



Public Policy Statement
Safeguarding older people
May 2021

Summary

We all have the right to live free from abuse of any kind. Our age or circumstances should have no bearing or effect on this basic right.¹ Age does not diminish an individual's right to live with dignity and respect.²

We welcome proposals in Welsh Government's Strategy for an Ageing Society Strategy to implement a national plan to prevent abuse of older people.³

Legislation is an essential component of safeguarding adults; it has the capacity to set statutory duties and powers so that adult protection is undertaken effectively by all key agencies. Other tools to protect adults from abuse include renewed policy, increased public awareness, training, and access to advocacy services.

The Social Services and Well-being (Wales) Act 2014 puts adult safeguarding on a statutory footing and forms a legal framework for adult protection in Wales. The Codes of Practice and Regulations shape the implementation of the Act by completing the framework within which social services operate. These include Statutory Guidance in relation to Safeguarding and a Code of Practice on Advocacy. The Act has also established Safeguarding Boards.

Agencies must work together to safeguard individuals, to uphold an individual's fundamental right to be safe, to minimise vulnerability, and to support those who have experienced abuse or neglect.

Local authorities must put their duty to make enquiries at the heart of their response to initial safeguarding concerns being raised, with improved transparency in the way that referrals and concerns are processed. Furthermore, they must ensure that safeguarding referral forms are accessible and available in a range of formats to facilitate referrals by third parties, including older people.

¹ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020. <https://www.ageuk.org.uk/globalassets/age-cymru/documents/information-guides-and-factsheets/fs78w.pdf>

² Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales. <https://gov.wales/strategy-ageing-society-age-friendly-wales>

³ Ibid.

Training on safeguarding adults must be mandatory for all staff involved in the care and support of older people, and human rights must be mainstreamed into the development of policy and practice in the care and support of older people.

Independent advocacy can help to redress the power imbalance that occurs in abuse situations and can enable the person to take back some control. In order to deliver 'voice and control', in line with the stated intention of the Social Services and Well-being (Wales) Act 2014, access to independent advocacy support is crucial – especially for adults at risk of abuse, and those who are subject to a safeguarding investigation. The Welsh Government and local authorities should work with voluntary service providers to raise awareness of advocacy services among older people and the professionals who work with them.

Older people are often targeted by financial fraud. We believe that there should be improved measures to protect older people from rogue traders and doorstep fraud. The UK Government should also place a duty on service providers to reduce the volume of fraud through postal, telephone and internet networks.

To achieve an age friendly Wales older people should be able to live without the fear of falling victim to fraudsters, whether on their doorstep, through the post, telephone or online.

We believe that the Welsh Government must ensure that equal weight is given to the prevention of abuse in Wales, and support the development of innovative programmes of preventative work.

Summary of public policy proposals

- Welsh Government must monitor the implementation of the proposed national plan to prevent abuse of older people to ensure its effectiveness.
- Future UK human rights legislation must protect the rights and freedoms in the European Convention on Human Rights, must not undermine the effectiveness or scope of the Human Rights Act or the potential for enforcing it, and must reflect the particular circumstances of Wales.
- Vital support and safeguarding services must be provided to those older people who may have suffered abuse during the Covid-19 pandemic lockdown, as lockdown as restrictions ease.
- The implementation of the recommendations of the Flynn report (the independent review commissioned by the Welsh Government into the neglect of older care home residents) must be monitored.
- All agencies involved in the care and support of older people must adopt a consistent approach to safeguarding. Training on safeguarding adults must be mandatory for all staff involved in the care and support of older people.
- Local authorities must put their duty to make enquiries at the heart of their response to initial safeguarding concerns being raised, with improved transparency in the way that referrals and concerns are processed.
- Local authorities must ensure that safeguarding referral forms are accessible and available in a range of formats to facilitate referrals by third parties, including older people.

- Human rights must be mainstreamed into the development of policy and practice by all agencies involved in the care and support of older people.
- The Welsh Government and local authorities should work together with voluntary service providers to raise awareness and understanding of the existence, purpose and benefits of advocacy among both older people and the professionals who work with them.
- All older people who have been the victim of abuse, regardless of whether they meet the criteria of an adult at risk, should be offered the services of an advocate by local authorities.
- Improved inter-agency working is required between adult protection and domestic abuse services so that older people receive appropriate support and interventions as early as possible.
- The UK Government to provide greater protection for older people targeted by fraud by placing a duty on postal, telephone and internet providers to reduce the volume of fraud in their networks.
- The Welsh Government must ensure that equal weight is given to the prevention of abuse in Wales, and support the development of innovative programmes of preventative work to ensure this happens.

Safeguarding older people

This policy statement covers:

- Legislation and policy
- Abuse of older people
- Safeguarding
- Advocacy
- Access to justice
- Hate crime
- Financial abuse.

Age discrimination and human rights are covered in more detail in Age Cymru's public policy position on 'Discrimination and Human Rights'. Advocacy is covered in more detail in Age Cymru's public policy position on 'Information, advice and advocacy'.

