

## Public Policy Statement

### Discrimination and Human Rights

March 2019

#### Summary

Everyone should live with dignity and respect. Older people are equal members of society and should not be subjected to ageist attitudes, stereotyping or conduct. However, negative attitudes towards older people and ageing are pervasive in our society. In common with most other forms of discrimination, ageism is based on inaccurate stereotypes. These ageist attitudes are all too often reflected and amplified by the media. The effect of ageism is that older people frequently experience discriminatory treatment. As a result society is failing to benefit fully from the valuable resources that older people offer – as potential employees, volunteers, elected representatives and in many other roles. To achieve an age friendly Wales, older people should have the same access to services as the rest of the population, and the right to be treated with respect by society.

The Equality Act 2010 provides a set of legislative tools for tackling age discrimination both within the area of employment and in the provision of goods and services.

The main areas in which the ban on harmful age discrimination in goods and services has the potential to improve the lives of older people are in health and social care. The financial services sector, however, has been largely exempted from the ban. The Equality Act 2010 must be effectively used by the Welsh Government and all public authorities in Wales to protect older people from discrimination and promote age equality in later life. The Public Sector Equality Duty and the Welsh specific equality duties provide a framework for decision-making that assists public bodies to understand the needs of the ageing population and ensure that decisions they make do not disproportionately impact on particular groups, including older people.

Despite the introduction of UK legislation in the form of the Equality Act 2010, and a significant policy framework in the devolved context, there is still much to be done if we are to achieve meaningful equality for older people.

Under the Equality Act 2010, there is an outright ban on age discrimination in health and social care, although people can continue to be treated differently if there is objective justification. However, women aged over 70 years in Wales are not automatically called for breast cancer screening, and would need to self-refer. Breast cancer is strongly related to age, with the highest incidence rates overall being in older people.<sup>1</sup> We

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<sup>1</sup> Cancer Research UK. Breast cancer incidence (invasive) statistics. Peak rate of breast cancer cases, 2013-2015, UK <https://www.equalityhumanrights.com/en/publication-download/annual-reporting-publishing-and-ministerial-duties-guide-listed-public> Accessed 25/2/19.

believe that people should be treated on the basis of their clinical need and not their age. We deem that this upper age limit for invitations to screening should be removed, and that there is a need to raise awareness of breast cancer risk to women over 70.

It remains a major concern that a broad exception for financial services in the Equality Act 2010 may restrict older people's access to essential products including loans, mortgages, travel and motor insurance, making it harder for older people to shop around for the best products.<sup>2</sup> We believe that the UK Government must reconsider the financial services exemption from the ban on harmful age discrimination.

Age discrimination in employment remains widespread despite the introduction of the Equality Act 2010. We believe that everyone should be able to remain in work as long as they desire and are capable of doing so, and no-one should be disadvantaged because of their age. The support provided to older jobseekers must be better tailored to individual needs.

Digital exclusion is a major challenge for older people. As more information and services are made available mainly or exclusively online, there are real risks of excluding older people. Older people must be supported and encouraged to acquire digital skills and get online if they are able to and can afford to do so. Services provided online need to be high quality and easy to use, whilst offline services should be of equal quality and fully accessible. Service providers must ensure that the provision of online information is not to the detriment of the provision of information in other formats.

Human rights standards provide vital protection for older people by helping to change practice and procedure, culture and attitudes and offering redress when breaches of human rights have taken place.

Human rights have particular relevance to older people who may find themselves in situations where they experience infringements of their human rights in later life. The lack of human rights protection for people who self-fund their care services is an issue of concern. We believe that Human Rights Act protections must be extended to all older people by ensuring that all providers of regulated care services are regarded as public authorities for the purposes of the Act, regardless of who is funding the service provided.

It is essential that older people are aware of their rights and are able to exercise them. We believe that work is needed to increase knowledge and raise awareness of the rights of older people across Wales. The Welsh Government has stated that it is taking forward a programme of work that aims to make rights real for older people, and to co-produce a framework for an ageing society.<sup>3,4</sup>

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<sup>2</sup> Financial Conduct Authority (2016) [Access in Financial Services in the UK](#)

<sup>3</sup> Welsh Government (2018) Making older people's rights a reality will make Wales the best place in the world to grow old. 16 May 2018 <https://gov.wales/newsroom/health-and-social-services/2018/olrights/?lang=en> Accessed 25/2/19.

