



Consultation Response: The Rights of Older People

This response has been prepared by the Public Health and Adult Social Care Special Interest Group of the Faculty of Public Health (FPH). FPH is a membership organisation of over 5,000 public health professionals across the UK and around the world. Our role is to improve the health and wellbeing of local communities and national populations.

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There are a range of factors that shape people's experiences in later life, and the most powerful evidence relates to our circumstances and experiences across the life course and the combination of these factors. The experience of inequality in later life can be caused by cumulative disadvantage over time, so that people born in the same year or decade may have very different outcomes in later life due to experiences over the life course, which can be compounded when people reach later life by factors such as low income in retirement and the impact of long-term conditions.¹

We welcome the UK Parliament's focus on the rights of older people, and we have addressed below the important questions which have been set. However, we would argue that looking at the cumulative experiences across the life course may provide a valuable focus.

There is a theme running through our responses to the questions about application of existing levers. We think current legislation can be highly beneficial when used, but we see further opportunities to apply it a range of circumstances, such as the examples we give in social care, healthcare, and access to services.

¹ Centre for Ageing Better (2017) Inequalities in later life: the issue and the implications for policy and practice

Question 1 Digital exclusion

What steps are required to prevent older people from being digitally excluded; and in what areas is digital exclusion of older people a particular concern?

Access to digital services for everyday activities, such as banking and council services has become much more commonplace, and in particular, a greater number of health services are accessed online, following the pandemic. In addition, many communication channels that enable people to keep connected to friends and family rely on access to the internet.

Age UK has carried out research² which showed that 25% of over 65s don't use the internet. This research found that, in England, the three most common reasons for people aged 65 and over not using the internet were:

1. A lack of skills.
2. A lack of trust in the internet.
3. A lack of access to good enough equipment and/or broadband access.

There is some evidence that such digital exclusion may present barriers to social interaction beyond the actual use of the technology. A report from Wales³ found that the increasing use of smart phones may be creating barriers in terms of older people getting out and about and doing the things that matter to them. 30% said they would be less likely to undertake activities or visit places where a smartphone is necessary.

As public services move increasingly to digital access, a significant number of older people may be missing out. We know for example, from Ofcom,⁴ that around 10 million more people in the UK used NHS websites or digital applications in 2021 than in 2020.

Digital exclusion is therefore an important issue for older people, with those who face a higher risk of being digitally excluded being those who generally face a higher risk of health inequalities. To address this, we think the following steps are important:

- Recognition that not all older adults are computer literate, or have access to the internet for their essential daily activities such as:
 - Banking
 - Shopping
 - Making appointments with services
- Recognition that non-digital formats should be made available, including hard copies of literature and information. Where health information is provided, such as details of test results, diagnoses, or advice on care following surgery, patients should be given the option of hard copy.
- Ensure that 'front door' access to services such as healthcare and social care is provided in alternative ways, and that this is promoted widely, beyond the internet. For example, offer alternatives to online self-referral.

² Age UK (accessed 2023) Helping older people get online <https://www.ageuk.org.uk/our-impact/programmes/digital-skills/>

³ Older People's Commissioner for Wales (2023) Digital exclusion creating new barriers for older people <https://olderpeople.wales/news/digital-exclusion-creating-new-barriers-for-older-people/>

⁴ Ofcom (2021) Online Nation https://www.ofcom.org.uk/_data/assets/pdf_file/0013/220414/online-nation-2021-report.pdf

- Ensure healthcare and social care staff recognise the potential for digital exclusion, and embed checks within their systems to ensure so that no one misses out on information.
- Develop and deliver digital training for older adults, in age-friendly environments. Training should focus on developing skills and confidence, as well as online access.
- Promote the support that is available already as it may be that older adults are not aware of what is available.
- Promote opportunities for inter-generational collaboration on the sharing of digital skills and knowledge.