Legislation and policy

The Social Services and Well-being (Wales) Act 2014⁴ (Part 7) puts adult safeguarding on a statutory footing and forms a legal framework for adult protection in Wales. The Welsh Government has developed the Codes of Practice and Regulations that shape the implementation of the Act by completing the framework within which social services operate. These include Statutory Guidance in relation to Safeguarding and a Code of Practice on Advocacy.

Section 7(1) of Part 2 of the Act places duties on persons exercising functions under the Act to have due regard to the United Nations Principles for Older Persons.⁵ Guidance documents provide a framework for key agencies to prevent, identify and respond to the abuse (or potential abuse) of vulnerable adults. Local authority social services departments, and other organisations or agencies involved, must comply with and follow the guidance, which can be accessed on the Social Care Wales website (see⁶).

The Act includes a duty to report for local authorities and their relevant partners where they suspect that people may be at risk of abuse or neglect. This is supported by a duty on local authorities to enquire where it is suspected that an adult with care and support needs is at risk of abuse and neglect. These duties are supplemented by a power to apply to the courts for an Adult Protection and Support Order (APSO). The Order will enable an authorised officer to secure entry to premises in order to

⁴ Social Services and Well-being (Wales) Act 2014.

http://www.legislation.gov.uk/anaw/2014/4/pdfs/anaw_20140004_en.pdf

⁵ Welsh Government (2016) Social Services and Well-being (Wales) Act 2014. Working Together to Safeguard People. Volume 1- Introduction and Overview.

<https://gov.wales/sites/default/files/publications/2019-05/working-together-to-safeguard-people-volume-i-introduction-and-overview.pdf>

⁶ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020. <https://www.ageuk.org.uk/globalassets/age-cymru/documents/information-guides-and-factsheets/fs78w.pdf>

Speak in private with the adult suspected of being at risk to determine whether they are making decisions freely, whether they are at risk, and if any action is required.^{7,8}

The Act establishes Regional Safeguarding Adults Boards to ensure that national policies and procedures are monitored and remain fit for purpose.⁹ It also establishes The National Independent Safeguarding Board, which provides support and advice to the Regional Safeguarding Boards and makes recommendations to Welsh Ministers as to how safeguarding arrangements could be improved.¹⁰

Regional Safeguarding Boards have developed Wales Safeguarding Procedures¹¹ in conjunction with stakeholder groups from across Wales. These Procedures aim to 'strengthen and clarify' the existing guidance and explain more thoroughly the responsibilities of professionals involved in safeguarding and how they can ensure they meet these responsibilities¹² (see Safeguarding, below).

The Act's Part 10 Code of Practice (Advocacy) places statutory duties upon local authorities with regard to the provision of advocacy. Local authorities must have regard to the need to protect adults from abuse and neglect, and in partnership with the individual, must reach a conclusion on arrangements to appoint an independent professional advocate to support and represent an individual who is the subject of a safeguarding enquiry.¹³

In 2017, the Welsh Government working with the Older People's Commissioner for Wales published the 'Information and guidance on domestic abuse: Safeguarding older people in Wales'.¹⁴ The purpose of the guide is to enable professionals working in Welsh public services to work more effectively with older people who are experiencing or who have experienced domestic abuse.¹⁵

In 2014 the Welsh Government launched the 'Tackling Hate Crimes and Incidents: A Framework for Action'.¹⁶ Welsh Government's Strategic Equality Plan (2020-2024)¹⁷ includes the long-term aim for the elimination of discrimination, victimisation, abuse, harassment, hate-crime and bullying based on protected characteristics.

⁷ Welsh Government (2017) Information and guidance on domestic abuse: Safeguarding older people in Wales.

⁸ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

⁹ Social Services and Well-being (Wales) Act 2014: Working Together to Safeguard People: Volume 1 – Introduction and Overview, Welsh Government, 2016

¹⁰ Ibid.

¹¹ Wales Safeguarding Procedures www.safeguarding.wales

¹² Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

¹³ Social Services and Well-being (Wales) Act 2014: Working Together to Safeguard People: Volume 4 – Adult Protection and Support Orders, Welsh Government, 2016

¹⁴ Older People's Commissioner for Wales. Information and guidance on domestic abuse: Safeguarding older people in Wales. <https://www.olderpeoplewales.com/en/stopping-abuse/guidancedomesticabuse.aspx>

¹⁵ Ibid.

¹⁶ Welsh Government (2014) Tackling Hate Crimes and Incidents: A Framework for Action

¹⁷ Welsh Government (2020) Strategic Equality Plan 2020-2024 <https://gov.wales/sites/default/files/publications/2020-04/strategic-equality-plan-equality-aims-objectives-actions-2020-2024.pdf>

Measures set out in Welsh Government's Strategy for an Ageing Society to prevent the abuse of older people include the continuation by Welsh Government to implement the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (VAWDASV), which acknowledges that victims can be from across the whole spectrum of society, including older people.¹⁸ We welcome proposals in the Strategy to implement a national plan to prevent abuse of older people.¹⁹