## Summary of public policy proposals

- The Equality Act 2010 must be effectively used by the Welsh Government and all public authorities in Wales to protect older people from discrimination and promote age equality in later life. This must be robustly enforced by the Equality and Human Rights Commission.
- The UK Government must retain the Public Sector Equality Duty contained within the Equality Act 2010 and encourage public bodies to use the duty to meet the challenges and opportunities of our ageing society.
- Any future human rights legislation must protect the rights and freedoms in the European Convention on Human Rights and must not undermine the effectiveness or scope of the Human Rights Act 1998 (HRA) or the potential for enforcing it across the UK.
- The UK Government and the Welsh Government must ensure that the Equality and Human Rights Commission has the powers, constitutional independence and sufficient resources to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote the human rights of everyone in the UK.
- After the UK exits the European Union, we urge the UK Government to retain UK equalities legislation and to ensure that UK nationals continue to have protection from discrimination in other EU member states.
- Governments must continue to be global leaders in the promotion and protection of the rights of older people by playing a positive and active role in the United Nations Open-Ended Working Group on Ageing, encouraging the development of new human rights instruments for protecting the rights of older people, including the possibility of a new Convention.
- Research has firmly established that a powerful way to overcome prejudice is to foster close, honest and personal relationships with others who are seen as belonging to a different group. Therefore public, private and third sector service providers should support initiatives that promote greater intergenerational and cross-generational contact to combat ageism. They must also guard against policies and practices that could act as a barrier to good intergenerational and cross-generational relations.
- The media industry must be challenged to replace the stereotyping of older people as passive and dependent with positive messages that reflect the diversity of the older population and recognise the contribution they make both in economic and social terms including as workers, volunteers and carers. The use of ageist language in the media must also be eradicated.
- Recognising the high levels of multiple discrimination faced by some groups of older people, particularly women, in the media, in the workplace and in public life, particular attention must be paid to securing higher levels of representation of this group in all these spheres and in setting equality objectives.

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<sup>4</sup> Welsh Government (2018) International Day of Older Persons: “Older people have human rights – they must be respected” – Huw Irranca-Davies. Monday 01 October 2018 <https://gov.wales/newsroom/health-and-social-services/2018/181001olderpeople/?lang=en> Accessed 25/2/19.

- The newspaper Editors' Committee should amend their Code of Practice to add a requirement to avoid prejudicial or pejorative references to a person's age.
- Health services in Wales must be monitored and assessed against patient experience to ensure their compliance with the Equality Act 2010.
- The Welsh Government should remove the upper age limit for invitations to breast cancer screening.
- Welsh Government and Public Health Wales should increase awareness of the entitlement for women over 70 to self-refer for breast screening.
- The UK Government must reconsider the financial services exemption from the ban on harmful age discrimination.
- The UK Government, the Welsh Government and the Equality and Human Rights Commission should make the case for employing older workers more effectively, including improving awareness of age discrimination.
- Welsh Government should require employers to provide training, retraining, development and support for older workers.
- The UK Government, the Welsh Government and the Equality and Human Rights Commission must take steps to raise awareness of the ban on harmful age discrimination in organisations and services, and support service providers to implement it by providing ongoing guidance and support.
- Any future human rights legislation must protect the rights and freedoms in the European Convention on Human Rights and must not undermine the effectiveness or scope of the Human Rights Act 1998 (HRA) or the potential for enforcing it across the UK.
- The UK Government and the Welsh Government must ensure that the Equality and Human Rights Commission has the powers, constitutional independence and sufficient resources to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote the human rights of everyone in the UK.
- There is an urgent need to reframe the debate on human rights, emphasising the valuable protection it provides to older people when they may be at their most vulnerable. The UK Government, the Welsh Government and the Equality and Human Rights Commission and civil society should place a high priority on promoting awareness, understanding and protection of human rights, in relation to older people.
- The UK Government, the Welsh Government and the Equality and Human Rights Commission and civil society organisations should all seek to influence public bodies to take a human rights based approach to their work, ensuring that all of their policies and procedures are framed with reference to human rights.
- The UK Government and the Welsh Government must extend Human Rights Act protections to all older people by ensuring that all providers of regulated care services are regarded as public authorities for the purposes of the Act, regardless of who is funding the service provided.