Question 2: Championing older people's rights

(a) Are older people's rights sufficiently protected in equality law (including with reference to justifiable direct age discrimination and age-related exemptions for financial services)?

The Equality Act 2010 says that you must not be discriminated against because:

1. you are (or are not) a certain age or in a certain age group.
2. someone thinks you are (or are not) a specific age or age group, this is known as discrimination by perception.
3. you are connected to someone of a specific age or age group, this is known as discrimination by association.

A ban on age discrimination in the provision of services and public functions for adults is included in the Equalities Act and was implemented from October 2012. There are no specific exceptions to the ban on age discrimination for health or social care services. This means that any age-based practices by the NHS and social care organisations would need to be objectively justified, if challenged.⁵

Whilst there is generally clarity in the law, the degree to which the impact of ageism is understood, and the law is applied should be considered.

A growing body of research has explored discrimination as a social determinant of health and wellbeing. A large prospective cohort study using data from the English Longitudinal Study of Ageing (ELSA), published in 2019,⁶ found that independent of age, sex and wealth, adults aged 50 years or older who perceived age discrimination had increased odds of fair or poor self-rated health, coronary heart disease, chronic lung disease, arthritis, limited long-standing illness, and depressive symptoms. Authors call for a reduction in discriminatory behaviour across the population, mitigation of the effects of discrimination on health and wellbeing among older people; and increasing public awareness of what constitutes ageism and how such behaviours can affect health and wellbeing.

Despite the legislative foundations above, there is evidence that older people experience persistent inequalities in travelling to healthcare settings, that this can be exacerbated by the loss of or changes to transport provision, and that sometimes transport difficulties are created when health services are changed or relocated but suitable transport provision not developed alongside those plans to ensure that they could then be accessed by older people.⁷

There have been calls for government to ensure that the rights of people with care needs are enshrined in social care policy, including through 'robust, transparent regulation that promotes equality and human rights',⁸ and we welcome Care Quality Commission's plans to develop a framework for local authority assurance.⁹ It will be essential that this includes commissioning and decision-making in adult social care with explicit reference to eliminating age discrimination.

⁵ SCIE (accessed 2023) Equality Act 2010 <https://www.scie.org.uk/key-social-care-legislation/equality-act>

⁶ Jackson, SE Hackett R & Steptoe A (2019) associations between age discrimination and health and wellbeing: cross-sectional and prospective analysis of ELSA, *Lancet Public Health* <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2819%2930035-0>

⁷ Older People's Commissioner for Wales (2021) Accessing health services in Wales: transport issues and barriers <https://olderpeople.wales/news/accessing-health-services-in-wales-transport-issues-and-barriers/>

⁸ Equality & Human Rights Commission (2022) Universal periodic review in Great Britain <https://www.equalityhumanrights.com/sites/default/files/our-work-human-rights-universal-periodic-review-2022.pdf>

⁹ Care Quality Commission (accessed 2023) Assessment Framework for local authority assurance <https://www.cqc.org.uk/local-systems/local-authorities/assessment-framework>

In terms of potential age discrimination in healthcare delivery, we think interdisciplinary research could add value to questions around the optimum age range for screening and other programmes which tend to target particular age groups, weighing up evidence of harm from perceived discrimination and epidemiological evidence together.

Returning to the Equality Act 2010 itself, the Inquiry should consider the examples of stereotype assumptions identified by the financial ombudsman¹⁰ and consider whether a change in the law is needed to avoid arbitrary cut-offs.

Finally, digital exclusion is relevant here too. Governments should address remaining barriers that protected characteristic groups face in accessing healthcare, including by ensuring that healthcare providers have improved knowledge of patients' rights and by implementing digital inclusion strategies.⁸

(b) Are older people's needs and rights given adequate consideration in Government policy-making? If not, what steps should be taken and what relevant national and international examples of best practice exist?

