to be no reasons why there should be discrimination on grounds of marriage and civil partnership in schools so we should ensure that the legislation outlaws this. All persons should be encouraged and enabled to access their education irrespective of their marital status</p> <hr/> <p><b>Manx Deaf Society</b> There appears no good reason why there should be discrimination on grounds of marriage or civil partnership in schools. All persons should be allowed to access education regardless of their martial status.</p> <hr/> <p><b>Prospect</b> Question 31- we would ask the question why enable discrimination to continue where there is a chance that discrimination could occur? Not sure preceding sentence makes sense? Unclear?? Surely this ought to be removed as it may conflict with Article 12 of ECHR.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch feel that there should be no discrimination on the grounds of marriage and civil partnership.</p> <hr/> <p><b>Peter Murcott</b> Leave well alone.</p> <hr/> <p><b>Keith Fitton</b> Page 34 5.1 Typo? “why schools should not prohibited from...”</p>

Question	Response
<b>Q32</b>	<b>Do you have any comments about implementing Regulation (EC) No.1107/2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air in the Island?</b>
	<p data-bbox="315 316 495 339"><b>Jacqueline Yates</b></p> <p data-bbox="315 344 1070 368">There is no reason why standards should be any lower than elsewhere.</p> <hr data-bbox="315 389 687 397"/> <p data-bbox="315 432 517 456"><b>Manx Deaf Society</b></p> <p data-bbox="315 461 2033 517">The Society supports the proposal that the EU regulations concerning disabled people and air travel are made applicable on the Isle of Man. The rights of disabled people when travelling by air should be fully equivalent in the Island to the UK and other EU countries.</p> <hr data-bbox="315 537 687 545"/> <p data-bbox="315 606 539 630"><b>Office of Fair Trading</b></p> <p data-bbox="315 644 1095 668">The provisions should apply to all carriers, not just those based in the EU.</p> <hr data-bbox="315 689 687 697"/> <p data-bbox="315 732 405 756"><b>Prospect</b></p> <p data-bbox="315 761 1120 785">Question 32 – we agree that EC 1107/2006 should be extended to the IOM.</p> <hr data-bbox="315 805 687 813"/> <p data-bbox="315 849 584 873"><b>Dick Clague, TravelWatch</b></p> <p data-bbox="315 877 2074 962">...we were puzzled by the inclusion of <u>Q32 Regulation (EC) No.1107/2006</u> concerning the rights of disabled persons and persons with reduced mobility when travelling by air in the Island, when there is no parallel question concerning <b>EU Regulation 1177/2010 concerning the rights of passengers, (including disabled and PRM) when travelling by sea.</b></p> <p data-bbox="315 967 1888 991">These are already obligatory for IOMSPC (as all their services run to/from EU ports) and are observed on a voluntary basis by Douglas Sea Terminal.</p> <p data-bbox="315 995 2007 1019">Logically if it is proposed to write the Air passenger requirement into Manx Equality Legislation, surely the similar provision should be made for Sea Passengers?</p> <p data-bbox="315 1024 2069 1080">We presume this to be an accidental omission - but not one which the general run of potential respondents might notice. Obviously we can respond "officially" under Q36 if you wish.</p> <p data-bbox="315 1085 2069 1141">There is an easy-read guide produced by the (Northern Ireland) Consumer Council if you want a quick read before diving into the full EU regulations! This is available on their website</p> <p data-bbox="315 1169 439 1193"><b>Keith Fitton</b></p> <p data-bbox="315 1198 1962 1222"><i>Page 35 5.5</i> I see no justifiable reason why disabled passengers should be offered a lower standard than would be expected at airports within the EU.</p>

Question	Response
<b>Q33</b>	<b>Do you have any comments about dual discrimination?</b>
	<p><b>Royal College of Nursing</b> The RCN believes that the Equalities Bill 2015 should cover claims of dual discrimination as this will improve protection from discrimination for those who have dual protected characteristics. It will also make it easier to establish less favourable treatment in discrimination claims as per the comments made at 5.9 of the consultation document. Whilst section 14 of the Equality Act 2010 is not in force in the UK we believe that it will be a matter of time before the section is introduced and as a result the IOM should also consider introducing the provisions sooner rather than later.</p> <hr/> <p><b>Jacqueline Yates</b> We should enact this provision earlier than the UK.</p> <hr/> <p><b>UNITE – the Union</b> As stated before the Equality Bill can set an example and enact the dual discrimination which the UK Government did not, ignoring evidence and massive opposition. There is no decent argument for non-implementation and it will provide protection for many workers who are subjected to discrimination on more than one ground. The Equality Bill can put this right.</p> <hr/> <p><b>Manx Deaf Society</b> The Society supports the proposal so that dual discrimination can be outlawed.</p> <hr/> <p><b>Prospect</b> Question 33 – we support the introduction of this clause but would question why the IOM could not include the other protected characteristics cited in para 5.7. Noting the example in para 5.9, to do otherwise would allow discrimination against older married women in comparison to older unmarried women.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> We believe that it was a mistake by the UK Government not to enact the clause on dual discrimination and that the IOM can lead the way and correct that mistake by including it in the IOM Equality Act.</p> <hr/> <p><b>Sean Young</b> how would a person bring a case of a failure to make a reasonable adjustment, victimisation, harassment, disability and sex discrimination?</p> <hr/> <p><b>Keith Fitton</b> Page 36 5.11 Why would we delay on the introduction of this clause? It should be brought in immediately.</p>

Question	Response
<b>Q34</b>	<b>Do you have any comments about discrimination between men and women in respect of individuals' insurance premiums and benefits?</b>
	<p data-bbox="315 331 495 355"><b>Jacqueline Yates</b></p> <p data-bbox="315 363 2024 443">Generally speaking women have benefited from this differentiation as the insurers generally have fewer serious claims from women and therefore offer lower premiums. Removing their ability to do this means that insurance premiums are based on blanket rules rather than evidence-based decisions. Therefore, it would seem illogical to follow the UK's plans in this regard.</p> <hr data-bbox="315 467 687 475"/> <p data-bbox="315 515 539 539"><b>Office of Fair Trading</b></p> <p data-bbox="315 547 2080 627">Inherently, insurance premiums are about assessed risk and it seems unreasonable (not withstanding that the UK/EU do so) to exclude any characteristic, protected or otherwise, from the risk assessment. The outcome is that premiums will be equalised and dependent upon the circumstances one group will be subsidising the other.</p> <hr data-bbox="315 651 687 659"/> <p data-bbox="315 691 405 715"><b>Prospect</b></p> <p data-bbox="315 722 1843 746">Question 34 – we agree as a matter of principle that this should be brought in as the Island's reputation may be adversely affected if it was not.</p> <hr data-bbox="315 770 687 778"/> <p data-bbox="315 810 461 834"><b>Peter Murcott</b></p> <p data-bbox="315 842 663 866">Insurers should be left to decide.</p>

Question	Response
<b>Q35</b>	<b>Do you have any comments about bringing the Bill into operation?</b>
	<p data-bbox="315 1077 562 1101"><b>Chamber of Commerce</b></p> <p data-bbox="315 1109 2080 1252">Yes. Chamber considers is unhelpful and vague that the Consultation Document does not provide a rough plan for practical implementation of the Bill. No indication at all is provided as to the likely timescale of the actual introduction of the legislation. This point is absolutely critical as businesses will need to budget and prepare for it (as will the Government). Whilst it is acknowledged that the Royal Assent date is not always the same date as the date its provisions will actually come into effect (although sometimes they are the same), the exact time scale in real terms has been left up in the air. Transitional arrangements will be key and are an area that more information should have been provided on and which should have been consulted on.</p> <p data-bbox="315 1268 1344 1292">It is clear that for such a big piece of legislation that it will need an appropriate lead in timescale.</p> <p data-bbox="315 1316 1093 1340">IQE state: "Should be a staged introduction say over a 5-10 year period".</p> <p data-bbox="315 1348 1193 1372">Hamblin state: "Education and a phased approach for employers would be logical".</p>



Question	Response
<b>Q35</b>	<b>Do you have any comments about bringing the Bill into operation?</b>
	<p>Smeale Farm Cottages state: "It is achievable for us. It may not be for those businesses that have not yet embraced the concept".</p> <p>Ronaldsway Aircraft Company Limited state: "Timing is not great - no phasing of implementation at all that we can see - could a better approach make the process modular and phased in implementation?"</p> <p>Standard Bank felt that a Royal Assent date of July 2016 was not realistic or achievable "unless certain aspects are split out".</p> <p>Triumph Actuation Systems state:</p> <p>"There needs to be consideration here of the costs to business to make adequate provision for disabled people and the time to mandate them. Many buildings and places of work are not compliant today and the time and costs to modify and convert will require a phased approach if we are to avoid massive impact on business."</p> <p>Colas state:</p> <p>"The consultation period is very tight. I don't feel they have consulted with business and services on the Island enough, considering it affects not only business but services also. The provisions of the Bill are still very vague therefore we can't prepare at this stage, when will the government set these provisions, when they launch the bill? What are the defined timelines for the Bill, this in itself is very vague, except for the launch which we are all expected to be ready for. The Government need to be more actively involved in the communication of the Bill and highlight the risks. It all feels a bit rushed."</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b></p> <p>We recognise that there may be sense in a phased approach to compliance with parts of the Bill but we will not support any attempts to delay the implementation of the Bill or any parts of the Bill into law as this would be counterproductive to the underlying issue and would cause a major loss of credibility in our Parliament.</p> <hr/> <p><b>Chartered Institute of Personnel and Development</b></p> <ul style="list-style-type: none"> <li>• How do you intend to educate the workforce of the IOM and employers?</li> </ul> <p>To summarise, the overarching biggest concern raised by our members was the additional cost to employers that is not yet able to be quantified until the detail is further understood. We are keen to work with you and your team on the roll out of the Equality Bill and available for any assistance we can give.</p> <hr/> <p><b>Royal College of Nursing</b></p> <p>The RCN believes that the provisions in the Bill are brought into operation immediately after the Bill receives Royal Assent rather than via a staged process. We see no reason why the provisions of the Bill cannot be brought into effect immediately given the importance of equality issues in modern society. We also see no reason why there should be a lead-in period of 2 years for claims for equal pay for work of equal value. The concept of equal pay for work of equal value is a well-established principle under UK law and the provision should be adopted as soon as the Bill receives Royal Assent in our view to ensure that the gender pay gap is narrowed and eradicated.</p> <hr/> <p><b>Jacqueline Yates</b></p> <p>The Island has a disgraceful record in regard to the implementation of the Disability Discrimination Act 2006 and it is absolutely essential that we do not repeat that</p>

Question	Response
<b>Q35</b>	<b>Do you have any comments about bringing the Bill into operation?</b>
	<p>mistake here. If this legislation is needed (as it is) then it should be enforced without delay. Many organisations in the Island are already au fait with the UK legislation and it will not come as any surprise to them that we are also moving in this direction. Whilst there will be costs, these can be avoided if the organisations plan their work carefully and act in ways which are commensurate with common decency. Adaptations to buildings to ensure disabled access will need to be made but these are also beneficial to other customers. If other jurisdictions can do this we see no reason why we cannot.</p> <hr/> <p><b>Manx Deaf Society</b>  The Society was disappointed that the Disability Discrimination Act 2006 was not implemented after receiving Royal Assent and has now been repealed. It is strongly hoped that the Equality Bill will not suffer the same fate and early implementation will be possible.</p> <p>A phased approach may be needed for some reasonable adjustment duties for disabled people (for example access to buildings). It is conceivable that blanket ban policies and direct discrimination in many cases could be enforced immediately after Royal Assent has been obtained.</p> <hr/> <p><b>Office of Human Resources</b>  We would like to see a staged introduction, especially in relation to comments above regarding the implications of equal value</p> <hr/> <p><b>Office of Fair Trading</b>  In principle, the OFT supports phased introduction, but there should be a clear timetable for introduction which should be published as a draft at an early stage; and finalised immediately after Royal Assent.</p> <hr/> <p><b>Prospect</b>  Question 35 – we would be concerned if inordinate delays occurred in commencing this Bill once Royal Assent is received. Given the circumstances surrounding the Disability Discrimination Act 2006 where that Act has been on the statute book since 2006 and not been commenced, the Island has clearly failed in this respect in the past – we would not want history to repeat itself in this regard.</p> <p>We may go so far as to suggest a clear timetable is published that indicates timescales for introduction with a possible caveat to the Bill that stipulate that anything not commenced within a specified time will automatically become operational at the end of that specified period.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  If there is a lead in period then for equal pay for work of equal value should be at the full 6 year level as this would give time for employers to get things sorted out.</p> <hr/> <p><b>Ramsey Town Commissioners</b>  A requirement that the Act if promulgated should be implemented as a single complete Act or that if it is to be introduced in stages, by Appointed Day Order, that the Act should define clearly which elements will be introduced together and within what specific timescale so as to ensure that the whole provisions do get introduced in their entirety, thereby justifying the haste with which the Bill is being progressed, and ensuring that certain aspects are not left not-applied for any reason.</p> <hr/>

Question	Response
<b>Q35</b>	<b>Do you have any comments about bringing the Bill into operation?</b>
	<p data-bbox="315 292 607 316"><b>Leonard Cheshire Disability</b></p> <p data-bbox="315 320 2069 432">We hope to see all aspects of this legislation enacted at the earliest possible opportunity once it passes into law. Following the Isle of Man government's failure to implement the Disability Discrimination Act 2006 it is essential that these measures are implemented in a timely and efficient way to ensure that disabled people have fair and equal access to goods, facilities and services, the exercise of public functions, premises, work, education, and associations.</p> <hr data-bbox="315 459 683 464"/> <p data-bbox="315 496 461 520"><b>Peter Murcott</b></p> <p data-bbox="315 525 573 549">I do not support the Bill.</p> <hr data-bbox="315 576 683 580"/> <p data-bbox="315 612 443 636"><b>Sean Young</b></p> <p data-bbox="315 641 2047 697">a lead in for changes to buildings, transport etc where a physical change is required, such as the installation of a ramp. But not for others as many medium to large employers would already have policies and procedures in place, often as best practices.</p> <hr data-bbox="315 724 683 729"/> <p data-bbox="315 761 439 785"><b>Keith Fitton</b></p> <p data-bbox="315 790 2076 991"><i>Page 37 5.15</i> Why does the Council of Ministers wish to introduce different parts of the Bill into operation on different dates? The stated comment is that it will be "important to ensure that there is sufficient time for businesses and others to adapt to the new requirements". This is almost certainly a reference to Access to Goods &amp; Services by physically disabled people. It may also refer to accessing Employment &amp; Education. Had the DDA 2006 been implemented eight years ago, businesses would have been required to make reasonable adaptations by now. Any business that has not already made reasonable adaptations has chosen not to because they are not compelled to. Failing to introduce this area of the Equalities Act will simply be an excuse to continue knowingly discriminating in the provision of reasonable access. Those businesses that have chosen not to change so far, will continue to act in a discriminatory manner. The Act MUST be introduced in entirety if it is a genuine piece of legislation aimed at reducing discrimination. As this document says in 3.88 "All legislation must be enforceable and if it is not it is useless".</p> <p data-bbox="315 1023 2033 1078">If it is a genuine belief that businesses still require additional time before they stop discriminatory practices, then the exact time when the Act will be implemented should be clearly documented in a timetable within the primary legislation. Remember the Act only requires "reasonable adaptations".</p>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p><b>Chamber of Commerce</b></p> <p><b>Chamber's approach to the Consultation</b></p> <p>Chamber recognises that the Equality Bill is an important landmark piece of social legislation. It will affect all businesses and individuals on the Island in both the public and private sector and its potential impact on everyone must be carefully considered, managed and not down-played. Chamber has reached out to its members in the business community in order to get meaningful feedback from them on the legislation generally and the implications that it will have on them.</p> <p>Four consultation sessions were held due to demand and over 100 businesses on the Isle of Man attended them in order to learn about the legislation and express their views. We encouraged an open debate in these sessions in order to get a true understanding of the feeling of Chamber members about the legislation. All members agree with the principles behind the legislation and feel that it is important that individuals are not discriminated against. However, there is widespread concern as to the cost of implementing the legislation, the timescale for its introduction, the support that will be available for organisations and the timing of the proposed legislation generally.</p> <p><b>Summary of main concerns surrounding the legislation</b></p> <p>A summary of the main issues and concerns that have been raised by Chamber members are as follows:</p> <ul style="list-style-type: none"> <li>· There is a lack of a proper cost assessment as to the likely impact that legislation will have on businesses as well as government. It is acknowledged that the cost implications, particularly in relation to the making of reasonable adjustments, may vary widely from business to business but it is critical that the costs versus the benefits of introducing the legislation are assessed.</li> <li>· A main concern is in relation to age and disability legislation (and the complexity of their respective provisions) as it is felt that these are the areas that will have the most impact.</li> <li>· There is big concern amongst members in relation to the lack of a plan/timetable or even a guide indication for the actual introduction of the legislation.</li> <li>· There does not appear to be appropriate focus on ensuring that the legislation is appropriate for a small Island. The consultation document does not suggest alternatives to following the UK position. This can be compared to Guernsey and Jersey who have respectively taken the decision to update their discrimination legislation at a reasonable pace and on a piecemeal basis.</li> <li>· Members have commented that the lack of information available as to what the legislation will mean in real terms is concerning and hampers their ability to properly consider the impact it will have on their businesses. For instance, in relation to reasonable adjustments for disability discrimination, it is difficult to properly and meaningfully consult on this without some of the meat on the bones i.e. regulations/codes of practice/guidance as to reasonable adjustments will mean in practical terms. This lack of information and guidance has created more uncertainty within the business community.</li> <li>· Members have expressed concern that there is a lack of focussed support (both financially and in terms of guidance) for small businesses. There is no doubt that it is likely that small businesses (which form the majority of the Island's economy) will be hit hardest by this legislation. These are businesses with little surplus funds, no HR Department and little other support generally. No consideration has been given as to whether a small employer's exemption would be appropriate. Members have also expressed concern that consideration should also be given to grants for small businesses in particular in order to assist them in complying with the legislation.</li> <li>· The Equality Bill deals with a number of other miscellaneous exemptions that are not equality related, not properly flagged in the title of the Bill. Some of these proposed changes are critical and could have easily been missed by organisations and individuals that thought, understandably, from the title of the Bill and consultation document that the proposed legislation only deals with equality issues.</li> <li>· Members have expressed serious concern over the timing of the removal of Redundancy Rebates Scheme which is one of the only schemes that provides support for small businesses and is widely used (as evidenced by the figures supplied in the Consultation Document). The removal of this scheme seems to be another unfair</li> </ul>