## **Discrimination and human rights**

This policy statement covers:

- Current legislation and policy
- Brexit
- Open-ended working group on ageing
- Ageism
- Age discrimination in the media
- Age discrimination in health services
- Age discrimination in financial services
- Age discrimination in employment
- Digital exclusion
- Multiple discrimination
- Advice and support services
- Human rights

Note: Access to justice, hate crime and Deprivation of Liberty Safeguards (DoLS) will be covered in Age Cymru's public policy statement on 'Safeguarding older people'.

## **Public policy proposals**

### **Current legislation and policy**

The Equality Act 2010 provides a set of legislative tools for tackling age discrimination both within the area of employment and in the provision of goods and services. It prohibits what is deemed 'harmful' or 'unjustifiable' treatment resulting in discrimination and harassment because of, or related to, age. It does not outlaw instances of different treatment that are either justifiable or do not give rise to harm.

The main areas in which the ban on harmful age discrimination in goods and services has the potential to improve the lives of older people are in health and social care. The financial services sector, however, has been largely exempted from the ban.

To achieve a more equal society it is not enough simply to prohibit discrimination. The Equality Act 2010 Public Sector Equality Duty (PSED)<sup>5</sup> therefore requires all public bodies to take positive steps to advance equality of opportunity, eliminate unlawful discrimination and foster good relations between different groups in society. It is essential that any future review of the Equality Duty does not in any way weaken the duty or its effectiveness.

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<sup>5</sup> Equality Act 2010. S 149. [http://www.opsi.gov.uk/acts/acts2010/ukpga\\_20100015\\_en\\_1](http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1)

In Wales the PSED is supported by the Welsh specific equality duties.<sup>6</sup> In compliance with these, public authorities in Wales, including the Welsh Government, produce Strategic Equality Plans and report on progress against their equality objectives on an annual basis. Welsh Ministers have a duty to publish a report on how devolved public authorities in Wales, including the Welsh Government, are meeting the PSED.<sup>7</sup>

The Equality and Human Rights Commission (EHRC) is the regulator of the PSED and monitors activity on the duty.<sup>8</sup> We believe that the Equality Act 2010 must be effectively used by the Welsh Government and all public authorities in Wales to protect older people from discrimination and promote age equality in later life. This must be robustly enforced by the EHRC.

The PSED and the Welsh specific equality duties provide a framework for decision-making that assists public bodies to understand the needs of the ageing population and ensure that decisions they make do not disproportionately impact on particular groups, including older people.

Human rights standards provide vital protection for older people by helping to change practice and procedure, culture and attitudes, and offering redress when breaches of human rights have taken place.

Human rights are universal but they have particular relevance to older people who may find themselves in situations where they experience infringements of their human rights in later life. Human rights legislation, in the shape of the Human Rights 1998 (HRA) and the European Convention on Human Rights (ECHR), offers older people a valuable means of challenging and remedying these infringements. UK human rights legislation covers the whole of the UK but enforcement is devolved.

In recent years the HRA has been criticised, with claims from some quarters that it gives some people too many rights and prevents the state from taking reasonable action. In response to these views the UK Government made a commitment in its 2010 General Election manifesto to repeal the HRA and replace it with a British Bill of Rights.

Age Cymru's position is that it is in the best interests of older people to maintain and strengthen the HRA. The existing legislation provides a strong foundation for preventing abuses of older people's rights and should be improved and strengthened.

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<sup>6</sup> The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 <http://www.assemblywales.org/sub-id8462-e.pdf>

<sup>7</sup> Equality and Human Rights Commission. Annual reporting, publishing and Ministerial duties: A guide for listed public authorities in Wales. 01 October 2014. <https://www.equalityhumanrights.com/en/publication-download/annual-reporting-publishing-and-ministerial-duties-guide-listed-public> Accessed 25/2/19.

<sup>8</sup> Equality and Human Rights Commission. Our monitoring of the public sector equality duty in Wales. Updated 19 February 2019 <https://www.equalityhumanrights.com/en/advice-and-guidance/our-monitoring-public-sector-equality-duty-wales> Accessed 25/2/19.

In Wales there are opportunities to use the Equality Act 2010 in tandem with other legislative and strategic drivers to create a more equal society for older people.

Arising from the Strategy for Older People in Wales<sup>9</sup> is the Welsh Government's Declaration of Rights for Older People in Wales,<sup>10</sup> which is based on the UN Principles for Older Persons. Whilst in itself the Declaration has no binding legal effect, it aims to clarify the rights of older people as already underpinned by existing legislation.