Currently, there is no joined-up, consistent approach to the needs and rights of older adults in policymaking across the UK. In England, different government departments are responsible for housing, pensions, transport, healthcare, and there is no central coordination function or an entity or formal role with direct responsibility for older adults.

Wales has an Older People's Commissioner who is an independent voice and champion for older people throughout Wales. The Commissioner can influence policy and practice at both a national and community level. The role includes scrutinising the action and decisions made by government and public bodies, and includes some legal powers that enable holding public bodies to account when needed, as well as sharing and promote good practice. The remaining nations of the UK would benefit from a similar role.

The Office for Health Improvement & Disparities (OHID) has recently updated a Healthy Ageing Consensus,¹¹ originally developed by a range of organisations across national and local government, charity and voluntary organisations, public health, academics and the NHS, and jointly facilitated by OHID and the Centre for Ageing Better.

The Consensus sets out key principles about prevention; participation; housing, communities and active lives; narrowing inequalities; and challenging ageist and negative language, culture and practices.

The FPH wholly supports these principles and welcomes the vision for England to be the best place in the world to grow older, giving everyone the opportunities and support they need to have a healthy and good quality later life and making the best use of the strengths, skills and experience of older people.

¹⁰ Financial Ombudsman Service (2015) Just a number? Age, complaints and the ombudsman <https://www.financial-ombudsman.org.uk/files/1762/age-insight-briefing-2015.pdf>

¹¹ OHID (2023) Healthy Ageing Consensus <https://www.gov.uk/government/publications/healthy-ageing-consensus-statement/a-consensus-on-healthy-ageing#consensus-statement>

Question 3: Intersectionality

How does “intersectionality”, for example sex, sexual orientation, ethnicity and disability status alongside age, impact older people and require distinct policy responses?

The widespread stereotyping of older adults (see below) can lead to services for older people being poorly responsive to the intersections with protected characteristics and wider needs and preferences beyond the provisions of the Equality Act. The negative impact of this may be greatest for people who require care, and those who live with disabilities including the loss of personal mobility in later life.

It has been suggested that intersectionality can offer a valuable framework in the adult social care setting. It can foster a more nuanced understanding of how interlocking oppressions manifest in everyday experiences for people who need adult services. When ageism is viewed through lenses of race, gender, class ability or sexual orientation, we can make sense of multiple intersecting impacts, to more effectively work with adults with diverse and complex needs.¹²

A chapter on care homes for older people in the Chief Medical Officers’ technical report on the COVID-19 pandemic in the UK¹³ notes that “there remains a striking lack of directly gathered evidence from residents on their perceptions and preferences”. Older age was, of course, the strongest risk factor for severe illness and mortality in the pre-vaccination COVID-19 pandemic. Nevertheless, this is a powerful example of age outweighing other vulnerabilities and needs, and neglecting the perspective of older people themselves, even two and half years into the pandemic.

Older people who require care, and may not be able to choose how or by whom it is provided, are particularly vulnerable to an over-focus on their age, and a lack of attention to needs relating to protected characteristics, and wider cultural issues.

Attention to cultural values is implied in the Adult Social Care Outcomes Framework,¹⁴ a well-established and government-endorsed approach to evaluating care, and equality diversity and human rights are well referenced in the CQC inspection framework for older adults.

Implementation and further development of such evaluation tools, which consider intersectionality, are essential in the group of older adults whose social connections, habits and choices are limited by their care needs.

¹² Bernard C (2020) Why intersectionality matters for social work practice in adult services, DHSC blog <https://socialworkwithadults.blog.gov.uk/2020/01/31/why-intersectionality-matters-for-social-work-practice-in-adult-services/>

¹³ UK Chief Medical Officers (2022) Technical report on the COVID-19 pandemic in the UK https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1128099/Technical-report-on-the-COVID-19-pandemic-in-the-UK-PRINT.pdf

¹⁴ PSSRU (accessed 2023) The Adult Social Care outcomes Toolkit (ASCOT) <https://www.pssru.ac.uk/ascot/>

Question 4: Stereotyping and discrimination

How prevalent is ageist stereotyping and discrimination; what forms does it take; in what areas is it most common; what its impact is on older people; and how can it best be challenged?