Question	Response
<p><b>Q36</b></p>	<p><b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b></p>
	<p>hit which impacts on the private sector at a time when businesses are having to deal with increased costs in an uncertain climate.</p> <ul style="list-style-type: none"> <li>• Equally, adverse changes to the fund that compensates employees whose employers have been made insolvent is considered to be an important scheme particularly in unsettled economic times. Further, members feel that this is indicative of a continual cost shift on to the private sector.</li> <li>• Members have identified that there seems to be a lack of suggestions contained in the Consultation Document as to a more gradual approach to updating discrimination law e.g. for age discrimination to raising the retirement age so it is in line with the state pension receipt age rather than removing it in its entirety. When the Equality Bill 2010 was introduced, the UK deliberately had a more gradual approach to start off with but it does not appear that this is being followed in the Isle of Man despite the fact that, unlike the UK, the Isle of Man has had no build up or any underlying discrimination legislation.</li> <li>• The equal pay for equal value work has massive implications for both the private and the public sector;</li> <li>• Chamber members are particularly concerned about the impact that the introduction of the legislation will have on the MIRS. All members agree that the MIRS offers an excellent service and there seems to be no plan for how the MIRS will be supported if there is additional work load. This is very concerning.</li> <li>• One key theme that was continually raised by the majority of Chamber members is the general timing of the legislation. Many members have indicated that, given the continued uncertainty of the economy generally and the increased costs that businesses have had to absorb, the timing of the introduction of this legislation is far from ideal. The Consultation Document states on page 4 that "<i>due to competing legislative priorities and limited resources</i>" that equality legislation has so far not been progressed. Chamber would comment that it does not believe that the competing legislative priorities and limited resources are any less challenging now, in fact there is an argument that the Isle of Man is more stretched than ever. As a result, many members have indicated that the timing of the legislation is ill-thought out and could be devastating at a time when the Isle of Man economy is struggling and there are more and more regulatory requirements being heaped onto businesses.</li> </ul> <p>Canada Life has questioned the timing of the introduction of this legislation:  <i>"As stated within the background and introduction to the consultation documentation, an Equality Bill has been on the legislative programme for several years but has not been progressed until now because of resource issues and competing priorities within Government. Given that the Island's economic climate has shown no significant improvement and that far reaching costs savings are being progressed across the public sector as a whole, it is difficult to understand why it has been decided that now is the time to give priority and divert resource into this area, particularly given the expected additional costs that implementation will impose on the Island's businesses".</i></p> <p>This succinctly sums up the majority of the members views on the timing of the legislation.  Harding Lewis also is also critical about the timing of the bringing in of the legislation:  <i>"Whilst the IOM legislation may not be completely up to date and so in need of reform at some point, any legislation must be seen to have benefits that outweigh the cost. Our belief is that the perceived costs far outweigh the benefits especially at the current time when businesses on the Island in most sectors are struggling financially and with the weight of massive new legislation relating to, for example, FATCA, the Common Reporting Standard and updated AML legislation... This legislation is at best at the wrong time and far too onerous on business, especially smaller owner managed businesses. It will be seen by many entrepreneurs as another factor making the Island less attractive for new business at a time when we need new business initiatives, not anti-business initiatives. Without a business friendly environment, there will be no jobs and all classes will suffer."</i></p> <p>The Consultation Document states that there will be benefits, "<i>social, financial and reputational – and it is believed that in overall terms the legislation will be beneficial for the Island</i>". Whilst social and reputational benefits can be envisaged, the financial benefits are less clear. It is respectfully submitted that this is a bold claim in circumstances where no real attempt has been made to quantify these benefits specifically for the Isle of Man.</p> <p><i>Age discrimination:</i>  Triumph Actuation Systems have stated in relation to the proposed legislation on age discrimination:  <i>"The Bill needs to consider unintentional Indirect Discrimination against the protected characteristic of Age associated with employee benefits like Health Insurance,</i></p>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p>PPI, pension obligations and long service awards all of which today have age associations and restrictions that are either direct or implied. Some insurance/pension providers may continue to exclude certain age groups on risk grounds. If insurers/pension providers do make amended provisions for age, the risks will be covered by increased costs on the policies/pensions of the other employees and the businesses will end up paying more.</p> <p>There will be an increased cost to business associated with a higher incidence of absence due to ill health associated with the older employee. This will potentially increase performance management activity leading to dismissals that are upsetting for all involved and increase risks of age discrimination claims. An older workforce increases the scope and incidence of age related disability which, with the requirement within the Bill to make appropriate adjustments for disability, will create increased cost for business. With our business sight, hearing, physical stability and dexterity are essential to our core activity and appropriate adjustments for these as they deteriorate with age will be costly at best, impossible at worst and they will lead to terminations on the grounds of capability which may be construed as age/disability discrimination.”</p> <p><i>Race:</i> Members have queried the impact of the legislation on the work permit system (unique to the Isle of Man and not an issue that the UK had to consider in its legislation). Whilst it is noted that there is a carve out for the work permit system, what is not addressed is whether there is an increased chance of candidates that do not get selected for a job because there is a suitable local worker, will they try to claim that the reason for the rejection is not actually the work permit system but instead on some other protected characteristic.</p> <p>Triumph Actuation Systems state: “There are a number of concerns here which link to the Work Permit Legislation.</p> <p>When a job offer is made to a new recruit it will indirectly discriminate on the grounds of race if a non-Manx worker’s offer is conditional on a work permit and the Manx worker’s is not. This imposes a different condition based on nationality i.e. race.”</p> <p><i>Other:</i> Triumph Actuation Systems state: “Clause 40.1.c regarding contract workers opportunities for receiving benefits, facilities or service today contract workers are excluded from permanent employee benefits. This clause opens business up to costly claims for parity. It is not appropriate to offer benefits enjoyed by permanent employees to short term contract workers.”</p> <p><b>First Addendum</b> Chamber believes that it makes sense for dismissal on the grounds of any protected characteristic to qualify as automatically unfair so that the UK position is replicated. Chamber does not see why the Government also does not follow the UK for normal qualifying period and increase this from one year to two years. The IOM Government seems to cherry pick all the UK initiatives that benefit employees and none that also benefit employers. There are sound arguments for extending this eligibility criteria which were fully explored by the UK Government when this change was introduced and, at the current time, the IOM Government should also properly consider implementing this too.</p> <p><b>Specific Comments on the Impact Assessment</b></p>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p>This is a massive piece of legislation that has real cost implications for everyone. The "impact assessment" only extends to 5 pages and it is inadequate. The lack of detail has only increased concerns amongst the business community.</p> <p>The "options" are not objectively put forward as the Consultation Document makes it clear that the only option that has been properly considered is option 2 i.e. follow the UK. This is despite the fact that the other offshore jurisdictions are going a different route and taking the time to ensure that what is enacted is appropriate and achievable for a small jurisdiction. This should have been fully considered. Government needs to be realistic that it is going to be "<i>complex, resource intensive and time consuming</i>" regardless of what option is chosen. Chamber respectfully submits that Government is either underestimating or downplaying the cost of their preferred option 2. Some indication of how much more expensive option 3 would be should have been given but it seems transparent that it has not properly been considered.</p> <p>In terms of financial cost, the Impact Assessment only refers to vague UK figures. More importantly, it only refers to figures relating to the UK cost of implementing the Equality Act 2010. This ignores the fact that the UK had comprehensive underlying discrimination law in place in the first place which predated the Equality Bill. By the time that the Equality Bill had been introduced the UK had already gradually adapted. This is a crucial difference. The UK figures supplied are, in Chambers view, irrelevant and add nothing. The figures for a small jurisdiction would not be comparable anyway.</p> <p>In terms of the likely financial costs on page 54 it is submitted that:</p> <ul style="list-style-type: none"> <li>- The familiarisation costs (in some respects the most critical) have not been quantified;</li> <li>- The limited term appointment is probably an underestimation of the man power that will be needed;</li> <li>- No suggested increase of budget for MIRS;</li> <li>- Cost of reasonable adjustments (produced from one articulated internet source) of £75 per adjustment is ridiculous and is also based on the position of the UK in 2014, so completely irrelevant. It ignores the training required, review of policies and procedures, business time involved and the more substantial modifications required. There has been no attempt to get any data to try and quantify what the cost may be. If this exercise is impossible then the business community should know that the cost of introducing this legislation could essentially be a blank cheque for both Government and businesses. In this case, everyone has the right to have an opinion as to the proportionality of the legislation and the appropriateness of the timing of it;</li> <li>- The increase of cases for the Tribunal. To compare this to the cases that resulted from the sex discrimination legislation offers no real comparative base. The Equality Bill is much more comprehensive and it is submitted that this legislation is also being introduced in an entirely different era of increased awareness of employment rights. Stats from 15 years ago will hardly be relevant now.</li> <li>- Costs of the OFT support and training have not been quantified. Costs and support for bodies such as the education council etc. have been completely ignored.</li> <li>- The recruitment costs of the Tribunal members also seem low and there is nothing to support the reasoning for how these figures have been reached.</li> </ul> <p>In terms of the likely financial benefits no figures have been produced. No data has been supplied to support the 10% of the population that it is states could benefit from this legislation.</p> <p>With respect, the Impact Assessment is inadequate, offers no real assistance and seems to have been rushed.</p> <p>The Business community needs convincing that the benefits of the legislation outweigh the costs and the Impact Assessment does not allow them to do this.</p> <p><b>Conclusion</b></p> <p>In short, the vast majority of members questioned whether the Equality Bill was a "sledgehammer to crack a nut". No real consideration appear to have been given as to whether it is proportionate for the Isle of Man or whether it is the right time for it to be introduced for the Island and this is the most fundamental concern for Chamber.</p> <p>Chamber members feel that Government have either underestimated or deliberately downplayed the training and support that businesses, employers and employees will need regarding the new legislation. This is neither accepted nor responsible particular in today's difficult climate.</p> <p>Chamber members remain unconvinced that the cost of introducing the legislation now should be a priority for the Island both in the public and private sector right</p>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p>now. The fact that no adequate cost impact assessment has been carried out makes this even more of a concern. Members feel that the Government need to quantify the likely cost that the introduction of the legislation will mean for the Government. One member stated:  <i>"I really can't believe that this is necessary or a priority when I consider everything else we are trying to deal with at present, as well as trying to run a business: AML code consultation, Closed Ended Investment Companies Review, Register of UBOs, National Risk Assessment, Moneyval Visit, FATCA. It is certainly not going to help business on the Island – if there's any left".</i>  Chamber would reiterate that it is fully supportive of the principles behind the legislation and the fact that discrimination should not be tolerated. However, many members feel that the potential costs of introduction of this legislation are likely to significantly outweigh the benefit to both Government and the private sector.</p> <hr/> <p><b>CIPD</b>  The CIPD support the Equality Bill but there is serious concern about the scope and quantum of the change and the timescale for implementation and we need to be reassured that there will be resource made available for Employers to be able to adhere to the Equality Bill and that implementation is phased to allow a period of grace for employers to ensure that any new policies and procedures which need to be implemented are able to be done with full consultation and costing, ensuring that an impact assessment is able to be thoroughly understood.</p> <p>There is concern that other things appear to be included that are not directly related to Equality i.e. scrapping Redundancy Rebate, impact of which could be missed in the legislation.</p> <p>Lack of detailed costing and impact analysis and the likely cost figures quoted do not stack up with the estimates businesses have done, and there is genuine concern at the impact costs will have on smaller businesses.</p> <p>This is taking a broad approach whereas the UK tiered their approach and did not expect small businesses to do the same as larger ones.</p> <p>...</p> <p>To summarise, the overarching biggest concern raised by our members was the additional cost to employers that is not yet able to be quantified until the detail is further understood. We are keen to work with you and your team on the roll out of the Equality Bill and available for any assistance we can give.</p> <hr/> <p><b>Mark Denton, Chairman of the ACSP</b>  The ACSP has not prepared its own response to the Equality Bill Consultation as it has been fully engaged in responding to other pressing consultations over recent months. However, we have seen the response prepared by the Chamber of Commerce and fully endorse and concur with the comments and conclusions therein.</p> <hr/> <p><b>Royal College of Nursing</b>  The RCN is committed to eradicating discrimination in the workplace on behalf of our members. Save for the comments made around dual discrimination and lead in periods for the introduction of the bill we welcome the introduction of the Equalities Bill by the IOM Government.</p> <hr/>



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	<p><b>Jacqueline Yates</b> Does the Government intend to enact same sex marriages in the near future? If so, would it to be appropriate to include this in the Equality Act?</p> <hr/> <p><b>UNITE – the Union</b> As stated before, this Bill is an opportunity for the Isle of Man to be exemplary in preventing discrimination and protecting those who suffer all forms of discrimination. They can FULLY implement, remedy the shortcomings and move even further than the Equality Act 2010 to ensure equality for all. Local concerns are based around an unchallengeable Council of Ministers ability to generate legislation and Codes of Practice. There are also similar concerns referenced to Department of Economic Development having ability to make amendments. Unite believes that consultation and involvement of trade unions and other stakeholders is vital to this process. The repeal of a large list of Acts on adoption of this policy could create detriment to current unsettled legal cases reliant upon them, a transitional arrangement should be sought to cover these eventualities. The repeal of the Disability Discrimination Act before it ever saw the light of day by expecting this Equality Bill to replace it questionable.</p> <hr/> <p><b>Manx Deaf Society</b> MDS is delighted that the Equality Bill 2015 has been published and is grateful for this opportunity to be consulted. Though 8 years have passed since the Disability Discrimination Act 2006 gained Royal Assent, we congratulate the Isle of Man Government on taking appropriate steps to introduce a wider reaching and more powerful piece of legislation as described in the Equality Bill 2015. We believe this legislation will have a powerful impact for the better on the many thousands of deaf and hard of hearing people who live on the Island or who visit it. The Society wishes to comment on the accessibility of the consultation process around the Equality Bill. Though MDS applauds the public consultation and welcome the introduction of the Equality Bill we feel that more could have been done to facilitate access for; deaf people who use BSL as their first language, people with learning difficulties and blind people. Information about the Bill still needs to be made available for these groups of people in a wide range of alternative formats; Braille, BSL and Easy Read. We hope that summaries can be made available in future or face to face consultation meetings be organised for these specific groups. The Society also observes that respondees to the consultation need to include their names with their responses. We think this requirement to be disproportionate and that there should be flexibility to allow for anonymous contributions. This would be beneficial for people who have HIV + status or mental health conditions for example.</p> <hr/> <p><b>Dept of Education and Children</b> Whilst appreciating the difficulty in doing so, a more thorough impact assessment should be undertaken prior to the Bill progressing to better identify the potential financial/resource implications arising from the proposed Bill set against the benefits.</p> <hr/>

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	<p><b>Colin Coole – Capital International IOM</b>  Although many aspects of the Equality Bill are to be supported there are a number of concerns within it.</p> <p>I am lucky enough to work for an organisation which discourages discrimination in all its forms and actively promotes good practice through its policies and procedures.</p> <p>This is not the case elsewhere; however, there are numerous areas of the Bill which need further thought before they become law.</p> <p>If there is one step I would urge the decision makers to make, it is that the size of this Bill and its overall impact cannot be underestimated. A phased introduction would appear to be the more obvious approach.</p> <p><u>Cost to Tax Payer</u>  The cost to make the necessary building alterations to Government Buildings will be in the millions. Over the past few years, various Government departments have been tasked with saving significant costs from their current budgets. However, on numerous occasions these 'Cost Savings' have not been possible and therefore additional taxes have been applied to the Isle of Man public and businesses. If cost saving measures have already been exhausted, then the only alternative is to pass the cost onto the Tax Payer and businesses. In the current economic climate I cannot see how this is justifiable. Various charges and cost cutting measures have also come under heavy criticism from the Chief Minister and MHK. The current Consultation document does not address the fundamental issue of how it will be paid for. In fact, it does state the Bill has not been passed previously "due to resource issues .. ." [Section 1.1].</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  Specifically, in regard to education in the Act, where does the idea of 'catchment areas' fit into this? Reference is made to 'exclusion' in both schools and the IOM College and there may be cases where the continuing presence of a pupil is a serious risk to others, eg a violent pupil. What is the situation in this case? The '<b>Equality Act 2010 and schools -Departmental advice for school leaders, school staff, governing bodies and local authorities'</b> Reference: DFE-00296-2013 is a helpful document for schools and explains many of the underlying ideas.</p> <hr/> <p><b>Andrew Dixon</b>  <b>Comments on Equality Bill</b>  I make these comments my personal submission to the Committee on the Equality Bill 2015.</p> <p>Whilst I can understand the desire to avoid another embarrassing, public, discussion on the rights of lesbian, gay, bisexual, transgender or other citizens on the spectrum of human sexuality/gender expression to enjoy the same privileges as granted to heterosexual citizens when it comes to marriage (please refer to Hansard</p>

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	<p>for the verbatim notes on the debate to decriminalise homosexual behaviour in May 1991 [Hansard] and the many news articles that surrounded the debate), I really do think we should have the debate now, rather than put it off until later.</p> <p>Hence, I formally request that the Equality Bill 2015, as presented, is re-drafted to include such measures to recognise marriage equality as are raised in the UK's Marriage (Same Sex Couples) Act 2013 before an Equality Bill is presented to Tynwald.</p> <p>The world is constantly changing, even in some 'red states' of America, people are realising that marriage is a special relationship between two people in love and the State has no authority to dictate the sexual orientation of those people before granting them the same special privileges it grants to others.</p> <p>To deliberately exclude the marriage equality debate during a discussion on equality is astounding in the extreme. I can only imagine the impact on the Island's reputation such a crass move would have. The world has changed - it is time for us to change too.</p> <p><u>The case for delaying the passage of this Bill until such legislation to allow for marriage equality to be recognised and incorporated within an Equality Act.</u></p> <p>Our State recognises marriage as having an important sociological benefit to the wider community and wants to encourage citizens to form permanent, committed, sharing relationships - in return, the State grants certain privileges and benefits to those couples, which are not granted to those who chose not to become married. (The question of restricting the 'family to a place for raising children' could be raised, but given that many couples who marry may not be capable of doing so does not require marriage to be redefined - to insist that marriage is the only institution recognised by the State for the raising of children is both shockingly antiquated and shamefully ignorant of the legitimate desires of individual citizens to be treated equally.)</p> <p>If 'equality', as related to this Bill, is defined as treating each person as having an equal opportunity to a respectful and dignified treatment by the State then I hold that the Bill, as presented, does not pass this basic test. Why? Because as this Bill stands there is no recognition of the equal treatment with regards to marriage for those who are homosexual (a term I use to include both gay and lesbian couples) or where one, or both, people express a gender different to that assigned to them at their birth.</p> <p>Given these are 'protected characteristics' within the definitions of the Bill I am at a loss to understand why the Bill, as presented, does not encompass marriage equality as laid out , for instance, in the UK Marriage (Same Sex Couples) Act 2013.</p> <p>I did raise this very question with Anne Shimmin, whilst writing as chair of the Isle of Man Freethinkers, and was told that as the Equality Bill is based on the UK's Equality Act 2010: "As you note, the draft Bill does not deal in any way with the issue of same sex marriage, as only the UK's Equality Act 2010 was used as template for preparing the present Bill." [Shimmin]</p> <p>I am heartened by her next comment; that should the Committee deem it fit to do so it would include such measures - I beg the Committee to consider doing this before promoting the Bill to Tynwald.</p> <p>Given the new information gained following the implementation of UK's , and other States', marriage equality legislation; namely that 'marriage' did not, in fact, cease to exist/have special meaning/was destroyed once each consenting adult could decide who they wanted to marry - I find it hard to understand why the Committee would deliberately exclude marriage equality measures from a piece of legislation that seeks to "embod[ies] the values of fairness and tolerance that are the</p>

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	<p>foundation stones of any decent, civilised society." [Bell, Consultation, p.3]</p> <p>Chief Minister Bell rightly raised the shocking case of the comments made by Mr Keith Price with regard to a lesbian couple renting a property in Ramsey:</p> <p><i>"Mr Bell described the beliefs of the Independent Methodist Church - of which the landlord of the property in Ramsey was a member - as "bigoted" and warned that the row threatened to reverse two decades in which the island has battled to leave behind its pariah status among the lesbian, gay, bi-sexual and transgender communities."</i>[Independent]</p> <p>If this Bill is truly "one of the most important pieces of social legislation to be progressed in the Isle of Man in recent times" [Bell, Ibid.] then surely it should stand for more than a couple of years without having to be returned to the house in order to incorporate something like the UK's Marriage (Same Sex Couples) Act - to know that the legislation will need to change in the near future, and yet not do anything at this point, would make Tynwald a laughing stock abroad, and may even lead to the UK, or the European Union, having to step in to correct the omission of the Committee, or Tynwald.</p> <p><u>Counter arguments to those raised against marriage equality measures:</u></p> <p>I hope my case raised above is sufficient to encourage the Committee to consider re-drafting the Bill to include the measures raised by the UK's Marriage (Same Sex Couples) 2013 Act, namely to do otherwise; is to contradict the very meaning of the term 'equality', is to treat one group of citizens differently to other groups merely because of one of the protected characteristics the Bill seeks to protect, which in turn perpetuates the image of the Island as 'bigoted' which our Chief Minister, and a many others, have worked for decades to reverse, which would bring the Island's legislators into disrepute by highlighting how out of step we are in the modern world - however, I feel I should put to bed some of the arguments that are raised by people of standing, and sitting in Tynwald, from time to time.</p> <p><b>1. 'Civil Partnerships' and 'Marriage' are not synonymous:</b></p> <p>The privileges granted by the State to couples differ both in law, and in the public understanding of what it means to have your permanent, committed, sharing relationship recognised both by the State and society. For example, a couple in a Civil Partnership whilst holidaying, or living, abroad, do not share equal rights with their married counterparts as some States (Portugal, for example) do not recognise Civil Partnerships; imagine the distress at not being allowed to sit by the bedside of your critically injured spouse in hospital? Also, having to declare your marital status as 'Civil Partner' as required under the current drafting of this Bill, entails 'outing' yourself to the person reading the form. Why is the sexuality of the respondent any business of the State when completing a tax return? [Gaystarnews]</p> <p>The first case of a couple, legally married in England, who return to the Island only to be told that they cannot refer to their marriage as such [CP] and they must say they are 'Civil Partners', will lead to headlines in the national and international press that will paint the Island in a poor light. It happened when a member of a church denied a lesbian couple a tenancy [Independent], it will happen again - why? because to do so is a clear act of injustice and the media likes nothing more than to point out such transgressions. There are many groups of motivated people out in the world who will take it upon themselves to make sure the whole world knows just what kind of place the Island is - the damage to our reputation will be far greater than the last time.</p> <p>An extension of the claim that Civil Partnership and Marriage are already enshrined in law and therefore do not need to be equated into a single Act is the 'separate, but equal' claim made by Mr Paterson, the bishop with a vote in Tynwald.</p> <p>[I have quoted Mr Paterson as an authority on matters relating to moral guidance and the condition of human sexuality and relationships because he himself</p>

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	<p>acknowledges his importance in these roles [Church Times; Bishops Statement; and others cited in <i>references</i>]. I do not mean to single him out for his views, as I am sure there are others, in Tynwald, who share his narrow minded opinions. However, as he has a vote and is not elected I feel justified in holding him to account here, especially as I cannot do so at the ballot box.]</p> <p>Mr Paterson has claimed that 'marriage' and 'civil partnership' are synonymous:  <i>"I realise that equal marriage is a big issue for some but equality in permanent committed relationships is already here through the Civil Partnership Act: there is nothing calling a relationship 'marriage' that can give civil partnerships more than they have already.</i> [Reply]</p> <p>A point he makes again in his February letter to his friends:</p> <p><i>"civil partnerships give same-sex couples all the social rights and status that can possibly be had."</i> [RP Feb/14 Letter] A view he contradicts when applying the 'equality of marriage and CP' argument to clergy [Church Times]</p> <p>He also holds that marriage is between a man and a woman: "However we are all in agreement that the Christian understanding and doctrine of marriage as a lifelong union between one man and one woman remain unchanged." [RP Feb/14 Letter] A view that is endorsed by the Church of England [Bishops Statement].</p> <p>These comments prompted me to respond in the form of a letter to the Manx Independent:</p> <p><i>... "If you hold that 'separate, but equal' is a reasonable stance to take on marriage then you may wish to cast your mind back to the early 60s in America - Two water fountains, next to each other, identical in every way except for the signs above them 'whites only' and 'coloreds only'. Such a claim was repugnant then, and hasn't got better with age – what kind of person would use such an abhorrent argument today?"</i> [Manx Ind. not moral guardian]</p> <p>Why is his argument abhorrent? (I deliberately use this strong word): Because Mr Paterson is a bishop, the chair of a committee investigating this subject, so he should know better. He no doubt chose his words carefully with the intention of trying to persuade his audience that to continue to discriminate on grounds of sexual orientation within marriage law was somehow justified. I claim he should be aware that this type of justification for treating people differently is flawed and has been used before and similarly condemned, and to repeat this flawed argument to a new audience is abhorrent.</p> <p>His view is that oppression of those who wish to marry should continue until he, and his friends, feel comfortable;</p> <p><i>"We recognise that 'gay marriage' is likely to become socially acceptable in these islands over time, but to commit ourselves to profound changes in the Church's practice before the dust settles (if ever it does) would be foolhardy. We need time, perhaps decades, to help one another understand the varied contexts worldwide in which we, as disciples of Christ, are good news."</i> [RP Feb/14 Letter]</p> <p>I have no problem with his friends waiting decades to come to terms with change (perhaps they should not be his friends if they do not wish to see others continue to suffer though?) - I do, however, have a problem with his suppression (by arguing, and presumably voting, against marriage equality) of those changes on the grounds that his friends 'need decades' to accommodate such a basic concept as equal treatment before the law for all.</p> <p>To accept that change is inevitable and yet stand in the way of making society a better place, for all, in order to protect the sensibilities of your 'friends' (by this I</p>

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	<p>mean his own standing within his circle of friends) is surely to demonstrate mean-spirited, vindictive, pettiness bordering on cruelty.</p> <p><b>2. Marriage cannot be redefined:</b>  The claim has been made, by Mr Paterson as well as others, that 'Marriage' cannot be redefined [RP Feb/14 Letter], that the social construct we recognise is somehow immutable. This is clearly nonsense, after all the Church of England came into existence precisely because the monarch, Henry VIII, wanted to redefine marriage!</p> <p>As recently as 1991 'marriage' was redefined under British Law in order to allow for the prosecution of a husband for rape within marriage. Until then a husband (estranged, or otherwise) could not be charged with rape when he had non-consensual sex with his spouse. Why? Because it had been argued that the man's wife consented to sex, at anytime in the future, when she made her marriage vows before god. What was called Hale's Dictum [Routledge]</p> <p>I was horrified to learn that when I was married in 1987 I <i>could have</i> legally raped my wife - I am disgusted when I hear the claim, especially from those with a vote in my Parliament, that "marriage cannot be redefined" - we can, and do, change our laws in light of new understanding - to claim otherwise is truly ignorant of what a Parliamentary democracy is about (although I believe theocracies like Iran would welcome such constrained thinking)</p> <p><b>3. That granting marriage equality to all consenting adult couples would somehow cause the destruction of marriage:</b>  Mr Paterson believes;  <i>"If we could get some of our terms right (for a start understand the difference between 'a wedding' and 'a marriage') and introduce the 'vows' (for want of another word) into the registration of a civil partnership, we would have 'gay marriage' without destroying the institution of marriage as a by-product. You know as well as I that it is as much the aim of a small minority to destroy marriage as it is to press the case for genuine reasons."</i> [Email]</p> <p>I dispute all of this statement, and was non-plussed as to why a person of Mr Paterson's standing would say such things.</p> <p>In February 2014 Mr Paterson expanded on his earlier thoughts on 'equal marriage' in a Letter to his followers:  <i>"State legislation about marriage confronts Church teaching head-on, and the C of E affirms that 'marriage' describes only heterosexual unions. This has nothing whatever to do with homophobia, a deplorable attitude; we can make a clear distinction between an empathetic understanding of sexuality and clarity about the word 'marriage'. No Church worth the name can simply acquiesce to the state if we think the state is misled."</i> [RP Feb/14 Letter]</p> <p>This last statement is contradicted, the very next month, by his boss, Mr Justin Welby following the first gay marriages in the UK; "The law's changed; we accept the situation." [BBC News, Welby]</p> <p>Since the introduction of Marriage Equality legislation, in various countries around the world, there have been no reported cases of previously happily married heterosexual couples filing for divorce on the grounds that people of the same sex they may not even know are allowed to get married as well. (this is a completely unsupported assertion made by me with no evidence whatsoever because I really do not need to provide such for such a claim)</p> <p>When we treat our fellow citizens; be they our neighbors, strangers, our children or grandchildren, or even ourselves, as being equally deserving of respect and consideration for our needs to express our love for the person who loves us then we will finally have taken a step towards equality for all; not just for some.</p>