The Social Services and Well-being (Wales) Act 2014 states that local authorities must have 'due regard' to the United Nations Principles for Older Persons.<sup>11</sup>

It is essential that older people are aware of their rights and are able to exercise them. We believe that work is needed to increase knowledge and raise awareness of the rights of older people across Wales. In order for older people to be able to exercise their rights, we believe that: public services must be proactive in informing older people when they become eligible for entitlements; social care service provision must be adequately funded; carers must retain Carer's Allowance once they reach state pension age; there must be a right of appeal against decisions on eligibility for services, and advocacy services must be available to everyone who needs them.

The Welsh Government stated in 2018 that it is taking forward a programme of work that will make rights real for older people, and that the human rights of older people will be put at the heart of Welsh public services. The Welsh Government is currently working with key stakeholders (including Age Cymru) and older people to co-produce a framework for an ageing society.<sup>12,13</sup>

The Well-being of Future Generations Act (Wales) 2015 includes a set of well-being goals that listed public bodies must work to achieve. Two of the goals include: 'a more equal Wales: a society that enables people to fulfil their potential no matter what their background or circumstances (including their socio-economic background and circumstances', and 'a Wales of cohesive communities: attractive, viable safe and well-connected communities'.<sup>14</sup>

In terms of social and community cohesion, a key finding of EHRC's 2018 'Is Wales Fairer' report was that loneliness, isolation and a reduced sense of belonging are some of the most significant issues facing particular groups, including older people, disabled

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<sup>9</sup> Welsh Government (2013) The Strategy for Older People in Wales 2013-2023.

<sup>10</sup> Welsh Government (2014) Declaration of Rights for Older People in Wales.

<sup>11</sup> National Assembly for Wales (undated) Code of Practice on General Functions of the Social Services and Well-being (Wales) Act 2014. <http://www.assembly.wales/Laid%20Documents/SUB-LD10420/SUB-LD10420-e.pdf>

<sup>12</sup> Welsh Government (2018) Making older people's rights a reality will make Wales the best place in the world to grow old. 16 May 2018 <https://gov.wales/newsroom/health-and-social-services/2018/olights/?lang=en> Accessed 25/2/19.

<sup>13</sup> Welsh Government (2018) International Day of Older Persons: "Older people have human rights – they must be respected" – Huw Irranca-Davies. Monday 01 October 2018 <https://gov.wales/newsroom/health-and-social-services/2018/181001olderpeople/?lang=en> Accessed 25/2/19.

<sup>14</sup> Welsh Government (2015) Well-being of Future Generations (Wales) Act 2015. The Essentials. <https://gov.wales/docs/dsjlg/publications/150623-guide-to-the-fg-act-en.pdf>

people, carers, new parents, lesbian, gay, bisexual or transgender people, and people from some ethnic minorities.<sup>15</sup>

Another key finding of the EHRC report is that although life expectancy is increasing, there are significant gaps between and within local authorities: and adults – particularly men – living in the most deprived areas in Wales have lower life expectancies than those living in least deprived areas.<sup>16</sup>

### **Public policy proposals**

- The Equality Act 2010 must be effectively used by the Welsh Government and all public authorities in Wales to protect older people from discrimination and promote age equality in later life. This must be robustly enforced by the Equality and Human Rights Commission.
- The UK Government must retain the Public Sector Equality Duty contained within the Equality Act 2010 and encourage public bodies to use the duty to meet the challenges and opportunities of our ageing society.
- Any future human rights legislation must protect the rights and freedoms in the European Convention on Human Rights and must not undermine the effectiveness or scope of the Human Rights Act 1998 (HRA) or the potential for enforcing it across the UK.
- The UK Government and the Welsh Government must ensure that the Equality and Human Rights Commission has the powers, constitutional independence and sufficient resources to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote the human rights of everyone in the UK.

### **Brexit**

On 23 June 2016 the United Kingdom voted to leave the European Union. Our age discrimination laws stem from EU treaty provisions and directives, but these have been incorporated into domestic legislation, notably through the Equality Act, so no further domestic legislation would be needed in the absence of EU legislation. However, if EU legislation were to be removed or disapplied there would be nothing to prevent a future UK Government repealing these laws – something we would not wish to see.

Additionally, we would want to ensure that the many UK nationals living and/or working in the EU would continue to have protection from other member states' discrimination against them.

The UK's withdrawal from the EU will not automatically affect the UK's status as a signatory to the European Convention on Human Rights (ECHR). The ECHR is an international treaty distinct from the EU Treaties and EU Charter on Fundamental Rights.