We believe that ageist stereotyping is prevalent and harmful. There is pervasive media coverage which portrays older adults as high and frequent users of NHS and social care, with the implication that they are responsible for significant demands on these services.

Research shows the media often uses age-related stereotypes and commonly portray growing older and older age as a time of decline and frailty. Ageism in the media can also be seen in narratives about intergenerational unfairness which characterise older people as rich at the expense of younger groups, even though millions of older people are living around or below the poverty line.¹⁵

Despite older adults contributing significantly to the national economy in terms of volunteering, caring, and providing hours of free childcare to younger family members, this is often overlooked in favour of the 'wrinkly hands' portrayal of older adults, who are dependent and needy. The 'age positive' images developed by Centre for Ageing Better offer a range of refreshing, positive images of older people that challenge some of the stereotypical visual images.

The impact of negative stereotyping on older adults is the potential internalising of this, which could result in poor self-image, lack of confidence and lack of expectation. There can also be a negative impact on health care professionals who may be reluctant to refer older adults onwards to services, one example of this is in NHS talking therapies where biases may result in older adults being less likely to be referred.¹⁶

Challenging of stereotyping of older adults has to be done at societal, community and local level, recognising older adults' skills and abilities, and contribution. Such challenges should occur across the life course, from childhood through to adulthood.

Government policy may have the most traction across the public sector, and for this reason we would like to see embedding of positive ageing communications policies throughout the public sector. This would include:

- Portrayal of positive images that present a realistic representation of ageing.¹⁵
- A focus on appropriate and empowering language.

We would also like to see a focus in the research community on what boosts resilience in older age, so people are able to better manage life's ups and downs. This would provide a helpful counterbalance for research which focuses on illness and disability.

¹⁵ Centre for Ageing Better (2023) Media guidelines for reporting on ageing and older age <https://www.ipso.co.uk/media/2154/media-guidelines-for-reporting-on-ageing-and-older-age.pdf>

¹⁶ Health Innovation Network (2017) Old adults' access to IAPT <https://healthinnovationnetwork.com/wp-content/uploads/2017/12/Behavioural-science-older-people-IAPT-report-final.pdf#:~:text=The%20IAPT%20programme%20is%20available%20to%20all%20adults,rates%20from%20IAPT%20than%20working%20age%20adults%20%282%29.>

Question 5: Labour market access

What more needs to be done to support older people who want to stay in work longer?

Research suggests that many older people wish to remain in work, but require flexibility in terms of hours and are interested in part-time work.

Older adults who are living with long term conditions might require adaptations from their employer to be able to keep working. This could include adaptations for physical conditions such as back and joint pain, or for mental health conditions. This is particularly important for people in specific occupations, e.g. construction workers, who may struggle with the physical demands of the role as they age. In this scenario, it may require finding the individual alternative roles, rather than adaptations.

The Spring Budget 2023 announced a range of additional measures that will enable people (including older adults) to start, stay and succeed in work. These are particularly targeted at muscular-skeletal conditions and overcoming barriers to employment, such as the WorkWell Partnership Programme which is based on a bio-psycho-social approach.

The Centre for Ageing Better has highlighted that some older adults are dissuaded from applying for work because of the language/tone of the advert which does not appeal to older adults.

We would welcome wholesale adoption of policies which help organisations become age friendly employers. The Centre for Ageing Better has set out five steps¹⁷:

- Be flexible about flexible working.
- Hire age-positively.
- Ensure everyone has the health support they need.
- Encourage career development at all ages.
- Create an age positive culture.

¹⁷ Centre for Ageing Better (2018) Becoming an age-friendly employer <https://ageing-better.org.uk/sites/default/files/2018-09/Becoming-age-friendly-employer.pdf>