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	<p><b><u>In conclusion:</u></b>  To me there is a clear 'Yes' or 'No' answer to the question; "should all people receive equal treatment before the law?" Hence I can answer; "Should any consenting adult couple be allowed the benefits afforded by the State, and society, of being married?" without fearing I will contradict myself, or breaking some deeply held belief.</p> <p>As it stands this Bill does not grant equal respect or consideration to all as long as it excludes marriage equality law and requires those legally married elsewhere to declare their marital relationship as something other than 'married'.</p> <p>I sincerely beg the Committee to consider waiting to pass this Bill until such time as when similar legislation to the UK's Marriage (Same Sex Couples) Act 2013 can be incorporated into our very own Equality Act - to do otherwise, as I have argued, is to invite shame, ridicule and possibly even isolation, once again upon our Island's legislators.</p> <p>We all deserve the freedom to flourish and now is the time for change.</p> <p><b>Andrew Dixon  Old Vicarage  Rushen  26th November 2014</b></p> <p><b>Appendix:</b></p> <p><b>[Email] Extract of email sent by Andrew Dixon to Robert Paterson, 27 May 2012</b></p> <p>...Also, whilst I have your ear (or eye!) may I request that you consider marriage equality for the Island as a priority. I know that current economic pressures provide a convenient excuse for pushing trivial matters like equality and justice for all to the back boiler, however I think you, and your office, are in unique position to press Tynwald to pass equality in marriage laws for all our adult, consenting, citizens (and visitors!).</p> <p>Were a call for marriage equality and justice come from your office then I am sure those in the community who cling to inconsistent arguments in favour of homophobic bigotry derived from the bible, would question their flawed reasons. It might present a great opportunity to demonstrate leadership in moral matters for the whole community (an argument I have heard in favour of your office's role in my Parliament).</p> <p>After all, if we cite Leviticus to condemn the homosexual to death (or, indeed any status other than equality!) should we not equally condemn the Auschwitz survivor for their tattooed arm?</p> <p>Enjoy the sunshine.  Best wishes  Andrew</p>

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	<p>PS. Before the election last year I asked each of my potential MHKs whether they would be in favour of removing the voting privileges of your post. Each of the Rushen MHKs said they would. I appreciate your post on the Island is dependent upon the Bishops seat and vote in Tynwald, however would you consider voluntarily relinquishing your political role in my Parliament for the sake of liberal democracy?</p> <p>PPS... Also, would you consider making prayers before politics a voluntary and private affair instead of taking up the parliament's (and Manx Radio's) time when it is sitting? I am sure you would never want religion used as a political tool after all.</p> <p><b>[Reply] Extract of email sent by Robert Paterson to Andrew Dixon, 28 May 2012</b></p> <p>...I realise that equal marriage is a big issue for some but equality in permanent committed relationships is already here through the Civil Partnership Act: there is nothing calling a relationship 'marriage' that can give civil partnerships more than they have already. Heterosexual intercourse is impossible (therefore consummation, adultery, etc. are irrelevant issues) but everything else that is 'marriage' is already there! All that is missing is a what are sometimes called 'performative acts', the 'vows' of mutual commitment to one another. So what is being called for is not 'equal marriage' or 'gay marriage' (a continuing state of being identical to a civil partnership except in sexuality) but 'same-sex weddings'.</p> <p>If we could get some of our terms right (for a start understand the difference between 'a wedding' and 'a marriage') and introduce the 'vows' (for want of another word) into the registration of a civil partnership, we would have 'gay marriage' without destroying the institution of marriage as a by-product. You know as well as I that it is as much the aim of a small minority to destroy marriage as it is to press the case for genuine reasons. The farce of a document produced by the UK Government, which clearly doesn't even understand civil marriage law, will simply turn this into a slanging match. (It so happens, I have had to do a lot of research on this area of law recently.)</p> <p>Thanks for the email. I do appreciate it. I know that the very idea of a bishop must send shudders down the spine but I hope that I'm fairly reasonable and, while my faith is very important to me, I hope I'm not a bigot.</p> <p>Kind regards, Robert.</p> <p><b>[Shimmin]: On 27 Aug 2014, at 13:56, CO, Equality wrote:</b></p> <p>Dear Mr Dixon Thank you for your interest in the proposed Equality Bill. As you note, the draft Bill does not deal in any way with the issue of same sex marriage, as only the UK's Equality Act 2010 was used as template for preparing the present Bill. However, if it is the view of the Isle of Man Freethinkers that the issue should be included in the Bill a submission to this effect will be given due consideration as part of the consultation process.</p> <p>Kind regards</p>



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	<p>Anne</p> <p><b>References:</b></p> <ol style="list-style-type: none"> <li>1. [BBC News, Welby] 'The law has changed': <a href="http://www.bbc.co.uk/news/in-pictures-26798882">http://www.bbc.co.uk/news/in-pictures-26798882</a> accessed 13/8/14</li> <li>2. [Bell, Consultation] <a href="http://www.gov.im/lib/docs/co/consultations/equality_bill/equalitybillpublicconsultation.pdf">http://www.gov.im/lib/docs/co/consultations/equality_bill/equalitybillpublicconsultation.pdf</a> accessed 25/11/14</li> <li>3. [Bishops Statement] 'One man one woman': <a href="https://www.churchofengland.org/media-centre/news/2014/02/house-of-bishops-pastoral-guidance-on-same-sex-marriage.aspx">https://www.churchofengland.org/media-centre/news/2014/02/house-of-bishops-pastoral-guidance-on-same-sex-marriage.aspx</a> accessed 13/8/14</li> <li>4. [Chair Review Grp] <a href="http://www.churchtimes.co.uk/articles/2013/4-january/news/uk/bishops-lift-ban-on-consecration-of-civil-partner-clerics">http://www.churchtimes.co.uk/articles/2013/4-january/news/uk/bishops-lift-ban-on-consecration-of-civil-partner-clerics</a> accessed 13/8/14</li> <li>5. [Church Times] <a href="http://www.churchtimes.co.uk/articles/2013/4-january/news/uk/bishops-lift-ban-on-consecration-of-civil-partner-clerics">http://www.churchtimes.co.uk/articles/2013/4-january/news/uk/bishops-lift-ban-on-consecration-of-civil-partner-clerics</a> accessed 13/8/14</li> <li>6. [CP] [CP 1.1.(d)] as it refers to PART 3 – RELATIONSHIPS FORMED OUTSIDE THE ISLAND TREATED AS CIVIL PARTNERSHIPS: Civil Partnerships Act 2011 p.51 <a href="http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2011/2011-0002/CivilPartnershipAct2011_1.pdf">[http://www.legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2011/2011-0002/CivilPartnershipAct2011_1.pdf]</a> accessed 26/11/14</li> <li>7. [Independent]: <a href="http://www.independent.co.uk/news/uk/home-news/legislation-to-outlaw-homophobic-discrimination-in-isle-of-man-to-be-accelerated-after-lesbian-couple-prevented-from-renting-a-house-8615157.html">http://www.independent.co.uk/news/uk/home-news/legislation-to-outlaw-homophobic-discrimination-in-isle-of-man-to-be-accelerated-after-lesbian-couple-prevented-from-renting-a-house-8615157.html</a> accessed 25/11/14</li> <li>8. [Gaystarnews] <a href="http://www.gaystarnews.com/article/seven-ways-civil-partnership-isnt-same-marriage250113">http://www.gaystarnews.com/article/seven-ways-civil-partnership-isnt-same-marriage250113</a> accessed 26/11/14</li> <li>9. [Hansard] <a href="http://www.tynwald.org.im/business/hansard/19802000/HK-19910501-v0108.pdf">http://www.tynwald.org.im/business/hansard/19802000/HK-19910501-v0108.pdf</a> accessed 26/11/14</li> <li>10. [Manx Ind. not moral guardian] 'Bishop is not a moral guardian' <a href="http://www.iomtoday.co.im/letters/manx-independent-letters-april-10-2014-1-6551525">http://www.iomtoday.co.im/letters/manx-independent-letters-april-10-2014-1-6551525</a> accessed 13/8/14</li> <li>11. [Manx Ind. Bishop Vote] <a href="http://www.iomtoday.co.im/letters/manx-independent-july-17-2014-1-6734796">http://www.iomtoday.co.im/letters/manx-independent-july-17-2014-1-6734796</a> accessed 13/8/14</li> <li>12. [Routledge]</li> <li>13. <a href="http://cw.routledge.com/textbooks/9780415639989/downloads/rape-marriage.pdf">http://cw.routledge.com/textbooks/9780415639989/downloads/rape-marriage.pdf</a> accessed 25/11/14</li> <li>14. [RP Feb/14 Letter] <a href="http://www.sodorandman.im/bishops_blog/post/5359/title/comment_on_the_statement_of_the_house_of_bishops">http://www.sodorandman.im/bishops_blog/post/5359/title/comment_on_the_statement_of_the_house_of_bishops</a> accessed 13/8/14</li> </ol> <hr/> <p><b>British Red Cross</b></p> <p><b>Introduction</b></p> <p>The British Red Cross welcomes the Isle of Man Equality Bill Consultation document. Rather than provide responses to specific consultation questions we have provided a composite response below.</p> <p><b>Summary</b></p> <p>The British Red Cross helps vulnerable people in crisis, whoever and wherever they are.</p> <p>The British Red Cross is committed to encouraging diversity and equality of opportunity among its volunteers, staff and delegates to achieve their full potential in carrying out their activities in furtherance of the organisations mission and objectives.</p> <p>Around the world the Red Cross has worked hard to promote equality and understanding. In 2013 for instance, on International Women's Day (8 March), the Red Cross highlighted its work with women to create change from within communities, promoting gender equality and inclusion. We therefore welcome those parts of the Bill which promotes (and supports gender equality).</p> <p>The British Red Cross is working towards achieving a workforce that is representative of the societies served and where each member of our workforce feels</p>

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	<p>respected and able to give their best.</p> <p>The British Red Cross acknowledges and respects the cultural and religious diversity that exists within the United Kingdom and is working to achieve a workforce that is representative of the societies in which the organisation works through education and training of all our staff – both paid and volunteers.</p> <p>As a member of the International Red Cross and Red Crescent Movement, the British Red Cross is committed to, and bound by, its Fundamental Principles:</p> <ul style="list-style-type: none"> <li>&gt; humanity</li> <li>&gt; impartiality</li> <li>&gt; neutrality</li> <li>&gt; independence</li> <li>&gt; voluntary service</li> <li>&gt; unity</li> <li>&gt; universality.</li> </ul> <p>On the basis of those principles, and in particular the principles of humanity, unity and impartiality, the organisation affirms that it will not tolerate:</p> <ul style="list-style-type: none"> <li>&gt; any unlawful acts of discrimination</li> <li>&gt; any form of harassment</li> <li>&gt; any unjustifiable acts of discrimination</li> </ul> <p>on any grounds including: colour, race, nationality, ethnic or national origin, sex, marital or parental status, sexual orientation, disability, religious beliefs, social class or age.</p> <p><b>Concluding comments</b></p> <p>The British Red Cross is supportive of the Isle of Man’s approach to this major issue, and recognises the efforts it has taken to bring equality legislation on the Isle of Man more in line with that which exists in the UK and elsewhere. It is a challenging arena with many sensitivities and sensibilities, and we appreciate the work which has taken place to develop the new legislation. We welcome the attention to detail in the Bill and we are fully supportive of the approach being taken. It would appear to be a comprehensive piece of legislation and we welcome the list of protected characteristics.</p> <p>Finally, if there is any practical and appropriate way in which the British Red Cross could support the implementation of the Bill we would welcome the opportunity to engage with the Isle of Man Government, External Agencies or Third Sector organisation/s in the Island.</p> <hr/> <p><b>Broadway Baptist Church</b></p> <p>The Leadership team of Broadway Baptist Church have given some consideration to the draft Equality Bill and we wish to make comments on it as part of the consultation process.</p> <p>In general terms, we are very supportive of the Bill. Its aims are fully in accordance with Christian values, promoting fairness for all regardless of birth or belief. We are perhaps fortunate in experiencing fewer problems with unfair discrimination than our neighbours in the UK, but the need for legislation to protect those who are affected is clear.</p> <p>The Bill is very long and very broad in scope, affecting not just the workplace but most aspects of society. This makes it difficult to assess its impact and difficult to identify potential loopholes. It raises concerns about how such legislation might be implemented and enforced. A staggered implementation is almost inevitable to</p>

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	<p>provide sufficient opportunity for employers and others to adjust. It is hoped that this will not cause sections of the Bill to lay dormant in the way the Disability Discrimination Act (2006) has done.</p> <p>One particular concern of our Church is that there are certain areas where a conflict of rights occurs between groups that the Bill seeks to protect. The media in the UK often bring such cases to attention where one group feel aggrieved by another exercising their rights.</p> <p>For instance:</p> <ol style="list-style-type: none"> <li>1. Paulley -v- First Group PLC (<a href="http://www.bbc.co.uk/news/uk-englandleeds-30010126">http://www.bbc.co.uk/news/uk-englandleeds-30010126</a>), where a wheelchair user was denied access to a bus because a mother with a pushchair was taking the necessary space.</li> <li>2. Bryan Barkley (<a href="http://www.telegraph.co.uk/news/politics/11229306/Pressure-mountson-Red-Cross-over-elderly-volunteer-axed-after-gay-marriageprotest.html">http://www . telegraph. co. k/ news/politics/ 11229306/Pressure-mountson-Red -Cross-over-elderly -volunteer-axed -after-gay-marriageprotest.html</a>) who was dismissed as a Red Cross volunteer for protesting against gay marriage.</li> <li>3. Ashers Bakery (<a href="http://www.christian.org.uk/news/ashers-bakery-gayrelative-speaks-to-bbc.co.uk">http://www .christian .org. uk/news/ashers-bakery-gayrelative-speaks-to-bbc.co.uk</a>) where a Christian-owned bakery has been sued for refusing to supply a cake with the words "support gay marriage" to an LGBT activist.</li> </ol> <p>Occasionally deliberate provocation is involved such as in the case of John Craven (<a href="http://www.secularism.org.uk/news/2014/03/police-compensatestreet-preacher-after-arrest-for-preaching-biblical-condemnation-of-homosexuals">http://www.secularism.org.uk/news/2014/03/police-compensatestreet-preacher-after-arrest-for-preaching-biblical-condemnation-of-homosexuals</a>) Who appears to have been deliberately targeted.</p> <p>If such cases occurred on the Isle of Man there is little doubt that it would have a detrimental effect on the Island's reputation, and not just that of the parties concerned. It is pleasing to note that attention has been given to many potential sources of conflict and that appropriate exclusions have been made in the Bill.</p> <p>Inevitably these will not cover all situations though. It is to be hoped that appropriate guidance will be given to law enforcement officers and judiciary to curb the excesses of more militant members of groups. It may also be wise to review current legislation pertaining to free speech, which is the flash point for several of these cases.</p> <hr/> <p><b>DOI</b> <b>Regulations 23 (4)</b></p> <p>These regulations of the Bill make the Department responsible for bringing Regulations in relation to premises and the Department does this through Building Regulations and the Chronically Sick and Disabled Persons Act. Overall the Department is aware of Regulation 23 which specifically requires the Department to make Regulations for premises.</p> <p><b>Other General Issues</b></p>

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	<p>Should the Bill be brought forward Government would need to have all material and guidance notes available in different languages and suitable for persons with physical impairments. However, if rigidly applied, this could be very costly all documents had to be translated into all 27 languages currently spoken on the Island or different media formats for persons with physical impairments. There does need to be a common sense proportionate response required otherwise significant resources could be spent on material that is rarely used.</p> <hr/> <p><b>Ballamona Association for Mental Health</b> SCHEDULE 1 It seems strange that this schedule relates to the long term effects of any impairment which is or has or is likely to last 12 months, who will decide if any condition will last 12 months or for at least 12 months. We suggest that there is a requirement within "Equality legislation" to treat people of whatever length their illness equally. It is strange that an illness has to be long term before being considered a "disability" under this Bill.</p> <hr/> <p><b>David and Alison Dorricott, Directors, ZipAddress Ltd</b> <b>1. "A Sledgehammer to Crack a Nut".</b> There is no discernible evidence that Equality Issues in the Isle of Man have any need of such a substantial (250 pages) piece of legislation. A small country such as ours relies on its social and economic agility; and large measures of "Common Sense" rather than overblown legislation in order to ensure social cohesion and a sound economic base. The Council of Ministers has not presented any evidence that such a bureaucratic, and probably inflammatory piece of legislation is required. There is no evidence of racial or religious tension on the Island – indeed it is a model of a well-integrated and caring society. The Island already has perfectly adequate gender equality legislation – and overwhelmingly demonstrates good practice. There is more to do to develop infrastructure and services to support people with disabilities – but the UK Acts have not shown that Legislation is the way to achieve this: indeed the Iconic London Tub map still shows few stations that are wheelchair accessible! It would be far better spending scarce resources on actually making the changes and building adaptations where needs are already identified than on legal acrimony.</p> <p><b>2. Undue Haste</b> It seems that this Act is being promoted with undue haste. The UK has had the opportunity to develop its Equality legislation over a period of 30 years, and yet it is still struggling with understanding how to reasonably enforce all the implications of that legislation. It therefore seems over-ambitious to think that the Isle of Man can successfully transition from having little equality legislation to an all-encompassing piece of legislation in one fell swoop. The Isle of Man Government has not yet published any guidelines on how the legislation would be interpreted, leading to a lack of clarity for those currently considering recruitment, offering residential properties and considering setting up new businesses. This lack of clarity will inevitably lead to the choice of some that it will be easier not to recruit, offer properties, set up new businesses etc until and unless the dust settles down. This is counter-productive for the Isle of Man economy and society.</p>

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	<p>The fact that even since the consultation was rushed out, two addenda have been added, is further evidence of undue haste in this process.</p> <p><b>3. Financial Burden and Impact Assessment</b></p> <p>At a time when Government seems to be forced to consider many unpopular money-raising initiatives it seems a poor moment to suddenly bring in an additional source of even greater financial burden.</p> <p>Before asking Tynwald to consider such a far-reaching piece of legislation, it is vital that a proper impact assessment is carried out. This must cover every Government department as well as its impact on business, commerce, as well as Third Sector organisations and individuals. There is no evidence that this has even been started, yet the proposed Act has enormous financial, social and political implications.</p> <p>It is arguable that the costs of meeting its own legal requirements if this legislation is brought in are likely to cripple IOM Government’s finances for many years – and even with the best intentions for the Act, the quantum must be known before enacting the legislation.</p> <p><b>4. Freedom of Religion</b></p> <p>Religious freedoms would be compromised by the Act as currently proposed. This can be illustrated by the following personal examples:</p> <ol style="list-style-type: none"> <li>a) A few years ago we provided a rental flat at a subsidised rate to a couple who live as missionaries in China, but were on furlough on the Isle of Man for six months. If we were to offer this facility again with the legislation in force as currently drafted, we would be acting unlawfully unless all tenants (not just these Christian missionaries) were offered this low rental.</li> <li>b) We have in the past sold off our company pool cars at substantially less than market rates to those involved in Christian ministries that we supported – if the Act comes in as drafted we might be obliged to offer the vehicle under the same terms to a person who actively campaigns against organised religion, for example. It is unclear where exactly the line would be drawn in deciding what would be classed as discrimination in this sort of case.</li> </ol> <p>We do not think we are intolerant people, and believe in “live and let live”, but we are concerned about the Act being used to restrict reasonable and long-standing religious-values based freedom of choice and as a pretext to coerce people to support, promote or facilitate lifestyles and values they do not agree with – as has happened in the UK.</p> <p>It is clear that activists have used Equality legislation in the UK to deliberately target those who do not hold the same views and make their lives difficult or their business unsustainable, despite the ready availability of alternative providers of goods or services. We do not need an encouragement for that kind of unhelpful and intolerant behaviour on the Isle of Man.</p> <p><b>5. Examples of abuse of Equality Legislation in the UK</b></p> <p>There have been several cases in which the UK Act (of which the proposed IOM law is more or less a copy) is having disastrous consequences for those who hold strong religious convictions (and, as committed Christians, we would count ourselves amongst them).</p> <p>Christians, along with many of the world’s main faiths, consider that marriage – the lifetime union of one man and one woman – to be sacred. The Christian faith even sees marriage as an icon representing the Church itself as the Bride of Christ. Whilst Christians recognise that this high ideal is often not achieved for many reasons, and that it is perfectly acceptable for others to hold different views, it is vitally important that we be able to live out these faith values without State coercion</p>