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<sup>15</sup> Equality and Human Rights Commission (2018) Is Wales Fairer? The state of equality and human rights 2018. <https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-2018-is-wales-fairer.pdf>

<sup>16</sup> Ibid.

UK citizens are still able to rely on their rights in the ECHR in domestic courts and can still take cases to the European Court of Human Rights. In addition, they are protected by the UN Convention on the Rights of Persons with Disabilities. However, they will no longer be able to rely on the European Charter of Fundamental Rights (CFR) which in particular includes many wider social and economic rights, such as the rights to fair and just working conditions, to healthcare and to have personal data protected.

### **Public policy proposal**

- After the UK exits the European Union, we urge the UK Government to retain UK equalities legislation and to ensure that UK nationals continue to have protection from discrimination in other EU member states.

### **Open-Ended Working Group on Ageing**

Under a mandate from the UN General Assembly. The purpose of the Open-Ended Working Group on Ageing (OEWGA) is to strengthen the protection of the human rights of older people. It has a mandate to examine the existing international framework in relation to the human rights of older people, and to identify possible gaps and how best to address them, including through considering the possibility of new human rights instruments. Since December 2012, OEWGA has been considering, under a mandate from the UN General Assembly, the need for a Convention on the rights of older persons.

Age Cymru, Age UK and Age International firmly believe that a UN Convention on the rights of older persons would provide a framework and focus to guide policy responses to ageing based on rights, equity and social justice. It also has the potential to create a shift from older people being considered as passive recipients of welfare, to older people as active rights holders and to reduce the level of abuse, neglect and discrimination experienced by many older people.

There are large gaps in the international standards that allow older people's rights to be largely ignored. This is undermining progress in terms of older people being treated with dignity and respect, can shut them out of decision-making and can lead to further abuses of their human rights in all areas of life. A new international Convention for older people would transform how governments and citizens respond to the rapidly evolving needs of older people globally.

### **Public policy proposal**

- Governments must continue to be global leaders in the promotion and protection of the rights of older people by playing a positive and active role in the United Nations Open-Ended Working Group on Ageing, encouraging the development of new human rights instruments for protecting the rights of older people, including the possibility of a new Convention.

## **Ageism**

Negative attitudes towards older people and aging are pervasive in our society. In common with most other forms of discrimination, ageism is based on inaccurate stereotypes. A recent report by the Royal Society for Public Health found that ageist attitudes exist across generations, affecting our health and wellbeing.<sup>17</sup> Ageism is the most commonly experienced form of prejudice and discrimination, both in the UK and across Europe.<sup>18</sup>

In addition to intergenerational schemes that foster contact between children and older people, we believe that it is important to promote greater contact both between and across all the generations. Public, private and third sector service providers should support initiatives that promote greater intergenerational and cross-generational contact.

### **Public policy proposal**

- Research has firmly established that a powerful way to overcome prejudice is to foster close, honest and personal relationships with others who are seen as belonging to a different group. Therefore public, private and third sector service providers should support initiatives that promote greater intergenerational and cross-generational contact to combat ageism. They must also guard against policies and practices that could act as a barrier to good intergenerational and cross-generational relations.

### **Age discrimination in the media**

Ageist attitudes are all too often reflected and amplified by the media. Older people also have a tendency to ‘disappear’ from advertising, newspapers and television screens – and this is a trend that particularly affects older women. In his inquiry into the Culture, Ethics and Practice of the Press, Lord Justice Leveson raised concerns that, at least in certain sections of the industry, representation of particular groups is discriminatory and ill-judged. We would argue that this includes representation of older people which was reflected in Ofcom’s 2017 report ‘Diversity and equal opportunities in television Monitoring report on the UK broadcasting industry’.

In this context it is concerning that the Editors’ Code of Practice does not currently include a requirement to avoid prejudicial or pejorative references to a person’s age. Broadcasters must act to rid their output of prejudicial or pejorative references to older

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<sup>17</sup> Royal Society for Public Health (2018) That Age Old Question. London.

<https://www.rsph.org.uk/uploads/assets/uploaded/a01e3aa7-9356-40bc-99c81b14dd904a41.pdf>

<sup>18</sup> Royal Society for Public Health (2018) That Age Old Question. London.

<https://www.rsph.org.uk/uploads/assets/uploaded/a01e3aa7-9356-40bc-99c81b14dd904a41.pdf>

people and to present a more positive image of later life in their programme making and broadcasting.

### **Public policy proposals**

- The media industry must be challenged to replace the stereotyping of older people as passive and dependent with positive messages that reflect the diversity of the older population and recognise the contribution they make both in economic and social terms including as workers, volunteers and carers. The use of ageist language in the media must also be eradicated.
- Recognising the high levels of multiple discrimination faced by some groups of older people, particularly women, in the media, in the workplace and in public life, particular attention must be paid to securing higher levels of representation of this group in all these spheres and in setting equality objectives.
- The newspaper Editors' Committee should amend their Code of Practice to add a requirement to avoid prejudicial or pejorative references to a person's age.

### **Age discrimination in health services**

Under the Equality Act 2010, there is an outright ban on age discrimination in health and social care with no exceptions. Although organisations and individuals working in health and social care can continue to treat people differently because of their age, they will need to show that there is a good reason (objective justification) for that different treatment if challenged.

Age UK highlights that treatment rates drop disproportionately for people over 70-75 years in areas such as surgery, chemotherapy and talking therapies.<sup>19</sup> We believe that people must be treated on the basis of their clinical need and not their age.

Breast cancer is strongly related to age, with the highest incidence rates overall being in older people.<sup>20</sup> Women aged over 70 years in Wales are not automatically called for breast cancer screening, and would need to self-refer. For women aged over 70, the lack of awareness of the risk is exacerbated by a lack of awareness of the entitlement and the need to self-refer.

We believe that this upper age limit for invitations to screening should be removed, and that there is a need to raise awareness of breast cancer risk to women over 70. Our research has shown public support for this: 83% of people in Wales believe that women should be invited to routine breast cancer screening beyond the age of 70.<sup>21</sup>

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<sup>19</sup> Age UK (2016) Policy Position Paper: Ageism and Age Equality (Great Britain). August 2018.

<sup>20</sup> Cancer Research UK. Breast cancer incidence (invasive) statistics. Peak rate of breast cancer cases, 2013-2015, UK <https://www.equalityhumanrights.com/en/publication-download/annual-reporting-publishing-and-ministerial-duties-guide-listed-public> Accessed 25/2/19.

<sup>21</sup> ICM (2012) Age Cymru Wales Poll, March 2012.

## **Public policy proposals**

- Health services in Wales must be monitored and assessed against patient experience to ensure their compliance with the Equality Act 2010.
- The Welsh Government should remove the upper age limit for invitations to breast cancer screening.
- Welsh Government and Public Health Wales should increase awareness of the entitlement for women over 70 to self-refer for breast screening.

## **Age discrimination in financial services**

It remains a major concern that a broad exception for financial services in the Equality Act 2010 may restrict older people's access to essential products including loans, mortgages, travel and motor insurance, making it harder for older people to shop around for the best products.<sup>22</sup> The Financial Services Ombudsman has reported a number of cases in which older people have experienced difficulties moving home, paying off their mortgages and taking out extra lending because of restrictions accessing these financial services.<sup>23</sup>

### **Public policy proposal**

- The UK Government must reconsider the financial services exemption from the ban on harmful age discrimination.

## **Age discrimination in employment**

The Equality Act 2010 provides a set of legislative tools for tackling age discrimination both within the realm of employment and in the provision of goods and services. However, in employment, unjustified age discrimination is still rife, despite it being illegal under the Equality Act 2010. Polling by YouGov commissioned by Age UK in 2017 found that 36% of over 50s felt they had been disadvantaged at work because of their age. We believe that more must be done to tackle age discrimination in the workplace. This includes through educating employers and managers to avoid discriminating and to challenge stereotypes.

The increase in the State Pension Age is based on an assumption that people will be able to work for longer, on the grounds of increasing healthy life expectancy. In 2011, the UK Government abolished the Default Retirement Age so that employees can no longer be forced to retire at 65. Statistics show that many people are working to a later

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<sup>22</sup> Financial Conduct Authority, [Access in Financial Services in the UK](#) 2016

<sup>23</sup> Just a number? age, complaints and the ombudsman, Financial Services Ombudsman, November 2015

age than ever before.<sup>24</sup> For some this is a positive choice based on a desire to continue to stay in work, whilst others may feel unable to retire for financial reasons.

We believe that everyone should be able to remain in work as long as they desire and are capable of doing so, and no-one should be disadvantaged because of their age. The support provided to older jobseekers must be better tailored to individual needs.