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	<p>to act otherwise.</p> <p>This is not about intolerance – but an individual who holds this high ideal of marriage must not be asked to promote a lifestyle choice which is in direct conflict with those views, as is happening with increasing frequency in the UK:</p> <ol style="list-style-type: none"> <li>a. The UK Equality Commission is taking legal action against the Ashers bakery chain in Northern Ireland who declined to produce a slogan “Support Gay Marriage” on a cake it was requested to produce (same-sex marriage is not even legal in Northern Ireland). It is frightening that the State is actually intervening to coerce individuals to promote something which deeply conflicts with their conscience: we do not need this type of totalitarianism on the Isle of Man.</li> <li>b. John Craven – a Manchester street-preacher was arrested and held without food and water for 19 hours for “public order offences” – which turned out to be reading bible verses in public in Manchester! Surely we do not want this happening on Strand Street?</li> <li>c. Christians Pete and Hazelmery Bull were found to have acted unlawfully when they declined to rent out a double bed in their home to two Gay men – even though their guesthouse had only ever made its double rooms available to married people. Will the proposed IOM Act make similar demands on our residents – eg with Homestay – to dictate who will use the bedrooms in our homes?</li> </ol> <p>Sadly, there is an increasing number of similar cases.</p> <p><b>6. Is there an Issue?</b></p> <p>So far as we are aware there is not an issue with race discrimination on the Island – let us not look for tensions that currently do not exist. “Political correctness” and fear of being accused of racial discrimination has led to terrible consequences in the UK in pursuing serious criminal acts such as child sexual abuse. The cases in Rotherham, Rochdale, Sheffield (and who knows how many others will come to light) are rooted in the fear of the “Race Discrimination” card.</p> <p>Again, surely it would be better to spend scarce funds on aspects of equality already identified as needing attention (eg better provision for disabled people) than on implementing and trying to ensure that everyone complies with exaggerated legislation where no issue currently exists.</p> <p>In summary, the case has not been made that this legislation has been properly thought through, nor that it is proportionate, necessary or beneficial. Neither have the far-reaching consequences, especially for Government policy or finances, been investigated or understood. In spite of the current consultation exercise, there is little evidence that individuals, small businesses, charities or community groups will have the faintest idea of the impact of 250 pages of legislation.</p> <p>At worst, the proposed Act will provoke tensions and create un-meetable expectations, and risk introducing oppression of conscientious members of the Isle of Man community.</p> <p>We call upon Government to set aside this proposal, and to place its energies and resources on practical, realistic and achievable ways to make Isle of Man society more inclusive, fair and caring.</p> <hr/> <p><b>Manx Insurance Association</b></p> <p>For the avoidance of doubt the MIA confirm that they support action to eliminate discrimination against any section of society. We do however have some serious concerns as to the time frames proposed within the Bill and would suggest that the cost to business of implementation is higher than suggested.</p> <p>A number of MIA members are also members of the Chamber of Commerce who, following consultation with their members, have submitted a detailed response to</p>

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	<p>the questions raised in respect of the Equality Bill. The MIA can confirm that we endorse the response submitted by the Chamber.</p> <hr/> <p><b>Lyndon Casey, on behalf of AXA Isle of Man Services Ltd</b></p> <p>In general terms, the Company welcomes the Bill as a clarification and harmonisation of general principles and practices that we, as a company within the AXA worldwide group, have already sought to adopt under the existing Group Equality and Diversity policies. In that respect we, do not expect the Bill when enacted to materially change our approach in the many relevant areas covered by the Bill. However, realistically we will need to spend considerable time working through the specific aspects of the legislation to ensure detailed compliance when enacted.</p> <p>The only areas where we believe we will need to make significant changes are around employment terms and conditions and associated employment benefits in terms of the definitions and requirements of the Bill in respect of potential age discrimination. The biggest concern would be in our personal pension scheme contributions where currently we contribute 10% of salary for staff aged under 40 and 20% if aged 40 or over. We will need to look at this in detail and understand how we can achieve compliance without removing contractually obliged benefits to existing staff. We may need to have a mechanism for consulting with Government to validate our proposed solution as compliant with the legislation.</p> <p>The other area of change that we believe the Bill will force us to change employment terms is that we will have to remove the contractual Normal Retirement Age of 60 for existing and future employees. This is not an issue to do and we already continue to employ staff past the age of 60 where they are competent to continue their duties and both The Company and the employee wish the employment to continue.</p> <p>However, we do believe there will be unintended and probably unavoidable consequences to removing this contractual Normal Retirement Age. Given the current economic realities, the less favourable returns on occupational pension schemes and the ongoing rise of State Pension Benefit Age, we expect more of our staff to need to continue working to a higher age than we previously experienced. This is likely to lead to a number of unfavourable consequences:</p> <ul style="list-style-type: none"> <li>• Fewer new jobs being available to newer entrants to the job market as the rate of retirement slows</li> <li>• Fewer opportunities for progression and promotion for younger employees</li> <li>• Increased management time and cost in undertaking fair competency assessments and associated performance processes for a larger number of staff</li> <li>• Increased number of Employment and Equality Tribunal disputes arising from complicated and inconclusive competency assessments and terminations.</li> </ul> <p>In this area of retirement and pensions, the Company is already expecting the trend where people continue to work to a higher age, but perhaps look to reduce their contractual hours as they get older. In that way, perhaps some of the severity of the consequences listed above can be reduced. However, for this trend to be effective it will be necessary for employees to access their occupational pension benefits in a phased and flexible way. Therefore, we would strongly recommend that the Isle of Man Government consider rapidly moving to replicate the forth coming changes to pensions legislation that is coming in to effect in the UK shortly to allow flexible access to occupational benefits. Otherwise, many employees will be left restricted to identifying a specific full retirement date and having to take an annuity from that date. That is not helpful when trying to manage the situation where we will be employing larger numbers of older employees in the future.</p> <p>The Company expects it will need to seek clarity on a number of specific points that would arise out of this proposed legislation and given the expense budget restrictions applicable to companies such as ours in today's financial situation we would prefer a period of 6 months from publication of the Bill in its final form to</p>

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	<p>enactment. This would allow time for full review and preparation for compliance.</p> <hr/> <p><b>Mr &amp; Mrs (name supplied)</b>  Our daughter has Down Syndrome and is now 18 years old. She left part-time Isle of Man College provision this summer and has excellent potential for further educational and personal development. The Education Act 2001 inter alia includes provision for Higher and Further education opportunities to be funded or partially funded for individuals up to 60 years of age but such provision requires an applicant to have attained a certain academic level to be granted funding.</p> <p>The draft Equality Act 2013 mirrors the UK Equality Act in many respects however there is one important difference that applies in the UK as to here, relative to persons with Special Needs, insofar as UK legislation provides that if such a person's further educational needs cannot be met in a particular locality the relevant Local Authority will fund that student in a publically funded specialist institution outside that locality.</p> <p>We identified, on our daughter's behalf, such a specialist institution earlier this year and we made due application for funding to the DEC for her to commence a full-time residential course from September 2014. We were cognizant of the fact upon making the application that the NVQ Course Level being offered did not comply with section 6 of the Education (Student Awards) Regulations 2014 ("the Regulations") but we felt a cogent case could be made. We were disappointed to receive a rejection letter in August 2014. A review of the Regulations did indeed confirm that there was no discretion within the wording and therefore no mechanism for a favourable outcome.</p> <p>We were aware that there was a genuine gap in provision for students with Special Needs here and that DEC did agree to limited funding of several students at Myerscough College despite the fact that the courses being funded were below the Regulations qualifying benchmark. Unfortunately it was concluded that our daughter was deemed too vulnerable to attend Myerscough.</p> <p>We contend that persons such as our daughter would never be able to attain the level of academic achievement stipulated in section 6 of the Regulations by virtue of her disability and that as a consequence the Regulations in their present form were arguably discriminatory and not Human rights compliant. It had been made very clear by the Chief Minister upon launching the consultation that discrimination of any kind was not acceptable. Our daughter's case is now the subject of legal proceedings so further comment is reserved.</p> <p>We respectfully contend that the draft Equality Act should make due provision for the types of situation that we have set out above, by stipulating either directly or by means of secondary legislation that a consistent policy be formalized whereby those persons with Special Needs are enabled to pursue further and higher education in exactly the same way as persons without such difficulties, obviously subject to certain minimum qualifying criteria for partial or full funding being set at the appropriate comparative level. We aver that the "Freedom to Flourish" &amp; "Isle of Man - where you can" straplines for persons with disabilities ring somewhat hollow in comparison to the UK, for example.</p> <hr/> <p><b>Muscular Dystrophy Campaign</b>  The Muscular Dystrophy Campaign welcomes the decision of the Isle of Man Government to bring forward a draft Equality Bill. We hope that the provision outlined by the Government will provide equality of access and robust protection from discrimination for individuals living with muscular dystrophy and related conditions on the Isle of Man</p>



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	<p>Ensuring equality of access and tackling discrimination is a major priority for the Muscular Dystrophy Campaign. For example, our <i>Trailblazers</i> network for young disabled people is actively engaged in campaigns on issues ranging from access to transport, access to the high street and access to housing. Following the consultation, we hope that the Government will act soon to bring final legislation forward. We look forward to working with individuals and families on the Isle of Man affected by muscular dystrophy or a related condition to ensure that the provisions of the final Bill are implemented.</p> <hr/> <p><b>Ms Karen Angela</b></p> <p>Whilst I have read that it is not intended to bring in gay marriage, yet. My concern regarding discrimination I feel is not going to be addressed and therefore still leaves an unfair amount of inequality left unaddressed. My partner and I have been together 14 years we are not religious in anyway, and as such feel that marriage because of its connotations does not match our needs but a Civil Partnership is what we require, because after all that is what we are Partners! We have been told that we cannot have one because we are not a same sex couple. To my mind we are being discriminated against because we are not gay and have no religion. Please could someone tell us why this is acceptable in this modern multicultural age, where it would appear that you wish to protect on the one hand but it is just lip service? If anything happens to either of us we are not covered by our Partners State Pension or afforded any other protections even though we have committed to spending the rest of our lives together by owning our own home and sharing our bank accounts etc. I have no desire to be referred to as a wife as I am not prepared to be a domestic appliance!</p> <hr/> <p><b>DHSC</b></p> <p>You will be aware that my officers made a number of comments and observations during the internal consultation in April 2014, and we're pleased to note that a number of these comments have been considered and addressed in this version. I understand my Policy and Legislation Team have also been in touch with yourself and the drafter directly on some minor amendments and drafting issues in connection with this version of the Bill.</p> <p>My officers have considered the new version during this public consultation and there isn't anything additional relating to the provisions of the proposed Bill, other than to broadly welcome its introduction. However, I would like to raise the following points in relation to the implementation of the Bill.</p> <p>The proposed Bill is a significant piece of work, especially in the short-term. To date, quite appropriately, the focus has been on drafting the Bill. However, going forward, and given the scope, it seems that there needs to be a centralised person, or team, who has responsibility for promoting the Bill to ensure all Departments are notified and aware of what is required of them, and in particular time-scales for doing so.</p> <p>It's also noted from the revised draft of the Bill that there is a substantial amount of secondary legislation, codes of practice and guidance to be produced in relation to bringing this Bill forward. It appears the DHSC will be expected to draft these items, or possibly contribute to, and it's not clear from the Bill exactly which of the items are the responsibility of the DHSC in this regard? There needs to be clarity on who is responsible for this work and time-scales to ensure effective implementation. Furthermore, have adequate resources been secured from the Attorney General's Chambers to ensure all secondary legislation required for the Bill's introduction can be drafted and checked?</p> <p>As you will probably be aware, secondary legislation, especially the amount this Bill will require, will take a long time to draft correctly. With this in mind the DHSC will need plenty of advance notice to allocate available resources to ensure we comply with our requirements.</p> <p>It's also evident that staff training throughout Government will be required in relation to the Bill to ensure that everyone is aware of the implications of the Bill when it</p>

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	<p>comes into operation, especially in areas such as recruitment of staff etc.</p> <hr/> <p><b>Mr Benedict Hughes, Department Director (Insurance and Pensions), Cains Advocates Ltd.</b>  I have had sight of the submission made by Gary Boal on behalf of Boal &amp; Co and dated 27 November 2014. I can confirm I am in agreement with the substance of Gary', of age discrimination provisions as they apply to occupational and personal pension arrangements. The implications of age discrimination in the pensions context and it is important that we give both employers and relevant scheme trustees and administrators adequate time to address (and, where applicable, fund for) any changes that current scheme arrangements will need to undergo to achieve compliance with any new law.</p> <p>Additionally, I very much back Gary's comments re the unsuitability of imposing the new anti-discrimination provisions in respect of occupational and personal pension schemes that are approved under sections 50B and 50C of the Income Tax Act 1970 and/or personal pension schemes established under the Income Tax Act 1989 for non-resident Isle of Man members.</p> <hr/> <p><b>Sarah Blayden, Human Resources Manager, H&amp;B Isle of Man</b>  Having read and considered the draft Equality Bill, H&amp;B broadly agrees with the submission from the Isle of Man Chamber of Commerce and in particular echoes the statement by IQE which is as follows:</p> <p>"Equality is a laudable aim that we support. However, the impact on business must be considered, particularly if opportunities for businesses to succeed are adversely affected. The benefits of the introduction of equality legislation must be considered alongside the potential negatives to business and consequential impacts on the economy and society as a whole. If this implementation of equality legislation is not carefully planned, this could result in issues such as lower tax revenues, fewer job opportunities and skills shortages".</p> <p>H&amp;B would further agree that little consideration appears to have been given to the impact on business and consequential impact on the economy.</p> <p>In particular, with regard to making reasonable adjustments, the focus of which appears to be that the cost of making a reasonable adjustment is considered for just employees (the consultation document states that the average cost of making reasonable adjustments for a person at work is £75). There is no guidance, information or clarity on making reasonable adjustments for a disabled person using retail outlets, which is extremely important to H&amp;B given that there are 40 public houses and 15 convenience stores that could be in-scope.</p> <p>According to case law in the UK on reasonable adjustments in retail environments, service providers must make reasonable adjustments where a practice, policy or procedure makes it impossible or unreasonably difficult for a disabled person to make use of the service. However, the court also noted that the UK Act does not require businesses to take steps that would fundamentally alter the nature of its service, trade, profession or business. Retailers as service providers, have an obligation to make reasonable adjustments to allow disabled customers to make use of their services, and should take all reasonable steps to make such adjustments. However, there are limits to this obligation and retailers will not be required to take steps which fundamentally alter the nature of their service, trade or business. –</p> <p>The key of course is; what does "FUNDAMENTALLY ALTER THE NATURE OF THEIR SERVICE, TRADE OR BUSINESS" actually mean.....I would expect guidance from the Government here and comprehensive information in the consultation document.</p> <p>In addition to the retailer/service provider focus; H&amp;B may need to revise its policies and procedures in relation to recruitment, however it is noted that the reasonable adjustment duty on an employer is not "anticipatory" - in other words it would only need to be done at the required time. Not in advance. I do not believe</p>

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	<p>this will be the case for retailer/service providers!</p> <p>Another observation is the proposed abolition of the redundancy rebate scheme. There does not seem to be any supporting rationale as to why this is being done.</p> <p>In summary I believe the consultation period should be extended and broader consideration should be given to:</p> <ul style="list-style-type: none"> <li>• The cost element of reasonable adjustments in relation to disability – for retailer/service providers not just workers</li> <li>• Will grants be available from government towards the cost of making reasonable adjustments in retail premises</li> <li>• A deeper understanding of possible ramifications (both positive and negative) for IoM PLC through the introduction of far reaching “blanket” legislative changes and clarity around the “financial benefits” as mentioned in the consultation document</li> <li>• Codes of Practice need to be drafted on reasonable adjustments which should also take fully into consideration retailers/service providers</li> </ul> <p>As per the Chamber of Commerce response, H&amp;B would like to reiterate that it is fully supportive of the principles of stamping out inequality and discrimination however, it is clear from this draft of the proposed Equality Bill that further consideration and consultation is required.</p> <hr/> <p><b>Isle of Man Law Society</b> <b>FOREWORD</b></p> <p>In preparing this Report, the authors have reviewed every provision of the Equality Bill 2015 and have distilled and abridged their analysis for the purposes of this Report. Background working papers are available for any Member of Tynwald or Government officer wishing to delve deeper into the issues raised here.</p> <p>The Isle of Man Law Society has identified serious omissions in the equality project of which the Equality Bill is the current expression - omissions particularly in matters of economic, social and cultural rights which are all the more acute in light of the findings in the Government's Joint Strategic Needs Assessment<sup>1</sup> published in June 2014.</p> <p>In <i>using</i> the UK's Equality Act 2010 as the precedent for the Equality Bill 2015, the Government has in the view of the Society unconsciously adopted the prejudices of the UK's inner circles of power Inherent in the way that Act is put together and in what it covers; particularly their abhorrence of social and cultural rights. Sections 1, 2 and 3 of the UK Act dealing with economic, social and cultural rights have not been brought into force, and the Government in its consultation document (in recognising this) elects not to include equivalent provisions in the Equality Bill 2015. Poverty relief however must be given a place on the agenda.</p> <p>The Government has not made reference in its equality project to the UK's Equality Act 2006 (as amended by sections 64 to 66 of the Enterprise and Regulatory Reform Act 2013), which consolidated and expanded the role of the Commission for Equality and Human Rights. The Isle of Man urgently needs to consider the creation of a Human Rights Commission or in the alternative to find ways to work with and benefit from the experience and resources of the UK's Commission for Equality and Human Rights.</p> <p>Sight must not be lost of the fact that the Isle of Man has for decades been bound by the provisions of a number of international human rights documents all of which - with or without local enabling legislation - are justiciable and may be pleaded before the Courts:</p> <ul style="list-style-type: none"> <li>• Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention) 1950 [and the Human Rights Act 2001]</li> <li>• International Covenant on Civil and Political Rights 1966</li> <li>• International Covenant on Economic, Social and Cultural Rights 1966</li> </ul>

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	<ul style="list-style-type: none"> <li>• Convention on the Elimination of All Forms of Discrimination Against Women 1979</li> <li>• United Nations Convention on the Rights of the Child 1989</li> </ul> <p>The Isle of Man Government's putting forward the Equality Bill 2015 is a start, and will form a large part of the Government's equality project (a project which the Society warmly welcomes) but is by far from being the whole story which needs to be encompassed in that project.</p> <ul style="list-style-type: none"> <li>• If the Government is genuinely committed to the implementation and enforcement of the human rights of its citizens - its triple duty to respect, protect and promote those rights - then adopting the limitations Inherent in the social and cultural agenda of the UK is not the correct approach. It is merely contributing to an Anglicisation of Manx society.</li> <li>• In the absence of a Human Rights Commission, we are building on Incomplete foundations.</li> </ul> <p><b>SUMMARY</b></p> <p>The overriding aim of the Draft Equality Bill 2015 (the <b>Draft Bill</b>) is to achieve the harmonisation, simplification and modernisation of Manx equality law. The Authors recognise the imperative need for legislation to be enacted in the Island to uphold rights in pursuit of a society built upon equity and equality, and to provide a means of redress to events of discrimination. The Authors further recognise the historical legal ties that the Isle of Man shares with the legal system of the United Kingdom (UK); and therefore, the Authors can identify with the Manx draftsmen's acceptance and adoption of the style and manner of equality legislation enacted in the UK, now codified into the singular Equality Act 2010 (the <b>UK Equality Act</b>). The Authors see the clear advantage of following the UK in this manner in that it allows for affected persons and bodies to be prepared as to how the Courts will interpret such legislation and to have access to guidance on implementing the introduction of compliant behaviours and policies; not to mention assisting the Court in interpreting the legislation.</p> <p>Notwithstanding the above, the Authors are concerned that to introduce the Draft Bill, manifestly in its current form, would be to sacrifice an opportunity to make further progressive steps to delivering equality of opportunity and of outcome in the Isle of Man and to reduce incidences of discrimination also. Elaborated below in this document are recommendations to be included in the final form of the Draft Bill as a means to provide an outcome that will provide for a more effective and efficient means to developing equity and equality, and reducing incidences of discrimination within the Island.</p> <p><b>RECOMMENDATIONS</b></p> <p><b>Recommendation 1</b> <i>Public Sector Socio Economic Duty</i></p> <p>Consider the introduction of a further positive duty on public bodies above that provided by Section 132 of the Draft Bill (Duty to Promote Equality). The recommended duty will be placed on public bodies for them to consider the need to reduce inequalities resulting from socio-economic disadvantage when making decisions of a strategic nature.</p> <p><b>Recommendation 2</b> <i>Private Sector Equality Duty</i></p> <p>Consider the introduction of a positive duty on private and not for profit bodies with 10 or more employees, to take such proactive steps to facilitate substantive equality for employees. It is suggested that the duty should involve the requirement to make biennial reports with the findings of self-assessments on each body's proactivity and success in providing equality and addressing discrimination. These reports will provide the opportunity to set out proportionate steps to address any problem areas identified in the interim 2 year period, in pursuit of substantive outcomes of equality.</p>

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	<p><b>Recommendation 3</b>  <i>Monitoring and Enforcing Private Duty</i>  As a means to monitor adherence to the duty to make biennial reports, the monitoring reporting body will be furnished with 3 powers.</p> <ol style="list-style-type: none"> <li>1. <u>Notice</u>: for confirmation or clarification when a body has not submitted report or the report is unclear and ambiguous.</li> <li>2. <u>Direction</u>: to be issued when body has ignored a Notice.</li> <li>3. <u>Publication</u>: similar to the "name and shame" powers of the Financial Supervision Commission, to be deployed when a body is unresponsive or resistant to a direction.</li> </ol> <p><b>COMPLAINTS-LED MODELS vs. POSITIVE DUTIES</b>  It has been noted, to which the Authors are in agreement, that the UK Equality Act, which the Draft Bill is based upon, is laudable in combining both negative and positive duties</p> <p>However, the Authors further note that such positive duties are limited in the Draft Bill to merely the Duty to Promote Equality. It is postulated, and elaborated on further below, that more emphasis should be placed on the inclusion of positive duties as a means to provide for equality and reduce incidences of discrimination.</p> <p>A complaints-led model is unlikely to achieve genuine change as it presents no obligation on employers to correct institutional discrimination and inequality which gave rise to the original complaint'. In a complaints-led system there must be an individual victim of discrimination, and the onus is on that person to challenge the discrimination.</p> <p>Therefore, the complaints led system only highlights that role of a specific perpetrator and structural and institutional inequalities are not assessed and are outside the scope of enforcement. As commentators have noted, a tribunal is permitted to make recommendations to employers to remedy their wrongs; however, as employers who fail to comply with recommendations are, at worst, penalised by a mere increase in compensation, it is by far departed from the most effective means to overcome systemic issues.</p> <p>A further assumption of the complaints-led model is that it assumes that employers will act in fear of claims being issued by employees, making voluntary reviews and improve their equality policies.</p> <p>However, the adversarial nature of making a claim against an employer creates an air of conflict and can breed a resistant and defensive attitude in the employer, hamstringing the potential for positive change in the system itself.</p> <p>It has been suggested that parties with legal representation are more likely to be successful in a discrimination case, not only because a lawyer would have a better understanding of the procedure and legislation, but also because they would be more skilled in obtaining evidence from non-represented parties. This is a severe handicap for individual claimants, who are likely not to have legal expense insurance that employers may have, and do not have access to legal aid funding for representation at employment tribunals. Furthermore, conditional fee agreements cannot be entered into in the Isle of Man, further restricting access to professional representation, and therefore, redress.</p> <p>The adversarial complaints-led system incurs costs at a micro level without an assurance that these costs will not be replicated countless times without the hoped-for wider system change occurring. The reason behind this assertion is that claims brought within a complaints-led system firstly undergo pre-trial confidential conciliation, beyond which few claims proceed; therefore, knowledge of the breach is kept from public view, limiting the educative and deterrent effect of a complaints-led system.</p> <p>However, the progressive approach of imposing duties on employers, directs funds towards effective systemic change within an acceptable time-frame. It further</p>

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	<p>encourages self-assessment, and the reality is that many eyes analysing the same system makes for a much more efficient approach in identifying failings and incidences of inequality while isolating novel solutions.</p> <p>The Isle of Man, by virtue of the paternal agent role the UK takes in extending international agreements to it, has subscribed to the International Covenant of Social, Economic and Cultural Rights (ICESCR). Article 2(1) of ICESCR states:</p> <p><i>1. Each Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.</i></p> <p>Rights under ICESCR include:  <i>Article 3</i> - Equal rights for men and women  <i>Article 6</i> - Everyone's right to work  <i>Article 7</i> - Everyone's right to just and favourable conditions of work</p> <p>The United Nations Committee formed to monitor the implementation of ICESCR (the ICESCR Committee) has released General Comments to provide guidance on ICESCR provisions. At paragraph 39 of General Comment 20 the ICESCR Committee stated:</p> <p><i>1. Elimination of systemic discrimination. States parties must adopt an active approach to eliminating systemic discrimination and segregation in practice.</i></p> <p>The Authors submit that the inclusion of the positive duties proposed in this document to be included in the Draft Bill would contribute to discharging the Island's continuing obligations to progressively and actively achieve the realisation of rights recognised in ICESCR.</p> <p><b>PUBLIC SECTOR SOCIO-ECONOMIC DUTY</b></p> <p>Under section 1 of the UK Equality Act, public sector bodies are obliged to have due regard to the socio-economic impact of strategic decisions in order that they are exercising functions in a manner conducive with the reduction of inequalities of outcome which result from socio-economic disadvantage.</p> <p>The Authors are aware that the positive duty under section 1 was not brought into force at the time that the rest of the UK Equality Act was, and further note that the Draft Bill contains no similar provision. The Authors assert that where socio-economic inequality goes unchecked it is not only devoid of equity but fosters discrimination also. There is a reciprocal interaction between socio-economic disadvantage and status, and having due regard to socio-economic. Disadvantage can only assist and strengthen the effectiveness of status based anti-discrimination laws<sup>14</sup></p> <p>In General Comment 20 the ICESCR Committee made a clear acknowledgement of the importance of protection against discrimination on grounds of poverty; stating:</p> <p><i>"A person's social and economic situation when living in poverty or being homeless may result in pervasive discrimination, stigmatisation and negative stereotyping which can lead to the refusal of or unequal access to the same quality of education and health care as others, as well as the denial of or unequal access to public places".</i></p> <p>It was further stated by the ICESCR Committee at the same session in 2009 that:-</p> <p><i>"Individuals and groups of individuals must not be arbitrarily treated on account of belonging to a certain economic or social group or strata within society"</i></p> <p>On this basis the Authors postulate that the economic and social position is a further characteristic that should bear consideration alongside the proposed nine</p>

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	<p>protected characteristics in the form of a positive duty placed upon public bodies. Such a duty should apply to public bodies as the Duty to Promote Equality<sup>17</sup> is proposed to under the Draft Bill. Although the duty should not create a right of action in private law it will encourage a more transparent, accountable and conscious approach to strategic decision making, emanating more equitable outcomes and reducing discrimination for status groups.</p> <p>As has been noted by leaders of developed nations, inequality contributes to 'poorer educational results, lower productivity, worse health outcomes, shorter working lives, and lower workforce participation, Therefore, the socio-economic dimension of disadvantage should not be excluded from a general approach to targeting systemic and structural inequality.</p> <p><b>PRIVATE SECTOR EQUALITY DUTY</b></p> <p>As has been previously highlighted, the ability of the complaints-led model to tackle the structural causes of discrimination is limited; while positive duties are preventative and legislate for equality by requiring conduct, thus providing efficiency gains. In regard to the private sector, its participation as a partner in the pursuit of substantive equality through positive duties is of overwhelming importance as it employs more than 75% of the labour force.</p> <p>The Authors have assessed the utility and practicalities of recommending for the private sector a duty similar in the nature and style of the public sector Duty to Promote Equality; and have concluded that this approach would not be suitable. Rather, the Authors prefer a duty for private sector employers and not for profit bodies with more than 10 employees, to take proactive steps to facilitate the realisation of substantive equality for employees. The duty recommended includes the obligation for private and non for profit bodies to file biennial reports with a report body setting out how:</p> <ol style="list-style-type: none"> <li>1. Analysis undertaken during the period of the prevalence of substantive equality within an organisation and where and how the pursuit of substantive equality is restrained.</li> <li>2. Goals to reach the further achievement of substantive equality over the next two year period.</li> <li>3. Measures to be implemented in order to achieve the defined goals.</li> <li>4. Time frames in which implementation of measures are to take place.</li> <li>5. Monitoring of progress in the implementation of such measures.</li> <li>6. Criteria for evaluation and proposals to feedback.</li> </ol> <p>The aim of this duty is to encourage critical analysis by bodies in the private sector of their own structure and culture and how that hampers equality and breeds events of discrimination. Successful models where positive duties have been introduced, like that in Northern Ireland, depend essentially on leadership and commitment within organisations; and the Authors postulate that having an inclusive analytical model for the private sector will provide an efficient resolution to improving equality outcomes and repressing events of discrimination.</p> <p><b>MONITORING AND ENFORCING PRIVATE DUTY</b></p> <p>The aim of the private sector duty is to compel private sector bodies to make self-assessments of their individual structures and cultures in order to identify failings and avenues of improvement in pursuit of the progressive realisation of substantive equality for employees within these bodies.</p> <p>In Canada and Northern Ireland, Equality Commissions have been introduced under legislation to monitor adherence to positive duties. In the example of Northern Ireland, the Equality Commission for Northern Ireland receives annual monitoring reports from public and private sector employers with more than 10 employees; these reports outline how they are reviewing their workforce and employment practice, and remedying inequality and discrimination. Noncompliance can result in the matter being referred to the Fair Employment Tribunal which can impose fines up to £40,000. Similarly in Canada, employers with over 100 employees must file annual reports with the Canadian Human Rights Commission, who has powers to issue notices and directions to employers and refer matters of non-compliance to the</p>

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	<p>Employment Equity Review Tribunal, who can impose fines of up to \$50,000.</p> <p>In contrast to the proposition of the introduction of fines as a penal deterrent, the legislative framework in Northern Ireland also includes the ability to "name and shame employers" It has been suggested that the sanction of a fine being imposed by tribunals or courts is an ineffective deterrent and means of enforcement, as many businesses will be in a position to pay such fines easily. Furthermore, commentators have stated that naming and shaming measures, such as those used in Northern Ireland, are more effective as a means to achieving compliance from employers rather than relying on an employer's fear of other punishments.</p> <p>Therefore, the Authors assert that placing duties on private bodies in regard to progressive measures to provide for substantive equality is not a novel idea and has been embraced by other jurisdictions. Furthermore, as a means to monitor adherence and enforce positive duties, Equality Commissions have been appointed and vested with the necessary powers of enforcement. The Authors suggest that a similar monitoring body should be introduced to monitor adherence to the duty recommended to be placed upon the private sector; however its powers should differ from the examples of the Canadian and Northern Ireland Commissions, rather being vested with the following powers:</p> <ol style="list-style-type: none"> <li>1. <u>Notice</u>: for confirmation or clarification when a body has not submitted report; the report is unclear and ambiguous; or, where there are disparities between a report and undertakings made in a previous report.</li> <li>2. <u>Direction</u>: to be issued when a body has ignored a Notice.</li> <li>3. <u>Publication</u>: similar to the "name and shame" powers of the Financial Supervision Commission, to be deployed when a body is unresponsive or resistant to a direction.</li> </ol> <p>It is intended that such powers will not act as merely a deterrent for a body to disregard its obligations, rather to encourage inclusive organisation-wide participation to identify inequalities and where discrimination can foster in an organisation, and identify novel solutions to the same. The ultimate penalty of the publication of the name of the organisation and certain associated details will inform employees and the public of a body's failing in regard to equality and discrimination which will provide a perception penalty to that organisation and therefore the incentive to change.</p> <p>The biennial reports will provide a chronology for an organisation to reflect upon and celebrate its developments in regard to achieving substantive equality and reducing incidences of discrimination.</p> <p><b>CONCLUSION</b></p> <p>Commentators have noted that giving individuals the right to challenge acts of discrimination before courts and tribunals is undoubtedly an essential element of any framework of equality law; however, by itself, it does not appear to be sufficient to bring about substantive equality. In a nutshell, equality legislation that relies on complaints is only as powerful as the people who rely on it; however, when positive duties are introduced, the responsibility to implement discrimination law passes to duty-bearers, reducing the burden on victims.</p> <p>As has been continually noted by the Authors, the legislation proposed cannot rely on a complaints-led system to resolve structural and institutional inequalities and the discrimination that arises from their persistence. The Authors have proposed the incorporation of two progressive duties in order to facilitate the efficient and effective realisation of substantive equality and a reduction of incidences of discrimination. The Authors appeal to the monitors of the consultation submissions to consider our comments in light of the opportunity presenting itself to the Island's legislature to manifestly influence the realisation of substantive equality.</p> <hr/>



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	<p><b>Mr M Nettleton</b>  With the impending introduction of this bill i have a point to make- i seem to remember several months ago 2 ladies as a same sex couple tried to rent a property in Ramsey but were turned down when the owner found out the status of their relationship- it turned out the owner was a church minister or someone with stong religeous views and he did not want them in his property.  At the time we had polititions saying this was wrong and should not happen but i have to say the house owner was right in his views and the politions should not have got involved-the owner has the right to his views and it is not the place of government to get involved. From my point of view if i had a house to rent then i would probably welcome them as they would probably look after the property better than some couples- the house belongs to the owner and it is his to do as he wished without government interference.</p> <hr/> <p><b>Douglas Borough Council</b>  (Douglas Borough Council's Executive Committee) did have some reservations in relation to potential costs, specifically the potential need to change office layouts or special equipment but also the other less apparent costs related to retirement age etc. However these can be assessed and dealt with internally and need not be taken into account as a reason not to introduce the Bill.</p> <hr/> <p><b>Appointments Commission</b>  The Appointments Commission has three observations to make on the Bill's provisions:-  Section 113 of the Bill makes provision for a Tribunal to appoint a "qualified person", being "a person approved by a body with which the Appointments Commission has entered into arrangements for the provision of reports, documents and information under this section". The Appointments Commission does not consider itself to be the appropriate body to enter into such arrangements. The Commission has no budget of its own and no control over the minimal budget of the Central Tribunals Unit of the General Registry. The Commission is also under continual pressure to take on more and more appointments with no increase in resources and is finding its task becoming increasingly difficult to manage, In all probability the "approving body" will be the United Kingdom Arbitration and Conciliation Advisory Service and it is the Commission's view that the Manx Industrial Relations Service is best placed to effect such arrangements, although again the issue of budget will arise. Section 165 of the Bill provides for the Appointments Commission to make appointments to the Tynwald Equality Consultative Council.  Whilst the Commission considers this an appropriate function for it, again I must raise the question of resources and ask that adequate provision be made to enable the Commission to undertake this function professionally. The Commission has been encouraged in recent years to adopt a professionally competent approach to its role and it is now recruiting at the same level of professional competence as is shown by Government's own Human Resources team.  However, whilst this has imposed additional responsibilities and duties upon the Commission its budget and administrative support from General Registry has not been increased.  The provision within the Bill to develop the current Employment Tribunal into the Employment and Equality Tribunal might introduce a role with which some existing members feel uncomfortable, leading perhaps to some resignations and some uncertainties. The Appointments Commission considers that there should be a concerted effort to provide adequate training to the Tribunal members to help them settle into the expanded role and to avoid as far as possible resignations which will lead to a need to have additional recruitment exercises. No doubt Government will be providing some training on the Bill for its own staff and perhaps the Tribunal members could be included in that training.  Likewise the Commission members themselves would welcome the opportunity to attend such a training course. Whilst all of the Commission members have a</p>

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	<p>background in human resources work, we are not all currently employed in such spheres and it would be very helpful if such training could be provided.</p> <hr/> <p><b>Ramsey Town Commissioners</b>  ...exceptions allowing historic specific practices to continue should be removed; the Commission viewing that any provision applying to a newly formed organisation should similarly apply to any existing bodies</p> <hr/> <p><b>Vicky Christian</b>  I believe all people, regardless of gender, sexual orientation, religion, abilities or ethnicity should be treated equally before the law. To achieve this, the Isle of Man should incorporate the Marriage (Same Sex Couples) Act 2013 into the Equality Bill.</p> <hr/> <p><b>David Carter</b>  Marriage should be available to all - whether same sex, heterosexual or transgendered couples.</p> <hr/> <p><b>Peter Murcott</b>  <b>1: Introduction</b>  1.1 It should be made clear at the outset that the enactment of the Equality Bill is <i>not</i> supported. It goes considerably beyond all previous legislation (which did not cover all of the areas included in the Equality Bill) in that it creates a duty to promote equality with regard to the protected characteristics, as opposed to a duty not to discriminate. The distinction is significant, and, in some cases, will conflict with an individual's religious belief or conscience  1.2 Wherever there is a proposal either to change the existing law or to introduce new law, the following considerations should be taken into account: -  1.2.1 Is there a serious social problem of which there is clear and compelling evidence?  1.2.2 What is the state of the existing law (if any) on the matter?  1.2.3 In what way has the existing law (if any) been found to be deficient?  1.2.4 Are there more appropriate means than the civil law to address the problem?  1.2.5 If so, have they been tried, and have they been shown to be found wanting?  1.2.6 Does the proposed measure raise serious issues of liberty of the individual?  1.2.7 What is the likely cost, both to the public purse and to society as a whole?  1.2.8 Are the proposed measures proportionate, that is, are they in proportion to the object to be achieved? That is legal way of asking: 'Will it constitute a sledgehammer to crack a nut?'  1.3 There is existing law on a number of the issues raised. It is not clear in what way that legislation has been found to be defective; indeed, some of it has never been brought into force. On the other hand, in relation to 1.2(7) above, no one really knows what the cost will be of implementing the Equality Bill.</p>

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	<p><b>2: Particular Problems over Legal Definitions</b></p> <p>2.1 There are two particular areas of considerable concern: the definition of 'religion' and of 'sexual' orientation' .</p> <p>2.2 It is a principle of the rule of law that all legal definitions should be clear, so that the citizen can conduct himself accordingly.</p> <p>2.3 Religion</p> <p>2.3.1 Let us take religion first. This is defined so broadly as to mean virtually anything. Clause 11 (page 23) says that it means 'any religion and a reference to religion includes a lack of religion'.</p> <p>So this means that atheists are 'religious'. But Clause 11 (2) adds that 'belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief.</p> <p>2.3.2 In fact, it is very difficult to see who would not have the protected characteristic of being 'religious' under this definition. So every single person's belief or lack of belief is protected. How would an employer, for instance, promote this 'protected characteristic' in practice? How does each protected characteristic in this area relate to that of others? Where a particular belief or 'lack of belief conflicts, which one prevails?</p> <p>2.3.3. In practice, a series of well-publicised incidents in the United Kingdom have shown that, as far as Christians are concerned, they are less protected than they have ever been.</p> <p>2.3.4. The question that is crying out for an answer is this: 'How can a person who holds a particular religious belief be expected to promote the equality of all beliefs (or lack of belief) when that will inevitably bring him into direct conflict with his own religious belief - or, for that matter, his lack of belief? ,</p> <p>2.3.5. In short, this is an area fraught with incredible problems that are exacerbated by the hopelessly vague definition of religion. If the aim of this provision is to promote respect, then it will have the opposite effect.</p> <p>2.4 Sexual Orientation</p> <p>2.4.1 'Sexual orientation' is a vague and unhappy phrase. Although it currently relates to particular groups of people, it is capable of a much wider application. Moreover, what do we mean by an 'orientation'. Is it a disposition, or a practice, or is it both? Common sense would suggest that it means a disposition. In which case, who knows what goes on in another person's mind? Queen Elizabeth I wisely observed on matters of religion, but equally applicable to 'orientations', that she did not seek to open up windows to men's souls.</p> <p>2.4.2 How will the 'protected characteristics' of 'religion' and 'sexual orientation' interact with each other where they overlap. Various religions have specific teaching on sexual conduct. Evidence from the United Kingdom shows that where the two protected characteristics conflict, 'sexual orientation' prevails. In short, there is no equality at all, despite the fundamental claims of the legislation. There is a hierarchy of rights, with the one being subservient to the other.</p> <p>2.4.3 Some well-publicised cases from the United Kingdom show that this provision has resulted in the 'pinching of men's consciences' (something which Oliver Cromwell declined to do) – and their pockets where they happen merely to dissent from the politically correct norm. It is very difficult to see what true benefit to anyone flows from this.</p> <p>...</p> <p><b>4: The Cost of the Legislation</b></p> <p>This is impossible to quantify, since its very breadth is breath-taking. This will surely impose a very heavy burden on employers and others, who will be required to implement it, all of which will have to be passed on to the consumer. Yet the need for it has not been conclusively established.</p>

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	<p><b>Crossroads Care</b>  ...please find below comments made on behalf of Crossroads Care. Our management team have discussed the potential implications of an Equality Bill and have pooled our initial thoughts as follows:</p> <ol style="list-style-type: none"> <li>1) Whilst Crossroads welcome the introduction of an Equality Bill there is some concern over the speed of anticipated enactment in June 2016. The bill is so far reaching in scope that it will take organisations some time to fully understand the implications.</li> <li>2) The content is in line with the UK Equality Bill 2010 which comes with detailed guidance that forms part of the act. However, guidance is something that is currently missing from the proposed IOM version. Crossroads would hope that guidance will be drawn up and consulted on; the responsibility of which should be of the draftsman, as is normal practice when drawing up these types of document.</li> <li>3) One of the most important areas which needs further work is around the definition of what constitutes a permanent disability. There is some concern around fairness in reiterations to conditions such as ME, Depression and other conditions which fluctuate and are not always symptomatic however can be extremely debilitating if uncontrolled.</li> <li>4) There is concern about the way the act is specific in listing certain disabilities. The act should cover all disabilities and by being specific it has the potential to cause confusion.</li> <li>5) The potential cost implications of the enactment are a concern to Crossroads. Until we have some clear guidance on certain aspects of the Bill it is difficult to estimate how it may impact the provision of our services.</li> <li>6) In addition is the concern about the increase in HR costs. The act will make it easier for employees who feel they are being discriminated against to seek redress. The Equality Bill could potentially present avenues for employees to explore which previously would not have been available under current employment legislation. Additionally it may become more expensive and onerous for us to recruit staff.</li> <li>7) There is concern that expert arbitration prior to cases going to court should be provided and a system considered which is outlined in the guidance notes accompanying the Equality Bill.</li> </ol> <hr/> <p><b>Michael Manning, Graih</b></p> <ol style="list-style-type: none"> <li>1) Graih has had extensive experience working with people who are often discriminated against at many levels. It was disappointing not to see the Work Permit system included in this Bill. We have had contact with a number of individuals working on the island under the Permit system who have been systematically exploited by employers and have found themselves unable or unwilling to complain because they fear losing their job.</li> </ol> <p>...</p> <ol style="list-style-type: none"> <li>3) We regularly find people discriminated against for being on benefits. This happens most in housing. It would be good to see this banned. The proposed Landlord Registration Bill would be an excellent way to enforce this, along with such provisions in the Equality Bill.</li> <li>4) Graih's emergency drop-in can only accommodate men at the moment, due to space and safety. We would not want to fall foul of the Equality Bill by being unable to provide an equal service for men and women simply due to lack of resources. I imagine that similar points could be raised by charities in different sectors facing</li> </ol>

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	<p>similar lack of resources. Half a service is better than no service!</p> <p>5) Graih is a Christian charity and we would hope that this would be acceptable under the Bill. We make no discrimination in terms of our service to anyone, and anyone can help us, but we properly expect those involved in managing the charity at committee level to be practising Christians.</p> <p>6) We very much support any attempt to increase access to services (often government services) for people who do not fit into 'normal' boxes. A flexibility and understanding is required to make services aware of different needs and to put their focus in serving the individual in need of the service.</p> <hr/> <p><b>Andrew Gerrard, (Managing Director, Harding Lewis)</b>  Our views on this Bill can be summarised very briefly:</p> <p>We have attended talks on the Bill and are aware of the consultation documents. There has clearly been insufficient liaison with industry by way of proper impact assessments and detailed briefings. As it stands, business and the public will be largely ignorant of the implications of this Bill. Also, even though we have made some effort to research this, we are still uncertain about its impact and we believe this position is totally unacceptable.</p> <p>The Bill must be put on immediate hold until such time that more effort has been made to inform business and the public. Issuing written consultation documents the consequences of which are not known is inadequate especially as the impact is likely to be far reaching. Why do we need to blindly follow the UK even if it has been slightly tailored?</p> <p>This is an extremely serious matter and in a period where business is already facing uncertainty on the island, this is not a welcome time for this. Of course, there may be some merit in parts of the Bill but at this stage we are not adequately informed and Government must provide a much more 'user friendly' way of consulting.</p> <hr/> <p><b>Patrick Parish Commissioners</b>  No comment on most matters but have the following very real concern if the Bill is enacted:</p> <p>The incident the CM says prompted him into action regarding the Equality Bill was the case where a gay couple were refused a room by a Christian accommodation provider in Ramsey. Interestingly a parallel case in the UK has led to a call for a rethink by a Supreme Court Judge. Baroness Hale said that the law need to work out "how far it should allow for a conscience clause" for service providers or employers. The Judge made these comments in November 2013 six months after rejecting an appeal by Christian B&amp;B owners Peter &amp; Hazelmary Bull who had been successfully sued over their double bed policy.</p> <p>Some UK Parliamentarians have also considered whether further exceptions should be allowed. As Ann Widdecombe has commented; "Surely it is an elementary feature of true democracy that nobody should be obliged by law to affirm that which he or she does not believe".</p> <p>In another case a baker in Northern Ireland who declined the request to bake a cake decorated with the logo "Support Gay Marriage", had been sent a letter by the taxpayer-funded Equality Commission saying his company had acted unlawfully. This begs the question, 'Is it right that a person should be forced to use their creative skills to promote a cause which goes against their conscience? There are two central points to consider before any conclusion is reached as to whether 'the final form of this legislation is fair, effective and right for the Isle of Man'.</p> <p>- What would be a 'reasonable accommodation' for religious belief, whether Christian, Muslim or Jew.</p>