Lifelong learning and the opportunity to take part in educational activities are important for many older people to gain new skills and knowledge. Additionally, community learning can increase participation in wider community life. The Welsh Government's adult learning strategy focuses on essential and digital skills, with an emphasis on older people staying active and working for longer.<sup>25,26</sup> We believe that the Welsh Government must work with learning providers to ensure that there are sufficient opportunities for older people to access suitable and affordable learning opportunities.

Employment is addressed in more detail in Age Cymru's policy position on 'Employment and contribution'.

### **Public policy proposals**

- The UK Government, the Welsh Government and the Equality and Human Rights Commission should make the case for employing older workers more effectively, including improving awareness of age discrimination.
- Welsh Government should require employers to provide training, retraining, development and support for older workers.
- The UK Government, the Welsh Government and the Equality and Human Rights Commission must take steps to raise awareness of the ban on harmful age discrimination in organisations and services, and support service providers to implement it by providing ongoing guidance and support.

### **Digital exclusion**

Digital technology offers opportunities as well as challenges for older people. Digital skills can enable people to access online services and stay connected. Evidence suggests that internet use can help older people combat social isolation.<sup>27</sup>

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<sup>24</sup> Office of National Statistics (2013) Labour market statistics December 2013.

<sup>25</sup> Equality and Human Rights Commission (2018) Is Wales Fairer? The state of equality and human rights 2018. <https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-2018-is-wales-fairer.pdf>

<sup>26</sup> Welsh Government (2017) Adult Learning in Wales. <https://gov.wales/docs/dcells/publications/170712-adult-learning-policy-statement-en.pdf>

<sup>27</sup> Age UK (2013) Digital inclusion evidence review. [https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/active-communities/rb\\_sept13\\_age\\_uk\\_digital\\_inclusion\\_evidence\\_review.pdf](https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/active-communities/rb_sept13_age_uk_digital_inclusion_evidence_review.pdf)

However, digital exclusion is a major challenge for older people. As more information and services are made available mainly or exclusively online, there are real risks of excluding older people. More and more everyday activities often require digital use, such as accessing essential services, getting the best deals and rates, and communicating with companies.<sup>28</sup> Technology can offer a vital portal to information and advice for older people but access and take-up remains low amongst older age groups. The National Survey for Wales 2017-18 highlights that only 40% of people aged 75 or over use the internet.<sup>29</sup>

In terms of access to services, a key finding of EHRC's 2018 'Is Wales Fairer' report is that with increasing digitalisation of services and communication, being older, a disabled person, having no qualifications, or living in social housing remain risk factors for digital exclusion, although internet use is improving among older people. There continue to be areas of digital exclusion, particularly in rural areas of Wales.<sup>30</sup>

Many low income older people do not claim the benefits to which they are entitled and which might make life a little easier. For someone who does not use the internet and may never have used a computer or tablet, any suggestion that they should or must claim online is likely to be a significant barrier. Local councils, like other public bodies, have a range of responsibilities under the Public Sector Equality Duty to eliminate discrimination and promote equality within their decision making and policies.

Libraries are places where older people can access computer technology and learn new skills, so they, alongside other local educational facilities, have an important role in promoting digital inclusion and lifelong learning. However, public library services are under pressure in many areas in Wales.<sup>31</sup> We believe that the vital role of library services in facilitating digital inclusion must be protected and extended to ensure that such services are accessible to older people.

Older people must be supported and encouraged to acquire digital skills and get online if they are able to and can afford to do so. Those who cannot or do not want to do so should continue to access services and support in a way that best suits them. Services provided online need to be high quality and easy to use, whilst offline services should be of equal quality and fully accessible. Service providers must ensure that the provision of online information is not to the detriment of the provision of information in other formats.

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<sup>28</sup> Age UK (2018) Digital Inclusion Evidence Review. [https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/age\\_uk\\_digital\\_inclusion\\_evidence\\_review\\_2018.pdf](https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/age_uk_digital_inclusion_evidence_review_2018.pdf)

<sup>29</sup> Welsh Government (2018) Statistical Bulletin. National Survey for Wales, 2017-18. Internet use and digital skills. <https://gov.wales/docs/statistics/2018/180822-national-survey-wales-2017-18-internet-use-digital-skills-en.pdf>

<sup>30</sup> Equality and Human Rights Commission (2018) Is Wales Fairer? The state of equality and human rights 2018. <https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-2018-is-wales-fairer.pdf>

<sup>31</sup> BBC Wales news online (2017) What next for libraries as scores are shut and out-sourced. 17 February 2017 <https://www.bbc.co.uk/news/uk-wales-38654997>

Further information on digital inclusion can be found in Age Cymru's public policy statement on 'Loneliness'.