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	<p>- If through conscience you abide by a set of rules under your own roof, is it not fair and reasonable to expect guests to be tolerant if not sympathetic to these rules.</p> <p>It is our assertion that in light of the above, that a conscience clause be written into Schedule 3 which gives 'reasonable accommodation' to a person's values or beliefs. Otherwise in principle the writers have no other issues with the proposed bill.</p> <hr/> <p><b>Chief Financial Officer (Dr Couch)</b></p> <p>Here are some general points in response to the draft bill and consultation, which were shared with the Treasury Heads of Divisions. I am not sure that they constitute a formal response (i.e. publishable), but we can talk about that if you wish. My comments are in no way about the aims of the legislation, which I support.</p> <p>We have already had a conversation about the impact of this legislation should it be enacted. I suspect that the impact will actually be enormous, incalculable (hence the difficulty in producing an assessment) and will take many years to work through.</p> <p>...</p> <p>One of my colleagues made this observation: "<i>in my personal experience, the main grounds of discrimination on this Island particularly in employment are owing to appearance (fat/thin, pretty/ugly, gothic/clean cut, tattooed, pierced), accent, country of origin (Manx, European etc) and family name (including past criminal records/word of mouth). Your gender, religion, sexual orientation etc are secondary to this.</i>" These are likely to be true in an insular community, although I accept that legislation may not be able to deal with them.</p> <p>No doubt you will have received, and are yet to receive, a number of comments about the apparently innocent-sounding section 56 (1) (c). As the public sector has a wide range of terms and conditions for its various staff groups, the application of the 'equal value' principle could lead to chaos. This problem could be augmented should: a) the trades unions take up the cudgels and commence 'class actions'; and, b) we do move to a single legal entity with a single employing authority for staff. As CFO, my primary concern here is the potential cost associated with the principle, and the difficulty in forecasting what that cost might be.</p> <p>With regard to Section 51 of the bill; does subsection (4) contradict subsection (1)? Is not the phrase in subsection (1), "must not ask about the health of the applicant", too broadly drawn? Is Section 51 meant to apply only to applicants with one of the 'protected characteristics'? If so, it should state this, because if not it appears that it becomes illegal to ask anyone about , for example, their sickness record prior to offering them a job. Section 51 (3), might be construed to make it illegal to simply pass on information concerning a job applicant's health: potentially barring a referee from mentioning a poor sickness record. We need to take particular care that capability procedures in respect of staff whose issues stem from poor attendance due to health issues are not affected by the provisions of the bill.</p> <hr/> <p><b>Sean Young</b></p> <p>will the payment of a montly war disablement pension or armed forces compensation scheme be included as meeting the requirements to be assessed as disable in relation to this act?</p> <p>Planning applications, if a building needs alterations, such as installations of ramps etc how will the planning system work? Will it be streamlined, allowed, full application and delayed</p> <p>If a Christian who's religious beliefs exclude homosexuality is an accommodation provider and because of this asks that a same sex couple do not share a room. This Christian is then "targeted" specifically by an action group for the sole purpose of bringing legal proceedings.</p>

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	<p>Hazelry and peter bull v stonewall, steven preddy and martin hall. How would that situation be handled? Will one person beliefs/religion be placed above anothers?</p> <hr/> <p><b>Eric Holmes, IOMTUC – (also see appendix)</b> The IOMTUC is the largest social organisation on the Isle of Man, it comprises of a trade union membership, in the region of 9000 Manx based members, from registered IOM trade unions. We believe that conservatively we represent 20%+ of the Islands workforce, this belief is based upon an Island population of around 84000 and of that number a working populace of around 42000, this figure being factored from registered unemployment percentages over the last 2 years, from government produced statistics.</p> <p>We feel quite strongly that an IOMTUC based submission re “The Scope of Government” did not receive the proper representative consideration it deserved when CoMin decided it equated to 1 submission, that being equal to 1 single persons submission or of the same value as 1/84000. Therefore we would expect better consideration and proportionality to be applied to this submissions importance.</p> <p>The submission is based upon numerous meetings where views and comments to each part of the document were collated and amalgamated into a comments type of approach. This we felt was a better approach than to answer the consultative questions directly, as they tended to be leading questions as has been evidenced in the “Big Debate”? Each affiliated Trade Union has been advised to put forward its own Trade Unions views.</p> <hr/> <p><b>Hon Juan Watterson MHK</b> <u>Process</u> I am concerned that Council of Ministers priorities have been subverted to achieve the Chief Minister's personal agenda. The document states at 1.3 "the Chief Minister asked for the drafting of the Bill... to be accelerated". It should be understood that he asked the Attorney General, not Council of Ministers who had considered such an act as low priority. I am concerned that there appears to be a perception of prerogative power that allows is to happen. This should be clarified in the response to consultation.</p> <p>...</p> <p>I would suggest that if the Chief Minister is so satisfied that this will not introduce a bureaucratic burden, it should in the first instance be trialled in the public sector, where the costs, benefits and issues can be more readily assessed without damaging business on the Island.</p> <p><u>Simplicity</u> Good law should be simple to understand. This Bill not only runs to some 249 pages, but is extremely difficult to follow in terms of the impact of all of the provisions. This is not helpful to employers or employees.</p> <p><u>Penalties</u> The case that prompted the Chief Minister to promote this legislation was the result of a bigot denying his personal property to a person whose lifestyle he objected to. I have no truck with his opinions, but I respect his right to do as he will with his personal property. In my view, the case had the right outcome. The individual received public criticism for his views, and the potential tenants went on to have a landlord with whom they could have a functional and healthy business relationship. It would have been quite wrong in my opinion to criminalise the person for his narrow views, dictate how he should let his personal property, require him to allow tenants with whom, for his own ill considered views, would generate animosity from the start. However, that is what this bill is seeking to do. Worse, there is a</p>

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	<p>distinct prospect that a few thousand pounds worth of fine envisioned by the Bill, and the ability to issue a remedy to require the landlord to take on a tenant despite the animosity that will likely have already ensued (cl.108).</p> <p>I fear that this will only have the effect of driving discrimination underground, instead of trying to change attitudes in an open environment. Bigots should be subject to the Court of Public Opinion, not a Court of Law.</p> <p>I note that one case was awarded damages of £4.5m, which I consider obscene. I notice these are capped in the Bill by virtue of clause 108(6). However, similar provision does not apply to remedies under clauses 114(2)(b) or 117.</p> <p>I am also concerned at the concept of aggravated damages which I consider to be the imposition of the “thought Police” (clause 104(3))</p> <p><u>Disability discrimination</u></p> <p>It is unfortunate that this route has been progressed rather than to prioritise the implementation of those aspects of the Disability Discrimination Act that would improve working conditions for disabled people.</p> <p><u>Burden on employers</u></p> <p>Staff can no longer be sacked by reference to the expiry of a period (such as notice period), or presumably fixed term, or because of conduct by the employee if it is considered discriminatory (cl.38(7)), combined with the fact that the onus is on the employer to demonstrate that actions are non discriminatory, rather than on the employee to demonstrate that they are (clause 120).</p> <p>Clause 32(3) appears to allow an exemption from the Act for B&amp;B owners. How is this justified?</p> <p>Employers are no longer allowed to rely on questions about health or disability when applying for a job, despite the fact that for small employers reliability is key to running a successful small business. It seems bizarre they would be able to filter out applicants with a long sickness record</p> <p>...</p> <p>I am concerned at the impact on the shipping and aviation industries that ships and aircraft that have no relationship to the Island other than registration will be subject to this Bill. That is to say a Manx ship or aircraft, crewed by foreign nationals and which may never visit an Isle of Man port will still be subject to these rules. I am concerned that the impact of clause 163 has not fully been assessed.</p> <p>...</p> <p><u>Additional unnecessary bureaucracy introduced by the Bill</u></p> <ol style="list-style-type: none"> <li>1. Places onus of proof on employer to demonstrate action is “proportionate means of achieving a legitimate aim”</li> <li>2. Requires non-discrimination, sex equality &amp; maternity equality rules in occupational pension schemes and terms of employment.</li> <li>3. Will effectively apply a training requirement to all HR professionals, owners of small businesses, and introduce a need to create policies on which they can rely by way of defence against the presumption of guilt.</li> <li>4. Compliance with “relevant pay disclosures” (cl.68) allowing disclosure of pay details compared to those with protected characteristics.</li> <li>5. Requirement to undertake an “equal pay audit” in accordance with regulations.</li> <li>6. Government Orders to be made under clauses 2,15(6), 71(1), 83(3), 88(3), 97(5), 122, 133, 141, 159, 161, 163, 168, Schedule 3 (37), Schedule 5 (5), Schedule 9(13), Schedule 11(6), Schedule 12(2), Schedule 16(4)</li> <li>7. Government Regulation making powers under clauses 23,(1), 23(2), 23(3), 123, 135, 137, 139, 142, 143, 149, Schedule 1 - 1(1), 3(2), (4), (7), (8)(3), Schedule 3 (6), Schedule 4 (6), Schedule 7(6)&amp;(7), Schedule 8(14), Schedule 18(6)</li> <li>8. Government guidance to be issued under clauses 7(5), 159(4) – I notice the UK guidance on the public sector equality duty alone runs to 124 pages.</li> </ol>



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	<p>9. Government Code of Practise to be issued under clause 160</p> <p>10. Requirements for rules to be issues under clause 102, &amp; Schedule 16(4), Schedule 19(2)</p> <p>11. Requirements for public notices under 83(6)</p> <p>12. Requirements for certificates to be issued under clause 140, 146, 149, 151</p> <p>13. Requirements for lists to be kept under clause 140, 147</p> <p>14. Requirement for the DEC and the responsible body for each school to prepare, continually review, and implement an accessibility strategy</p> <p>15. Individuals selling property must consider discrimination legislation. The same applies to owners and managers. There will therefore be a training and compliance duty.</p> <p>16. Need for a "job evaluation study" (clause 56 &amp; 70) at the insistence of any employee.</p> <p><u>Additional queries</u></p> <p>1. How is it in the interests of equality to permit exclusion from charitable activities on the grounds of sex (Cl.156(6))?</p> <p>2. Presumably a section 203 order relates to the UK Act (Cl.168(3))?</p> <p>3. Why does Schedule 3, para 23 refer to the UK Act 2004, not the Isle of Man Gender Recognition Act 2009?</p> <p>4. With the continual reorganisation of Government, why are Schedule 6 &amp; Schedule 20(2) not amendable by Order?</p> <p>5. How does the Bill apply in respect of paternity provisions, especially if the father (rather than the mother) is the main care provider in the child's early years?</p> <p>6. Will the Bill require Government to provide free foreign language provision in schools?</p> <p>7. To whom is an application for a "transitional exemption order" under Schedule 11(3) made?</p> <p>8. Schedule 21 is not in a form of language that cross references to the Communications Bill.</p> <p>9. What is the purpose of Schedule 23(7), and why has it been included?</p> <p>...</p> <p>11. I presume this will apply to all business headquartered in the Isle of Man, even though they may have elements in other countries, i.e. its reach will be extra-jurisdictional. What assessment has been made on the effects of this Bill on international businesses?</p> <p><u>Case Law</u></p> <p>It is useful to be able to draw on a canon of UK case law to identify instances where the legislation leads to bizarre outcomes. To give some examples: British Council vs Meade-Hill held that a mobility clause in the council's contract of employment (meaning Council members may be required to work at different locations) was unenforceable on the ground of unlawful sexual discrimination. There are parallels here with the prison's move to Jurby, which may have meant female officers getting more favourable treatment than their male counterparts due to the sexual discrimination of having to travel extra distance. The case centred around women as secondary earners.</p> <p>In Regina vs Secretary of State for Employment, Ex Parte Seymour-Smith and Another, The claimants sought judicial review of a condition requiring an employee to have had two years of continuous employment before becoming eligible to make a claim for unfair dismissal. The Court of Appeal allowed the appeal and declared that the Statutory Instrument (SI) introducing the two year qualifying period was incompatible with the Equal Treatment Directive. there had been and continued to be a considerable and persistent difference in the numbers and percentages of men and women in the groups that did comply and the groups that did not comply with the two year qualification period.</p> <p>Rothwell v Noble t/a DC's Chuckwagon and Pizza Pie. A restaurant owner's refusal to allow a female employee to leave work at 2.45pm to collect her child from</p>

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	<p>school, leading her to resign, was unlawful indirect sex discrimination and constructive unfair dismissal</p> <p>Whiffen v Milham Ford Girls' School, the Court of Appeal rules that a redundancy selection policy whereby staff on fixed-term contracts were dismissed first amounts to indirect sex discrimination.</p> <p>London Underground Ltd v Edwards (No.2), the EAT upholds a finding that a rostering system requiring an early morning start had an adverse impact on women. There are clear implications here for bus drivers and other shift workers.</p> <p><i>Henery v Quoteline Insurance Service Ltd t/a Sureplan Insurance.</i> An employer who insisted on part-time employees working three full days rather than spread the hours over more part-days is held to have discriminated against a female employee who could not work the required hours because of childcare responsibilities. An employment tribunal did not accept that the requirement for three full days was a proportionate means of achieving a legitimate aim, adding that the fact that other female employees had agreed to the hours did not make the claimant's refusal unreasonable.</p> <p><i>Cooper v House of Fraser (Stores) Ltd</i> A woman who wanted to work part time on return from maternity leave was found to have been indirectly discriminated against when her employer insisted that her job was full time. The tribunal agreed that insisting on full-time working put women - who are the primary providers of childcare - at a particular disadvantage, and that the claimant in this case was put at a disadvantage even though it was her choice to work part time. The tribunal found it reasonable for the woman to rely on her belief that it was inappropriate for her child to be in someone else's care full time.</p> <p>See also Shell vs Hasan (EAT 242/13/SM) where the employer was headquartered on the Isle of Man.</p> <p>There are many other cases which I have not had time to list which highlight the unintended consequences of this legislation.</p> <p><u>Errors</u></p> <p>p.56, cl.51(6), section 119, should be section 120.</p> <p>p.90, cl.97(2)(a) open bracket missing before "rights"</p> <p>p.92 cl.98(7) only content is "."</p> <p>p.92 cl.99(1)(a), open bracket missing</p> <p>p.230 Schedule 21 cross references to section 165, it should be section 166</p> <p><u>Conclusion</u></p> <p>In short, I suspect that the Bill will make employers less willing to employ individuals, especially those required for a short time, or to try and arrange flexible contract working. It will be especially harmful if employers are expected to balance the Bill's expectations between positive and negative discrimination. Employers will have to go through additional "burden of proof" hoops to dismiss staff who are not performing, to demonstrate that they have not discriminated.</p> <p>I have no faith in the accuracy of the impact assessment. No justification has been given as to how the costs or (even more spurious) the benefits have been calculated.</p> <p>Arbitrary discrimination is unjustified, as unjustified as the bureaucracy this Bill seeks to introduce. This is a well intentioned move, but bad law. It will not provide for an equal society, it will not help the cause of minorities. It will impact disastrously on the Island's reputation as a good place to do business.</p> <hr/> <p><b>Public Sector Pensions Authority</b></p> <p><b>Comments in respect of the content of the draft Bill</b></p> <p><b>2. Part 5 – Work</b></p> <p>Page 42, clause 40: Contract workers</p>

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<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<ul style="list-style-type: none"> <li>• The PSPA notes and supports that contract workers should be afforded the same opportunity to join a public service pension scheme as non-contract employees and comments that Departments should be made aware of this requirement when recruiting contract workers.</li> </ul> <p><b>Page 58, clause 52: Non-discrimination rule</b></p> <p>Sub-paragraph (4)</p> <ul style="list-style-type: none"> <li>• The sub-paragraph does not mention the “Administrators” of a scheme alongside the managers, employer etc. the PSPA considers that the Scheme Administrator should be added to the list of responsible persons.</li> </ul> <p>Sub-paragraph (8) page 59</p> <ul style="list-style-type: none"> <li>• The PSPA notes the wording: “It is not a breach of a non-discrimination rule for the employer or the trustees or managers of a scheme to maintain or use in relation to the scheme rules, practices, actions or decisions relating to age which are of a description specified by order by the Treasury”. The PSPA would like clarification of the items covered by this rule which are specified by order of the Treasury as these may impact on the PSPA’s administration and management of public service schemes.</li> </ul> <p>Sub-paragraph (9) page 59</p> <ul style="list-style-type: none"> <li>• The PSPA notes that “An order authorising the use of rules, practices, actions or decisions which are not in use before the order comes into force must not be made unless the Treasury consults such persons as it thinks appropriate.” The PSPA questions why this sub-clause (and potentially the previous one) only refers to Treasury when the PSPA is the manager of most public sector pension schemes by virtue of the Public Sector Pensions Act 2011. Should not the references to Treasury refer instead or in addition to the PSPA, acknowledging its role as scheme manager?</li> </ul> <p>Sub-paragraph (10) page 59</p> <ul style="list-style-type: none"> <li>• The PSPA does not understand the meaning of this sub-clause and therefore requests clarification of the meaning and application of the sub-clause.</li> </ul> <p>Page 62, clause 59: Sex equality rule: consequential alteration of schemes</p> <ul style="list-style-type: none"> <li>• The PSPA comments that it is in favour of the 6 sub-clauses which appear sensible and give trustees or managers the power to make sex equality changes in a simple manner where the process is likely to be unduly complex or protracted or where suitable powers do not exist.</li> </ul> <p>Page 62, clause 60: defence of material factor</p> <ul style="list-style-type: none"> <li>• The PSPA supports this clause as it allows differences in term and conditions between workers if the responsible person shows that the difference is because of a material factor which is either not sex based or is a proportionate means to achieving a legitimate aim. The PSPA believes that this clause enables it to make changes to pension schemes which will treat different categories of workers differently (in terms of benefits and contributions) but not for sex-based reasons and as a proportionate means of achieving future pension cost savings.</li> </ul> <p><b>3. Part 9 – Enforcement</b></p> <p>Page 98, clause 109: Remedies: occupational pension schemes</p> <ul style="list-style-type: none"> <li>• The PSPA notes the content of the clause which relates to a Tribunal being able to recommend remedies for breaches of the Act. However, the PSPA is subject to the authority of the Pensions Ombudsman under pensions legislation, who is able to make determinations in respect of pension scheme complaints from members. Therefore, if there is a complaint made to the Pensions Ombudsman on a equality issue, a Tribunal should not be able to make a separate determination unless that involves an area not covered by the Ombudsman’s powers. In view of this, the drafting of this clause may need to be altered to recognise the separate authority of the Ombudsman to determine pension complaint issues.</li> </ul>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p>Page 103, clause 115: Remedies in pensions cases</p> <ul style="list-style-type: none"> <li>The PSPA questions why this clause is required if remedies are also covered in clause 109? The two sections appear very similar and therefore could any differences not be accommodated by amalgamated 109 and 115 into a single clause?</li> </ul> <p>Page 104, clause 116: remedies in claims for arrears brought about by pensioner members</p> <ul style="list-style-type: none"> <li>Again, the PSPA would question how this clause fits in with the PSPA being subject to the authority and decisions of the Pensions Ombudsman.</li> </ul> <p><b>4. Schedule 7: Equality of Terms Exceptions</b>  <b>Part 2 – Occupational Pension schemes</b></p> <p>Page 171, clause 4: State retirement pensions</p> <ul style="list-style-type: none"> <li>The PSPA would query why this clause is contained within the overall section headed “Part 2 - Occupational Pension Schemes”?</li> </ul> <p>Page 172, clause 5: Actuarial factors</p> <ul style="list-style-type: none"> <li>The PSPA is in agreement with this clause which allows differences between men and women in the calculation of employer contributions and benefits to be based on separate actuarial factors for men and women which are “of such description as may be prescribed.”</li> </ul> <p>Page 172, clause 6: Meaning of “prescribed”</p> <ul style="list-style-type: none"> <li>The PSPA notes that “prescribed” means prescribed by regulations made by Treasury. However, as the PSPA is the scheme manager and administrator of most public service schemes under the Public Sector Pensions Act 2011, should this clause not instead or in addition refer to “prescribed” as being “prescribed by regulations made by the PSPA for public service schemes which it manages”?</li> </ul> <p>Page 172, clause 7: Power to amend</p> <ul style="list-style-type: none"> <li>The PSPA notes Treasury’s power to amend this part of the schedule by regulations so as to add, vary or omit provisions about cases where a difference between men and women in the effect of the relevant matter is permitted. Again, the PSPA would query whether it should be referenced in this clause rather than Treasury in connection with the management of public service pension schemes?</li> </ul> <hr/> <p><b>Keith Fitton</b></p> <p>Page 19 3.58 Why would we not add interest to pay arrears awards? We should use this opportunity to do so. The arrears belong to the person who was treated unfairly not to the company that withheld them and the interest should reflect this.</p> <p>Page 24 3.88 “All legislation must be enforceable and if it is not it is useless”. I would agree entirely and refer to the Isle of Man Disability Discrimination Act 2006 which was useless in addressing the discrimination of disabled people within our society due to its lack of implementation. This legislation must not be allowed to go the same way.</p> <p><i>Wouldn't it be nice if the Consultation document was available in other accessible mediums?</i></p> <hr/> <p><b>Charles Garside</b></p> <p>... I would be grateful if you could clarify how it affects practical individual owner occupiers of residential apartments with communal areas as it does not seem to take</p>

Question	Response
<b>Q36</b>	<b>Do you have any comments about anything in the draft Bill that is not referred to in this document; or about the implementation of this legislation if it is passed; or about equality and discrimination in general?</b>
	<p>account of this.</p> <p>A block of individual flats are sold off to individual owner occupiers upon long leasehold interest in excess of 99 years (Due to privity of contract)at fixed nominal ground rent with an obligation to contribute to the service charge which is collected by the management company which is controlled by the longleaseholders who have equal shares in this company. It is common place and standard practice in the Isle of Man for the freehold which has the right to collect the nominal fixed rent to be vested in the Management company to create a virtual freehold.</p> <p>The Management duties of maintenance insurance cleaning and service charge is often sub contracted by the Management Company (Upon the instructions of the Longleaseholders) to a an administrative company often misrepresented as "The Management Company" for a fee to carry out these duties</p> <p>*(In the UK, the freehold, Man Co, the longleaseholder are often 3 individual parties rather the one of the same)</p> <p>My question is, how does this legislation affect the common parts. (Stairs, hall etc)? When the actual fact is due to the Tenure and set up the Communal areas are actually freehold.</p> <p>I also acknowledge the Act refers to Controller/Manager therefore is this the Management Company controlled by the Shareholders? or the Administrative company employed by the Management Company on behalf of the shareholders.</p> <p>I am happy to discuss over the phone if I am missing something or assist in clarification if this is a relevant issue.</p> <p>*PS Schedule 5 1(5) Should refer to Registered Estate Agents in accordance with existing legislation (1975 Estate Agents Act) otherwise I believe it is two different definitions in two different statutes.</p>

Question	Response
<b>Q37</b>	<b>Do you have any comments regarding the Department's proposals to update the law which applies to written statements, pay statements and unlawful deductions</b>
	<p><b>Royal College of Nursing</b> The RCN agrees with the proposals around written statements of terms and conditions, pay statements and unlawful deductions.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b> A 6 year cut-off point to me seems more than reasonable and I am not sure why it should be more than 3 years from the date of the Claim. I accept that 6 years is a standard limitation period but even going back 3 years will be burdensome. The Claimant should bring claims reasonably promptly just like accident claims.</p> <hr/>

Question	Response
<b>Q37</b>	<b>Do you have any comments regarding the Department’s proposals to update the law which applies to written statements, pay statements and unlawful deductions</b>
	<p><b>Prospect</b>  Appendix 1A – summary of amendments included in the Equality Bill:  1. Written statements of terms and conditions  Currently somewhere between 2 and 4 weeks are awarded by the ET. The proposal that where written particulars fail due to a minor breach there shall be no award. This could mean an appellant could be out of pocket where a fee is levelled for a tribunal claim and it is not successful, which is unfair.  2. Pay statements  We would suggest that this is more serious than the written particulars issue as there are implied terms.  3. Unlawful deductions  What if the deductions had been occurring for in excess of 6 years?  Question 37 - We would wish to see the no cut-off point retained as the employer could get away with paying potentially large amounts on the proposals in the Bill  4. Unfair dismissal on grounds of spent convictions  Agreed  5. Reserve Forces  No comment  6. Employees political opinions  Agreed</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch believes that this should stay as is. It gives weight to ensuring that employers act when requested.</p>

Question	Response
<b>Q38</b>	<b>Do you have any comments regarding the Department’s proposals to update the law on unfair dismissal as regards these three special cases?</b>
	<p><b>Royal College of Nursing</b>  The RCN agrees with the proposal to update the law on unfair dismissal in the 3 special cases sighted.</p> <hr/> <p><b>Prospect</b>  Question 38 – no comment on the proposals to update law on unfair dismissal with regard to the 3 special cases cited.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b>  The ATL IOM Branch agrees with what is stated.</p> <hr/>

Question	Response
<b>Q38</b>	<b>Do you have any comments regarding the Department's proposals to update the law on unfair dismissal as regards these three special cases?</b>
	<p data-bbox="315 296 443 320"><b>Sean Young</b></p> <p data-bbox="315 325 1171 349">what would happen in cases where the rehabilitation of offenders does not apply</p>

Question	Response
<b>Q39</b>	<b>Do you have any view as to whether redundancy rebates should be modified or abolished?</b>
	<p data-bbox="315 568 562 592"><b>Chamber of Commerce</b></p> <p data-bbox="315 596 2051 676">Yes, Chamber members strongly disagree with any proposal that the rebate scheme should be modified or abolished. Members also expressed concern over the timing of this. Figures show it is used by many small businesses. It is a difficult economic climate and there is little to no support for small businesses in these tricky times.</p> <p data-bbox="315 692 689 716">One small business (9 staff) stated:</p> <p data-bbox="315 748 1144 772">"We believe that the redundancy rebates should be retained at present rates".</p> <p data-bbox="315 777 2074 833">Almost 300 claims have been made in the last 5 years which shows that there is a need for the rebate system and probably particular so in the difficult last few years. This appears to be an example of the Government proposing to cut costs with little consideration for how this may place small businesses in jeopardy.</p> <p data-bbox="315 857 2022 936">Chamber has recently consulted on the Public Sector Severance Scheme which is much more generous than what most of the private sector can offer and more generous than the statutory amounts available. It seems that there is an imbalance between the assistance offered to the public sector as opposed to the private sector which is unacceptable.</p> <hr data-bbox="315 960 689 968"/> <p data-bbox="315 1000 573 1024"><b>Royal College of Nursing</b></p> <p data-bbox="315 1029 714 1053">They should be abolished in our view.</p> <hr data-bbox="315 1077 689 1085"/> <p data-bbox="315 1117 607 1141"><b>Office of Human Resources</b></p> <p data-bbox="315 1145 423 1169">We agree.</p> <hr data-bbox="315 1193 689 1201"/> <p data-bbox="315 1233 880 1257"><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b></p> <p data-bbox="315 1262 515 1286"><b>Question 39 / 40</b></p> <p data-bbox="315 1291 1565 1315">This is a political topic but there seems to be a sound basis for paring back the rebate in line with cutbacks elsewhere.</p> <hr data-bbox="315 1339 689 1347"/>

Question	Response
<b>Q39</b>	<b>Do you have any view as to whether redundancy rebates should be modified or abolished?</b>
	<p data-bbox="315 264 409 288"><b>Prospect</b></p> <p data-bbox="315 301 651 325">Abolition of redundancy rebates</p> <p data-bbox="315 336 555 360">Questions 39 and 40 –</p> <p data-bbox="315 368 2074 419">We agree that IOM government must seek to keep employees in employment as long as possible to reduce the burden on benefits. It is noted that the introduction of this in the UK did not cause any particular problems.</p> <hr data-bbox="315 443 685 451"/> <p data-bbox="315 483 678 507"><b>Colin Coole – Capital International</b></p> <p data-bbox="315 512 577 536"><b>Redundancy Rebates:</b></p> <p data-bbox="315 544 2047 595">Section 7.1 highlights how popular this scheme is on the Isle of Man. It is important to add that the majority of people employed in the Private Sector on the island are in organisations of 40 or fewer.</p> <p data-bbox="315 603 1984 654">The removal of the scheme would impact the ability of struggling firms to pay Statutory redundancy. This would mean more staff being made redundant as a struggling business incurs additional cost and then becomes unviable. Therefore, the remaining staff/more staff are also made redundant.</p> <p data-bbox="315 662 1025 686">I cannot see how or why this has been included in the Equality Bill.</p> <p data-bbox="315 694 1872 718">It is important to note that the Isle of Man government has paid its staff an average of £56,250 per person in redundancy over the last 12 months.</p> <p data-bbox="315 726 1178 750">Alf Cannan MHK described government redundancy payments as "Eye Watering".</p> <p data-bbox="315 758 629 782">Where is the equality in this?</p> <hr data-bbox="315 805 685 813"/> <p data-bbox="315 834 768 858"><b>Association of Teachers and Lecturers IOM</b></p> <p data-bbox="315 866 443 890">(See below)</p> <hr data-bbox="315 914 685 922"/> <p data-bbox="315 951 443 975"><b>Sean Young</b></p> <p data-bbox="315 983 1032 1007">this should be removed as the UK did in 1990, almost 24 years ago.</p>

Question	Response
<b>Q40</b>	<b>Do you have any alternative proposals which would reduce Treasury expenditure on rebates?</b>
	<p data-bbox="315 1182 562 1206"><b>Chamber of Commerce</b></p> <p data-bbox="315 1214 1010 1238">No. This is not an appropriate area for cuts in the current climate.</p> <hr data-bbox="315 1262 685 1270"/> <p data-bbox="315 1302 573 1326"><b>Royal College of Nursing</b></p> <p data-bbox="315 1334 2007 1407">The RCN does not believe that the Island's national insurance fund should give rebates to employers who are required to make redundancies and pay statutory redundancy payments. We believe that the employers should meet this cost. If employers were forced to pay the costs of redundancy this would save the IOM Government a significant sum which could be dedicated to those who do not receive a redundancy payment through the insolvency of their employer.</p>



Question	Response
<b>Q40</b>	<b>Do you have any alternative proposals which would reduce Treasury expenditure on rebates?</b>
	<p>_____</p> <p><b>Office of Fair Trading</b> No direct relevance to OFT.</p> <p>_____</p> <p><b>Employment Tribunal</b> Question 39 /40 This is a political topic but there seems to be a sound basis for paring back the rebate in line with cutbacks elsewhere.</p> <p>_____</p> <p><b>Prospect</b> Questions 39 and 40 – We agree that IOM government must seek to keep employees in employment as long as possible to reduce the burden on benefits. It is noted that the introduction of this in the UK did not cause any particular problems.</p> <p>_____</p> <p><b>Association of Teachers and Lecturers IOM</b> If a separate fund was established into which a percentage of the contributions was placed then a pot of money would build up over a period of time which could provide money if needed in a situation where the rebates are currently being given.</p>

Question	Response
<b>Q41</b>	<b>Do you have any view as to whether Tribunal claimants should be required to pay a fee and whether respondents to complaints should be required to pay part of the fee in specified circumstances (for example where they are found to have breached the claimant's employment rights)?</b>
	<p><b>Chamber of Commerce</b> Yes. Chamber members are strongly supportive of the Tribunal requiring Claimants to pay a fee. Chamber is conscious that this was introduced in the UK and it has reduced the number of Tribunal claims which will, in turn, reduce the burden on business and also the MIRS. Currently system encourages spurious claims to be lodged with no fee or cost consequences. This is an abuse of the system.</p> <p>SCS was very supportive of the introduction of deposits:</p> <p>"We understand that in order to submit a claim to the Employment Tribunal in England, Wales and Scotland, for a single claimant the current payment is Type A - £160 and Type B - £250 as defined in the HM Courts and Tribunal Service leaflets. For group claimants this increases depending of the number of claimants in the group. Further consideration may have to be given to the appropriateness of the "Types" referred to in the UK legislation but generally the principal of deposit taking to prevent scurrilous cases being brought against an employer, we feel is a positive way forward".</p>

Question	Response
<b>Q41</b>	<b>Do you have any view as to whether Tribunal claimants should be required to pay a fee and whether respondents to complaints should be required to pay part of the fee in specified circumstances (for example where they are found to have breached the claimant's employment rights)?</b>
	<p>Chamber believes that the UK position should be followed in this regard.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b> We consider the introduction of fees for Claimants to be counter-productive.</p> <hr/> <p><b>Royal College of Nursing</b> The RCN does not believe that tribunal Claimants should be charged a fee to commence employment tribunal proceedings as the effect of introducing fees acts as a barrier to access to justice on behalf of employees which has been evidenced in the UK. The charges are also the subject to Judicial Review proceedings in any event and a future Labour government has suggested that they will phase out these fees given the effect on access to justice that introducing the fees has had. We believe that in any civilised society access to justice should be promoted rather than prevented. The RCN also believes that an employer will ultimately be liable to pay damages to a successful Claimant so there should be no requirement for them to pay a fee.</p> <hr/> <p><b>Office of Human Resources</b> Yes they should.</p> <hr/> <p><b>Office of Fair Trading</b> The OFT believes that access to Tribunal claimants should be Tribunals should be free.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b> If a Fee to make a claim to the Tribunal is to be introduced, it ought not to be as large as the one in the United Kingdom which strikes me as penal. I gather claims there have fallen 80% - suggesting that a large number of bona fide Claimants have been precluded justice. Rather there should be a more robust approach under the Rules to strike out feeble claims (see below). To someone who is suddenly unemployed with a worthwhile claim but struggling to make ends meet I think even £25.00 is a great deal of money. I am content with the present no-fee situation because of the very few hopeless claims that I have come across.</p> <hr/> <p><b>Prospect</b> <i>ET – power to charge fees</i> Questions 41 – 43 As previously mentioned in relation to question 21, Prospect strongly opposes any moves to introduce a charging regime for tribunal claimants as it has been shown that those who are in the lower earnings bracket are unable to make a claim due to the costs imposed in the UK. The introduction of charges in the UK appears to have excluded 4 out of 5 potential claims and this is likely to be those most in need and who are unable to afford it. If any charging is brought in then it ought to be on a case by case basis and means-tested. Prospect feels that the focus should be on the costs to be paid by the respondent and an increase in the maximum level of</p>

Question	Response
<b>Q41</b>	<p><b>Do you have any view as to whether Tribunal claimants should be required to pay a fee and whether respondents to complaints should be required to pay part of the fee in specified circumstances (for example where they are found to have breached the claimant's employment rights)?</b></p>
	<p>those costs is acceptable. It should be noted that Prospect will not support an ET case unless there is a reasonable chance of success at employment tribunal. If successful any fee levelled, if introduced, should be reimbursed to the appellant.</p> <hr/> <p><b>Dept of Education and Children</b> Support this to avoid employer's time being wasted and associated costs in defending weak cases.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> The ATL IOM Branch does not believe that a fee should be brought in. Justice should be freely available and not limited by whether someone is able to pay for it or not. The appalling experience in the UK has shown that many are unable to pay for access to justice, as the number of ET cases has dropped radically, since the introduction of fees.</p> <hr/> <p><b>DOI</b> The Department would support the view that claimants should be required to pay a fee and suggest that consideration is given to the level of the fee set so as to discourage vexatious claims.</p> <hr/> <p><b>David Carter</b> As a retired trade union official, I believe fairness and dignity at work is particularly important and I welcome the employment provisions in the bill. The UK government recently introduced charges for workers who wish to access the Employment Tribunal to pursue cases relating to unfair dismissal or discrimination. I believe it would be a mistake for the Isle of Man government to adopt a similar approach. The charges in the UK have dramatically cut the number of applications made to the Employment Tribunal and have undoubtedly deterred employees from seeking justice through this avenue. They are exorbitant and unfair. Before enforcing such charges on the island, our government should consider what cost savings will be made and whether these are unlikely to outweigh the effective loss of this statutory remedy for aggrieved workers (especially those not in a trade union). In my view, the cost savings will not justify the effective removal of the recourse to the Employment Tribunal for many workers. A recent legal challenge on ET charges in the UK by the UNITE union failed, but only because the court decided that there had not been sufficient time to evaluate the new system of charges.</p> <hr/> <p><b>Sean Young</b> a small processing or listing fee, but not a large one. This would discourage people from making a claim "for the hell of it" but also not put people off from making a justified claim as they feel it would be too expensive, when they may have already lost their jobs.</p> <hr/> <p><b>Chartered Institute of Personnel and Development</b></p> <ul style="list-style-type: none"> <li>• There were mixed views from members about the proposal to charge for applications to employment tribunal.</li> </ul> <hr/>

Question	Response
<b>Q41</b>	<b>Do you have any view as to whether Tribunal claimants should be required to pay a fee and whether respondents to complaints should be required to pay part of the fee in specified circumstances (for example where they are found to have breached the claimant's employment rights)?</b>
	<p><b>UNITE – the Union</b>  Unite is strongly opposed to the introduction of fees in Employment Tribunals as access to justice, human rights based rights will be seriously damaged by these proposals. Isle of Man should set an example and not follow the Government's desire to "kill off safety culture". Taking away the ability for workers to freely access Employment Tribunals creates inequality and only leaves the option of access to a "poor man's court" unless financially affluent to pay the fee. Workers, particularly those on lower pay face not only discrimination but will be further penalised by the fees.</p> <p>Isle of Man should not follow the England's example and as stated in the consultation it has been shown that since the introduction of fees in 2013 there has been a 79% fall in overall claims, with women and low-paid workers the worst affected. Women are among the biggest losers with an 80% fall in the number of sex discrimination claims and 26% for pregnancy discrimination. Race and sexual orientation claims have plummeted during the first three months of 2014 where both fell by 60% and disability claims by 46%.</p> <p>Introduction of fees unjustly denies many unfairly treated workers access to justice and whether they have a strong or a "very weak case". It is the role of Manx Industrial Relations Service to filter frivolous and vexatious claims and any shortcomings in this process should not be an excuse to deny workers the right to get justice.</p> <hr/> <p><b>Hon Juan Watterson MHK</b>  <u>Burden on Government</u>  In the UK in 2013/14, there were 13,722 sex discrimination claims, with payouts of £8.77m. There appears to be no fee payable to apply to the equality tribunal. In the UK there is a £1200 fee for hearing of discrimination claims, which is reimbursed to employees who win. But the threat of losing this money appears to have deterred the majority of those who would once have been tempted to claim. Employment tribunal cases have dropped by three-quarters over the past year, with sex discrimination claims down by 80 per cent and race claims by 60 per cent. In the first six months of the new fees system, the number of claims to employment tribunals dropped from 109,425 to 20,678.</p> <p>This fall of nearly 90,000 was a major boost for UK businesses, which were previously spending around £1.6billion a year in defence costs. There were 191,000 employment claims in the financial year to March 2013.</p>

Question	Response
<b>Q42</b>	<b>If you consider that claimants should be required to pay a fee what charge or system of charges would you consider to be appropriate?</b>
	<p><b>Chamber of Commerce</b>  UK position should be followed.</p> <hr/> <p><b>Trustees of Manx Blind Welfare Society</b></p>

Question	Response
<b>Q42</b>	<b>If you consider that claimants should be required to pay a fee what charge or system of charges would you consider to be appropriate?</b>
	<p>See above (Q.41)</p> <hr/> <p><b>Office of Human Resources</b> Same percentage proportion as exists in the UK of the fee versus the maximum award.</p> <hr/> <p><b>Office of Fair Trading</b> See Q.41</p> <hr/> <p><b>Prospect</b> Questions <b>41 – 43</b> As previously mentioned in relation to question 21, Prospect strongly opposes any moves to introduce a charging regime for tribunal claimants as it has been shown that those who are in the lower earnings bracket are unable to make a claim due to the costs imposed in the UK. The introduction of charges in the UK appears to have excluded 4 out of 5 potential claims and this is likely to be those most in need and who are unable to afford it. If any charging is brought in then it ought to be on a case by case basis and means-tested. Prospect feels that the focus should be on the costs to be paid by the respondent and an increase in the maximum level of those costs is acceptable. It should be noted that Prospect will not support an ET case unless there is a reasonable chance of success at employment tribunal. If successful any fee levelled, if introduced, should be reimbursed to the appellant.</p> <hr/> <p><b>Dept of Education and Children</b> Recommend the same arrangements as applied in the UK, given that these appear to have had the desired effect.</p> <hr/> <p><b>Association of Teachers and Lecturers IOM</b> £0</p> <hr/> <p><b>Sean Young</b> claimant, small charge for each stage, mediation and up to tribunal, but this should only to deter the weak or malicious claims, not a genuine claim.</p>

Question	Response
<b>Q43</b>	<b>Do you consider that the £500 limit of costs that may be awarded by the Employment Tribunal should be increased and if so, what do you consider the new limit should be?</b>
	<p><b>Chamber of Commerce</b>  Yes. Complexity of Tribunal claims, parties should be entitled to seek legal advice and be represented. Most Tribunal claims would attract a bill which would run into several thousands and it is suggested that the costs limit should be at a level which would reimburse a successful party for a significant proportion of that party's costs.</p> <hr/> <p><b>Royal College of Nursing</b>  We agree with the £500.00 limit on costs.</p> <hr/> <p><b>Office of Human Resources</b>  More!</p> <hr/> <p><b>Office of Fair Trading</b>  Costs should only be awarded in circumstances where the Tribunal concludes that one party has vexatiously or without good reason forced a case to be taken to a hearing. In those Circumstances, there should be no fetter on the discretion of the Tribunal.</p> <hr/> <p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b>  A cap of £500 on the amount a Tribunal can assess against a miscreant party was in my view misconceived even when introduced in 2008. It was far too low then and is even more outmoded now. A figure of £10,000 would be more appropriate to highlight a real sanction open to the Tribunal. Awareness of that type of figure will concentrate minds. The change does not mean that more Claimants or Respondents will be exposed to a costs sanction - the gateway to pass through is still narrow. That increased figure would also save the winning party from the delay and aggravation arising from going to the Small Claims Court for assessment - and thus saving some (albeit limited) burden on that Court.</p> <hr/> <p><b>Prospect</b>  <b>Questions 41 – 43</b>  As previously mentioned in relation to question 21, Prospect strongly opposes any moves to introduce a charging regime for tribunal claimants as it has been shown that those who are in the lower earnings bracket are unable to make a claim due to the costs imposed in the UK. The introduction of charges in the UK appears to have excluded 4 out of 5 potential claims and this is likely to be those most in need and who are unable to afford it. If any charging is brought in then it ought to be on a case by case basis and means-tested. Prospect feels that the focus should be on the costs to be paid by the respondent and an increase in the maximum level of those costs is acceptable. It should be noted that Prospect will not support an ET case unless there is a reasonable chance of success at employment tribunal. If successful any fee levelled, if introduced, should be reimbursed to the appellent.</p>

Question	Response
<b>Q43</b>	<b>Do you consider that the £500 limit of costs that may be awarded by the Employment Tribunal should be increased and if so, what do you consider the new limit should be?</b>
	<p data-bbox="315 268 2069 352"><b>DOI</b> The Department would suggest that this should remain at a level low enough so that it would not encourage the use of legal representation.</p> <hr data-bbox="315 347 685 352"/> <p data-bbox="315 384 2069 496"><b>Sean Young</b> claimant costs if it is a successful limited to £500. Respondant to pay costs if the claim is successful. The respondent/employer should have already taken reasonable steps to comply with the legislation and to prevent a breach in the first place from occurring.</p> <hr data-bbox="315 491 685 496"/> <p data-bbox="315 528 2069 671"><b>Keith Fitton</b> Page 42: Regarding the costs of an Industrial Tribunal. Could we have a position whereby costs are limited at a low level unless the complainant was either advised not to proceed with the claim by the Industrial Relations Service and/or they had refused to partake in an approved Mediation Service? The costs of the tribunal could then be significantly higher, which may stop vexatious claimants while not pricing justice out of the reach of those who cannot afford it?</p>

Question	Response
<b>Q44</b>	<b>Do you have any comments regarding the proposals 9 – 13 above?</b>
	<p data-bbox="315 930 2045 1042"><b>Chamber of Commerce</b> Chamber is not supportive of the introduction of caps to the payments that are available to employees in the event of insolvency of an employer. There is a lack of data supplied as to how often this is used and the Consultation Document should have provided this detail.</p> <hr data-bbox="315 1037 685 1042"/> <p data-bbox="315 1106 819 1161"><b>Royal College of Nursing</b> The RCN agrees with the proposals 9-13 above.</p> <hr data-bbox="315 1177 685 1182"/> <p data-bbox="315 1222 2022 1398"><b>Office of Human Resources</b> The following new clause is unclear and we'd like to discuss it with you. I am not sure it addresses the policy point agreed with Jonathan : <i>If an employee of a Department, Statutory Board or an office of the Government, who is not a public sector employee, is transferred to another such body –</i> <i>(a) the period of employment of the employee with the original body at the time of the transfer counts as a period of employment with the transferee, and</i> <i>(b) the transfer does not break the continuity of the employee's period of employment.</i></p>

Question	Response
<b>Q44</b>	<b>Do you have any comments regarding the proposals 9 – 13 above?</b>
	<p><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b>  Chairman sitting alone – no problem with suggested amendment.</p> <p>I have encountered the difficulties involving joined-up thinking on section 159 of the Employment Act 2006 and Rule 12 (4) of the High Court Rules. Via change to the civil courts rules, the Tribunal's decisions should be given equally strong enforcement rights if the Coroner is unable to satisfy a Tribunal Execution Order. Those who have a Tribunal Order against them to pay ought to be subjected to the full force of the processes available in the High Court.</p> <hr/> <p><b>Prospect</b></p> <p>9. <u>Employment Tribunal – Chairperson sitting alone</u>  Prospect supports the proposal to extend the type of cases in which the Chair can consider provided that provision is made for review after, say 24 months, to ascertain whether there is any bias in the decision-making process. Historically it is recognised that the views of the employer and employee representatives differ and it is the Chair that has the final say in the matter before the ET. To retain side members in respect of unfair dismissal and discrimination cases is essential.</p> <p>10. <u>Insolvency and cessation of business of employer</u>  We would question the set amount of capped weekly pay for calculating payments in these instances. What are the criteria for that figure? Given the IOM context maybe it ought to be set at the average wage level. Is it going to be subject to annual earnings increases?  Prospect is supportive of the extension of the entitlement to payments to all employees regardless of their earnings except for Directors/owners of companies.</p> <p>11. <u>Enforcement of employment rights</u>  Agreed</p> <p>12. <u>Powers to arrange conciliated settlement under the Redundancy Payments Act 1990</u>  Agreed</p> <p>13. <u>Enforcement of awards</u>  We feel that powers to enforce awards are essential to ensure justice is achieved.</p> <hr/> <p><b>Sean Young</b>  what would the enforcement timescales be? If one party does not contest a claim is it possible for the chairman to sit alone in cases of unfair dismissal and discrimination claims. This would serve to streamline the process, saving costs. These costs could then be used for other measures such as paying for an equality officer.</p>