## **Multiple discrimination**

Age discrimination compounds other forms of discrimination with a significant number of older people experiencing multiple disadvantage and deprivation as a result. Section 14 of the Equality Act 2010 contains a 'dual discrimination' provision to cover direct discrimination on up to two combined grounds. However the section was never enacted.

## **Advice and support services**

The Equality Advisory and Support Service has a helpline that advises and assists individuals on issues relating to equality and human rights.<sup>32</sup>

Independent advocacy services are an important means to provide people with the support they need to be heard, and to uphold their rights and promote equality. Advocacy services can help an older person to navigate complex systems, make their voices heard, and build up the confidence and resilience to speak up for themselves and take control of their lives. However, the latest edition of Age Cymru's 'Advocacy Counts' reports a continued fall in the number of specialist advocacy providers and advocates for older people in Wales.<sup>3</sup>

Advocacy services, together with information and advice services, are covered in more detail in Age Cymru's public policy statement on 'Information, advice and advocacy'.

## **Human rights**

Human rights standards provide vital protection for older people by helping to change practice and procedure, culture and attitudes, and offering redress when breaches of human rights have taken place.

Human rights are universal but they have particular relevance to older people who may find themselves in situations where they experience infringements of their human rights in later life. This can take the form of abuse and degrading treatment; unwarranted deprivation of liberty in the social care setting; loss of autonomy; lack of protection for family and private life; and routine discrimination. Often these human rights breaches are not recognised as such. For example, not being given proper help with eating and drinking contravenes the right to be free from inhuman or degrading treatment. Detaining and deporting members of the Windrush generation was a contravention of their right to liberty and their right to family life.

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<sup>32</sup> Equality Advisory & Support Service <http://www.equalityadvisoryservice.com/> (Accessed 22/02/19).

One million older people in the UK have difficulty with daily living activities such as eating, bathing and taking their medication, severely limiting their ability to live independently and with dignity.<sup>33</sup> Abuse, neglect and acts of omission can occur when staff are inadequately trained, poorly supervised, have little support from management, or work in isolation resulting in treatment that is degrading or inhuman.

The Human Rights Act 1998 (HRA) and the European Convention on Human Rights (ECHR) offer older people a valuable means of challenging and remedying these infringements. For example, on several occasions residents have challenged local authority home closures on the basis that the authority has not taken into account how their rights to life or right to respect for private life would be affected.

In recent years the HRA has been criticised, with claims from some quarters that it gives some people too many rights and prevents the state from taking reasonable action. In response to these views the UK Government made a commitment in its 2010 General Election manifesto to repeal the HRA and replace it with a British Bill of Rights.

Age Cymru's position is that it is in the best interests of older people to maintain and strengthen the HRA. The existing legislation provides a strong foundation for preventing abuses of older people's rights and should be improved and strengthened.

It continues to be a matter of serious concern that not all older people are accorded the protections of the HRA. Users of regulated care services who are paying for their own care are particularly at risk (unless their care has been arranged by a local authority).

### **Public policy proposals**

- Any future human rights legislation must protect the rights and freedoms in the European Convention on Human Rights and must not undermine the effectiveness or scope of the Human Rights Act 1998 (HRA) or the potential for enforcing it across the UK.
- The UK Government and the Welsh Government must ensure that the Equality and Human Rights Commission has the powers, constitutional independence and sufficient resources to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote the human rights of everyone in the UK.
- There is an urgent need to reframe the debate on human rights, emphasising the valuable protection it provides to older people when they may be at their most vulnerable. The UK Government, the Welsh Government and the Equality and Human Rights Commission and civil society should place a high priority on promoting awareness, understanding and protection of human rights, in relation to older people.
- The UK Government, the Welsh Government and the Equality and Human Rights Commission and civil society organisations should all seek to influence public bodies

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<sup>33</sup> Age UK (2018) Policy position: Human Rights. United Kingdom.

to take a human rights based approach to their work, ensuring that all of their policies and procedures are framed with reference to human rights.

- The UK Government and the Welsh Government must extend Human Rights Act protections to all older people by ensuring that all providers of regulated care services are regarded as public authorities for the purposes of the Act, regardless of who is funding the service provided.