Question	Response
<b>Q45</b>	<b>Are there any other minor amendments to Isle of Man employment law or comments which you consider should be included in Schedule 22 of the Equality Bill? Please give as full a case as possible.</b>
	See responses to Q53

Question	Response
<b>Q46</b>	<b>Q46. Do you have any knowledge as to how widespread the use of zero-hours contracts is in the Island?</b>
	<p><b>Chamber of Commerce:</b> We have received some industry feedback on zero-hour contracts. It is understood that they are not widely used across all sectors but Chamber Members can see why certain sectors would legitimately use them to assist with flexibility of work.</p> <hr/> <p><b>Prospect</b> <b>Questions 46 – 48</b> <i>1. Regulation making powers for zero hours contracts</i> This matter was debated during the Prospect National Conference in Glasgow in May 2014 and was the subject of a number of Motions put to Conference. The debate centred around whether or not Prospect should lobby in the UK for such contracts to be banned completely. Subsequently Prospect has produced some guidance in respect of ZHC and successfully argued a case concerning ZHC at Employment Tribunal (the guidance and detail of the case accompany this submission).</p> <hr/> <p><b>Royal College of Nursing</b> No knowledge.</p> <hr/> <p><b>Office of Human Resources</b> Cannot comment about private sector, but IOM Government currently has in the region of 1850+ contracts that would be described as zero hours – these are intended for seasonal or casual employees. The use of these contracts has grown as there have been tighter limitations on the use of headcount.</p> <hr/> <p><b>Sean Young</b> zero hours contracts, what if a person is on a zero hours contract, but actually works regularly full time or part time hours when compared to a regular employee on a normal contract. Will they gain the same rights and protections after a given period.</p> <hr/>

Question	Response
<b>Q46</b>	<b>Q46. Do you have any knowledge as to how widespread the use of zero-hours contracts is in the Island?</b>
	<p data-bbox="315 264 562 288"><b>Michael Manning, Graih</b></p> <p data-bbox="315 304 338 320">...</p> <p data-bbox="315 325 2078 405">2) We have a great amount of anecdotal evidence that people, often under the Permit system, are being exploited by an abuse of zero-hours contracts. This seems to happen most in the hospitality (hotel) and cleaning sectors. Regulation or a ban on such contracts would seem to be worth considering, along with further investigation.</p> <hr data-bbox="315 427 680 435"/> <p data-bbox="315 469 439 493"><b>Keith Fitton</b></p> <p data-bbox="315 497 667 521"><i>Page 44: "Zero Hours Contracts"</i></p> <p data-bbox="315 526 2040 756">There is a danger that zero hours contracts become demonised due to their abuse by some employers. The organisation that I work for uses zero hours contracts widely (and I'd like to think 'wisely'). We have sufficient 'regularly contracted' staff to cover the required shifts. We then have a large 'bank' of zero hours staff (we refer to as "Occasional Hours" staff). The Occasional Hours staff receive the same training as our regular staff, including access to QCF (NVQ as-was). There is no expectation that they be available to work for us, other than if someone has not worked any shifts during a six month period, we will stop using them. This is simply because their skills are unlikely to remain current and the needs of the people they would be required to support may have changed. The majority of our regularly contracted staff were recruited as Occasional Hours staff in the first place, then offered permanent hours as they become available. For many people, working flexibly meets their personal circumstances while allowing them to gain skills and training. For the organisation, we have a pool of staff available at short notice to cover sickness etc, who we know are of the required standard and sufficiently trained to meet the needs of the people who we support.</p>

Question	Response
<b>Q47</b>	<b>Do you have any knowledge of any inappropriate use of zero-hours contracts in the Island?</b>
	<p data-bbox="315 1018 562 1042"><b>Chamber of Commerce</b></p> <p data-bbox="315 1046 629 1070">None reported from Members</p> <hr data-bbox="315 1093 680 1101"/> <p data-bbox="315 1134 573 1158"><b>Royal College of Nursing</b></p> <p data-bbox="315 1163 472 1187">No knowledge.</p> <hr data-bbox="315 1209 680 1217"/> <p data-bbox="315 1251 607 1275"><b>Office of Human Resources</b></p> <p data-bbox="315 1279 2056 1359">As above. Anecdotally, there is strong evidence to suggest that these contracts are often abused by granting long-term and regular work, for example to cover long term vacancies or for service provision where manpower approval has not been secured. This can give rise to employment rights which can be pursued through the Tribunal system under current legislation.</p> <hr data-bbox="315 1382 680 1390"/>

Question	Response
<b>Q47</b>	<b>Do you have any knowledge of any inappropriate use of zero-hours contracts in the Island?</b>
	<p><b>Prospect</b>  Questions <b>46 – 48</b>  1. Regulation making powers for zero hours contracts  This matter was debated during the Prospect National Conference in Glasgow in May 2014 and was the subject of a number of Motions put to Conference. The debate centred around whether or not Prospect should lobby in the UK for such contracts to be banned completely. Subsequently Prospect has produced some guidance in respect of ZHC and successfully argued a case concerning ZHC at Employment Tribunal (the guidance and detail of the case accompany this submission).</p>

Question	Response
<b>Q48</b>	<b>Do you consider that the DED should regulate the use of zero-hours contracts and if so, what specific measures do you consider the Department should take?</b>
	<p><b>Chamber of Commerce</b>  Yes, Chamber members were broadly supportive of regulation for zero-hour contracts.  Triumph Actuation Systems state:  "Regulation of zero hours contracts – causes us no problems but we do recognise these work well for some sectors from both an employee and employer standpoint, so care and consultation required."  _____</p> <p><b>Trustees of Manx Blind Welfare Society</b>  We would support the use of any new regulation that defend the rights of those falling under the criteria identified for protected characteristics.  _____</p> <p><b>Royal College of Nursing</b>  The RCN as an organisation recognises that in the minority of cases the use of zero hours contracts may suit both an employee and employer particularly where professional staff are involved; however the RCN believes that the use of zero hours contracts should be strictly limited as these arrangements are open to abuse by employers which results in unfairness to employees.  _____</p> <p><b>Office of Human Resources</b>  No. We believe that appropriately used, zero hours contracts can be beneficial for both the employer and the employee as it gives flexibility for a number of different employment scenarios.  _____</p> <p><b>Office of Fair Trading</b>  No direct relevance to OFT.</p>

Question	Response
<b>Q48</b>	<b>Do you consider that the DED should regulate the use of zero-hours contracts and if so, what specific measures do you consider the Department should take?</b>
	<p>_____</p> <p><b>Prospect</b>  Questions <b>46 – 48</b>  1. Regulation making powers for zero hours contracts  This matter was debated during the Prospect National Conference in Glasgow in May 2014 and was the subject of a number of Motions put to Conference. The debate centred around whether or not Prospect should lobby in the UK for such contracts to be banned completely. Subsequently Prospect has produced some guidance in respect of ZHC and successfully argued a case concerning ZHC at Employment Tribunal (the guidance and detail of the case accompany this submission).</p> <p>_____</p> <p><b>Dept of Education and Children</b>  These are not something of which the DEC has much experience, hence cannot comment.</p> <p>_____</p> <p><b>Colin Coole – Capital International IOM</b>  Abuse of Zero Hours contracts should be acted upon</p> <p>_____</p> <p><b>Association of Teachers and Lecturers IOM</b>  At the very least this should be monitored but as an organisation the ATL does not agree with zero hours contracts.</p>

Question	Response
<b>Q49</b>	<b>Do you consider the DED should broaden the existing powers in the Employment Act 2006 to make regulations on flexible working so as to permit regulations similar to the UK’s Flexible Working Regulations 2014 to be made in the Island?</b>
	<p><b>Chamber of Commerce</b>  Chamber members had mixed views on this proposal. Triumph Actuation Systems state:  “Flexible working a in a factory environment that works shifts to cover the 24 hour day is very controversial as it is impractical to implement.”</p> <p>_____</p> <p><b>Trustees of Manx Blind Welfare Society</b>  We would support this providing the supporting regulation is inclusive, fair and equitable</p> <p>_____</p> <p><b>Royal College of Nursing</b>  The RCN agrees that the DED should broaden the existing powers to make regulations on flexible working so that they are similar to the UK’s Flexible Working Regulations 2014</p>

Question	Response
<b>Q49</b>	<b>Do you consider the DED should broaden the existing powers in the Employment Act 2006 to make regulations on flexible working so as to permit regulations similar to the UK's Flexible Working Regulations 2014 to be made in the Island?</b>
	<hr/> <p><b>Office of Human Resources</b> Yes</p> <hr/> <p><b>Office of Fair Trading</b> No direct relevance to Office of Fair Trading.</p> <hr/> <p><b>Prospect</b> <u>Regulation powers to extend the right to request flexible working</u> Question 49 Prospect fully supports a move to introduce better provision for requesting flexible working. See attached factsheet on flexible working if useful.</p> <hr/> <p><b>Dept of Education and Children</b> Yes</p> <hr/> <p><b>Colin Coole – Capital International IOM</b> <b>Flexible working request:</b> The current legislation is sufficient. Organisations are limited in how much flexibility they can offer. Extending requests to employees without dependants could mean an organisation has stretched its ability to provide flexible working to its limit. Therefore, future requests from employees with dependants would be turned down. Again, the UK is learning from this mistake in legislation. The Isle of Man should not follow.</p> <hr/> <p><b>Sean Young</b> flexible hours can and should be a reasonable adjustment for a person with a disability, therefore it's refusal should also be counted as discrimination.</p> <hr/> <p><b>Keith Fitton</b> <i>"The Right to Request Flexible Working".</i> I would like to see the rights of the employee extended so that a the MIRS may be approached to determine if the refusal was fair and reasonable, with powers to instruct that if deemed unfair the business would comply. Perhaps this could be after a second refusal? This would demonstrate that the employee still has an unmet requirement for change and the employer has had at least a year since the previous request to make reasonable adjustments and plan for change. To protect the employer, if the MIRS find in their favour, the employee loses the right to make any further requests? The experience in the UK is that there have been very few</p>

Question	Response
<b>Q49</b>	<b>Do you consider the DED should broaden the existing powers in the Employment Act 2006 to make regulations on flexible working so as to permit regulations similar to the UK's Flexible Working Regulations 2014 to be made in the Island?</b>
	requests for flexible working, with decent employers already being willing to listen to staff and the majority of employees understanding the needs of the employer, therefore the number of requests that would reach the MIRS for a decision would be incredibly small.

Question	Response
<b>Q50</b>	<b>Do you have any knowledge as to how widespread the use unpaid interns is in the Island?</b>
	<p><b>Chamber of Commerce</b> No specific feedback was provided by Members on how widespread this issue is. _____</p> <p><b>Royal College of Nursing</b> No knowledge. _____</p> <p><b>Office of Human Resources</b> There appears to be a number of private sector companies offering internships in addition to the STEP scheme operated by DED – however these do offer some remuneration. Some Government Departments also offer student development posts usually for a maximum of one year, but these too are paid positions. E.g. MNH, Tynwald etc.  The Department of Health used to offer what were known as clinical attachments for aspiring overseas doctors to observe clinical practice. These were unpaid positions, because the doctors in question were not permitted to work under immigration rules. These posts have declined over recent years, and are largely unheard of now. _____</p> <p><b>Prospect</b> Interns <b>Questions 50 – 52</b> Prospect recognises that internships can be a good way for people to gain experience within a field and to get a valuable insight into the area of work. But in some cases, employers use such arrangements as a means of getting unpaid labour, exploiting the individual and blocking opportunities for full employment. There have been several cases in recent years where interns have succeeded in recovering arrears of pay in the courts.</p>

Question	Response
<b>Q51</b>	<b>Do you have any knowledge of any inappropriate use or exploitation of interns in the Island?</b>
	<p><b>Chamber of Commerce</b> No specific feedback was provided by Members on this issue. _____</p> <p><b>Royal College of Nursing</b> No knowledge. _____</p> <p><b>Prospect</b> <b>Questions 50 – 52</b> Prospect recognises that internships can be a good way for people to gain experience within a field and to get a valuable insight into the area of work. But in some cases, employers use such arrangements as a means of getting unpaid labour, exploiting the individual and blocking opportunities for full employment. There have been several cases in recent years where interns have succeeded in recovering arrears of pay in the courts. _____</p> <p><i>(*Some other respondents said No knowledge).</i></p>

Question	Response
<b>Q52</b>	<b>Do you consider that the DED should take any additional measures to safeguard employment protection of interns and if so, what steps do you consider the Department should take?</b>
	<p><b>Chamber of Commerce</b> If DED receives feedback that unpaid interns are being exploited then Chamber would be supportive that steps should be taken to address this. However, Chamber is not aware that this is an issue which requires addressing and, as such, would question whether this should be a priority of DED. _____</p> <p><b>Trustees of Manx Blind Welfare Society</b> We would recommend that employment legislation is strengthened to provide the necessary safeguards. _____</p> <p><b>Royal College of Nursing</b> The RCN believes that the DED should take additional measures to safeguard employment protection of interns and those on zero hours contracts. _____</p>

Question	Response
<b>Q52</b>	<b>Do you consider that the DED should take any additional measures to safeguard employment protection of interns and if so, what steps do you consider the Department should take?</b>
	<p data-bbox="315 268 539 292"><b>Office of Fair Trading</b></p> <p data-bbox="315 296 786 320">No direct relevance to Office of Fair Trading.</p> <hr data-bbox="315 347 721 355"/> <p data-bbox="315 387 645 411"><b>Dept of Education and Children</b></p> <p data-bbox="315 416 1267 440">Given the responses to questions 50 and 51 ("<i>No</i>") it would be inappropriate to comment.</p>

Question	Response
<b>Q53</b>	<b>Are there any other employment law issues that you think the DED should consider as priorities? Please give as full a case as possible.</b>
	<p data-bbox="315 691 562 715"><b>Chamber of Commerce</b></p> <p data-bbox="315 719 2018 775">All of the legislative initiatives that the Government seem to introduce results in increased costs to businesses, more red-tape and regulation. The legislation also appears to be much more employee than employer focussed and a balance needs to be struck if businesses are not to be placed in jeopardy.</p> <p data-bbox="315 780 2080 892">Chamber believes that the Government should give serious consideration to extending the eligibility period to claim unfair dismissal to 2 years' service, like the UK has. This will assist businesses greatly in being able to properly assess an employee over a reasonable period of time. The experience in the UK has led to much fewer Tribunal claims. Members continue to periodically raise concern in relation to the work permit system and whether it hampers a business's ability to recruit appropriately.</p> <p data-bbox="315 911 573 935">Island Aggregates state:</p> <p data-bbox="315 970 2063 1082">"In terms of work permits, we have had difficulty recruiting the best people in the past due to the current legislation. In one recent case, we were unable to consider a well-qualified gentleman who had taken up residence on the island with his Manx partner and was willing to work, because a work permit was not forthcoming. While noting that 'nationality' is not one of the protected characteristics, I would question how the 2 pieces of legislation would exist side by side. In our view, any new measures which require (or in this case enable) us to recruit the best person for the job, regardless of anything, are to be welcomed."</p> <p data-bbox="315 1098 338 1121">...</p> <p data-bbox="315 1126 2074 1166">Chamber believes that consideration should be given to mandatory early conciliation prior to the issuing of proceedings (subject to sufficient support being provided to the MIRS for this). This has been successfully introduced in the UK and has reduced spurious claims and the cost to businesses of defending tribunal claims greatly.</p> <hr data-bbox="315 1193 685 1201"/> <p data-bbox="315 1233 880 1257"><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b></p> <p data-bbox="315 1262 629 1286">Question <b>52/53 [as above]</b></p> <p data-bbox="315 1291 573 1315"><i>Other Ideas - Detriment</i></p> <p data-bbox="315 1319 927 1343">Tidy up Employment Act 2006 with regard to Detriment: "</p> <ul data-bbox="315 1348 674 1398" style="list-style-type: none"> <li>- acts" and "failures to act" and</li> <li>- as to time limits and</li> </ul>



Question	Response
<b>Q53</b>	<p><b>Are there any other employment law issues that you think the DED should consider as priorities? Please give as full a case as possible.</b></p>
	<ul style="list-style-type: none"> <li>- Regarding the general difficulties in interpretation of this part of the statute and the catch-all provision of breach of a statutory right.</li> <li>- Possible cap on awards to match unfair dismissal.</li> </ul> <p><b>Whistleblowing</b>  This may be a topic more relevant to Financial Supervision and the role of Compliance Officers but it does also impinge on whistleblowers covered in the Employment Act 2006.  Put simply, in the ongoing UK proceedings of <b>Hudson-Maitland v Dempsey</b>, the in-house lawyer blew the whistle on alleged money laundering etc within the solicitors' firm. The law firm is now suing the lawyer for doing so. So far, defending himself has cost the Compliance Officer £500,000. The SRA has at last intervened in the litigation and is muttering about public duty etc etc. Also, there are or may be issues about the extent of insurance protection for an in-house whistleblower or Compliance Officer because some policies will not protect a Compliance Officer against claims from other partners!  Given the key role on the island of in-house Compliance Officers and of the entitlement of workers in general to blow the whistle, the UK case highlights the need for some protection to prevent the IoM falling into this situation.  Conclusions:  My immediate thoughts are that no legal action for compensation or other relief should be commenced against any Compliance Officer (or perhaps even <i>any</i> whistleblower) without leave of the High Court or Tribunal and leave should not be granted without the employer or other Claimant establishing a higher burden of proof such as prima facie gross negligence or malice.</p> <p><b>Employment Tribunal Rules 2008</b>  Rule 6. The time-limit for action by the Clerk is too short. 7 days really needs to be changed to 14 days.  ...  I have discussed whether a Claim might be rejected as being "misconceived." I like the idea. I have heard it suggested that this might be a hammer used unfairly by a Respondent but what I envisage is that only the Tribunal when presented with a misconceived Claim Form could strike out without the Respondent being involved - but the Respondent who would still have the vexatious etc grounds open if the Claim survives a misconceived attack by a Chair.</p> <hr/> <p><b>Prospect</b>  Trade unions on the Island have long sought additional legislation in the areas of trade union recognition and TUPE/Pensions Protection. We would welcome the re-opening of consultation in the area. In the case of Trade Union recognition, this was many years ago on the schedule of legislative considerations, but appears to have 'dropped off'. We would seek the current Code of Practice to be replaced by actual legislation; given the issues we have had in obtaining recognition both within and without Government employers in cases where the majority of employees have been seeking this.</p> <hr/> <p><b>Leonard Cheshire Disability</b>  We would welcome a review of the Isle of Man's Disability Employment Service (DES) alongside of the provision of additional support and investment for this service. The Island has a significant unmet need in terms of access to employment for disabled people, particular in terms of support for young disabled people leaving education.</p> <hr/>

Question	Response
<b>Q53</b>	<b>Are there any other employment law issues that you think the DED should consider as priorities? Please give as full a case as possible.</b>
	<p data-bbox="315 268 439 292"><b>Keith Fitton</b></p> <p data-bbox="315 296 965 320"><i>Page 45: Other Employment Issues for the DED to Consider?</i></p> <p data-bbox="315 325 2063 528">I would like to see the Disability Employment Service reviewed, supported &amp; invested in. The Island has an unmet need in terms of access to employment for people who have a disability. This actually begins in school, where access to education remains poor in comparison to the UK. Also, it is my opinion that there is not an expectation that disabled children would go on to either tertiary education or in to employment. The DES should begin working with young people who have a disability while they are still in education. The government should also promote the employment of disabled people. Studies have shown that disabled people are more loyal employees and have less time off sick than the non-disabled employee. Employers on the Isle of Man need to know this. Government has schemes where they can employ a disabled person without that person being on the 'head count', yet from the July Tynwald, it would appear that government do not collate figures regarding the number of disabled people that they employ? DED should be focussing upon the employment of disabled people as a matter of great urgency.</p> <hr data-bbox="315 549 685 555"/> <p data-bbox="315 587 607 611"><b>Office of Human Resources</b></p> <p data-bbox="315 616 1099 639">We still believe the 2 year rule for applying to an ET should be introduced.</p>

Question	Response
<b>QA1</b>	<b>Do you have any comments on the proposal to remove the age limit on older employees being entitled to claim a redundancy payment? (NOTE: this will be the effect of the draft Bill)</b>
	<p data-bbox="315 903 506 927"><b>Karl Cubbon, DHA</b></p> <p data-bbox="315 932 2063 987">It was clear from the feedback provided by officers that there was agreement with the proposal to remove the age limit on older employees being entitled to claim a redundancy payment.</p> <hr data-bbox="315 1008 685 1015"/> <p data-bbox="315 1046 685 1070"><b>Isle of Man Chamber of Commerce</b></p> <p data-bbox="315 1075 2051 1131">Chamber was surprised that this aspect wasn't considered at the outset and included in the original consultation document as it would seem an obvious incapability with the Equality Bill.</p> <p data-bbox="315 1136 2063 1219">Chamber members have, in the main, suggested that the removal of a default retirement age would not be desirable for many reasons and have suggested that the actual retirement age could be reviewed and linked to the rising state pension receipt age. Similarly, the age for receiving a redundancy payment could also be dealt with in the same way.</p> <hr data-bbox="315 1240 685 1246"/> <p data-bbox="315 1278 882 1302"><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b></p> <ol data-bbox="315 1307 1756 1362" style="list-style-type: none"> <li data-bbox="315 1307 1756 1331">1. If the redundancy award is changed then the Basic Award for Unfair Dismissal must change – that is logical/inevitable as per para 26.</li> <li data-bbox="315 1335 954 1359">2. It is logical that the UK's format is followed as at para 27.</li> </ol> <p data-bbox="315 1367 546 1391">No adverse comment.</p>

Question	Response
<b>QA2</b>	<p data-bbox="315 277 2051 338"><b>If the age limit for claiming a redundancy payment is removed which system should be used for calculating redundancy payments and the Basic Award for Unfair Dismissal? <i>(please choose an option from paragraph 28 above or suggest an alternative system).</i></b></p>
	<p data-bbox="315 376 506 400"><b>Karl Cubbon, DHA</b></p> <p data-bbox="315 408 1984 464">Given likely longer careers for employees it would seem reasonable to balance this extended entitlement with a cap, so as to ensure employers are not overly burdened. Officers would therefore support option (e) out of those proposed in this addendum.</p> <hr data-bbox="315 485 685 491"/> <p data-bbox="315 523 685 547"><b>Isle of Man Chamber of Commerce</b></p> <p data-bbox="315 555 2002 611">Chamber considers that the extending of the current system to older employees would have massive cost implications for employers and would be undesirable; Options c or d would appear to be the best options which would have the least cost impact on businesses.</p> <hr data-bbox="315 632 685 638"/> <p data-bbox="315 670 880 694"><b>Douglas Stewart, Deputy Chair, Employment Tribunal</b></p> <p data-bbox="315 702 2040 758">Opt for (b) because this seems a reasonable compromise and because it is always helpful to have a law that is identical or tried and tested in the UK and therefore provides (more) certainty of the law. I understand that the cap at £480 has always been higher than in the UK.</p>