The Human Rights Act (HRA) provides a framework from which to tackle abuse. Article 3 of the European Convention on Human Rights (ECHR) states that people have a right to be free from torture, inhumane or degrading treatment and is therefore directly relevant in abuse cases. The UK's withdrawal from the EU will not automatically affect the UK's status as a signatory to the ECHR. The ECHR is an international treaty distinct from the EU Treaties and EU Charter on Fundamental Rights. Age Cymru's position is that any future human rights legislation must protect the rights and freedoms in the ECHR, must not undermine the effectiveness or scope of the HRA or the potential for enforcing it, and must reflect the particular circumstances of Wales.²⁰

The Declaration of Rights for Older People in Wales aims to clarify the rights of older people as already underpinned by existing equality and human rights legislation, although it has no binding legal effect.²¹

Impact of the Covid-19 pandemic

Welsh Government's Strategy for an Ageing Society states that the Covid-19 pandemic has sharpened focus on abuse.²² The Covid-19 pandemic is having a significant impact on the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 (VAWDASV),²³ and the VAWDASV COVID-19 Strategic Group was established to direct efforts to tackling the impact of the pandemic.²⁴

There is low awareness of the abuse of older people throughout our communities, and we are concerned about what is not being reported and remains hidden, and the potential for more revelations of incidents of abuse after the Covid-19 lockdown eases. With many of the everyday support services for older people being limited to telephone based only and many older people themselves shielding through the crisis, the face-to-face work that might normally pick up evidence of abuse has not been happening. The abuse may have started during lockdown or has remained hidden and the opportunities to identify abuse and then support older people has not been happening as it would have previously. The impact of this can not be

¹⁸ Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales.
<https://gov.wales/strategy-ageing-society-age-friendly-wales>

¹⁹ Ibid.

²⁰ Age Cymru (2017) Age Cymru's response to the consultation by the National Assembly for Wales' Equality, Local Government and Communities Committee's Inquiry into Human Rights in Wales.

²¹ Welsh Government (2014) Declaration of Rights for older people.

²² Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales.
<https://gov.wales/strategy-ageing-society-age-friendly-wales>

²³ Welsh Government (2020) Written Statement. Violence against women, domestic abuse and sexual violence: five-year anniversary of the Violence against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 <https://gov.wales/written-statement-violence-against-women-domestic-abuse-and-sexual-violence-five-year-anniversary>

²⁴ Ibid.

underestimated and we need to be prepared to provide vital services to older people coming out of lockdown as restrictions ease.

Public policy proposals

- Welsh Government must monitor the implementation of the proposed national plan to prevent abuse of older people to ensure its effectiveness.
- Future UK human rights legislation must protect the rights and freedoms in the European Convention on Human Rights, must not undermine the effectiveness or scope of the Human Rights Act or the potential for enforcing it, and must reflect the particular circumstances of Wales.
- Vital support and safeguarding services must be provided to those older people who may have suffered abuse during the Covid-19 pandemic lockdown, as lockdown as restrictions ease.

Abuse of older people

It is important that the different forms of abuse are recognised and addressed. Abuse can take many forms (see Appendix for the definitions of the different forms of abuse).²⁵ The main categories are:

- Financial abuse
- Neglect and acts of omission
- Physical abuse
- Sexual abuse
- Emotional /psychological abuse.

Although they may not be specifically mentioned – or only touched upon briefly – in the Social Services and Well-being (Wales) Act and/or accompanying guidance, there are also additional types of abuse that may be a factor in the abuse of older people. These are listed below and have been identified by various organisations or sources of research:²⁶

- Institutional / organisational abuse
- Discrimination and hate crime
- Domestic violence / domestic abuse
- Abuse by a stranger.

Institutional abuse (also referred to as ‘organisational’ abuse) is repeated instances of poor care, be it through neglect or poor professional practice resulting from inadequate policies, processes or structures within an organisation. It can occur in any setting where one or more service users receive a service, whether on a daily or residential basis – for example, a care home, a day services centre, a hospital ward or a person’s own home. The service may not meet the necessary professional

²⁵ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

²⁶ Ibid.

standards or there is a need for further training and the development of a more caring and person centred approach.²⁷

In July 2015 the Welsh Government published the independent review it commissioned into the neglect of older care home residents investigated as Operation Jasmine.²⁸ Age Cymru welcomed the publication of this report and its recommendations.

Age discrimination can underlie many of the problems and disadvantages faced by older people today. This includes the way older people are treated with lack of dignity and respect and how they are being abused and neglected by people in their own homes and in places where they should feel safe and cared for.

The underpinning principles of human rights include fairness, respect, equality and dignity but we are frequently aware of cases where these are restricted or disregarded and older people require support in order to uphold their rights.

People with a protected characteristic can often find it more difficult to raise concerns about their care. This can be due to a cultural or language barrier, fears that that they could become the victim of homophobic or transphobic abuse, or a sensory impairment that hinders communication. It is vital that professionals proactively identify ways to safeguard protected groups rather than reacting when abuse occurs.²⁹

The document 'Information and guidance on domestic abuse: Safeguarding older people in Wales' developed by the Welsh Government working in partnership with the Older People's Commissioner for Wales reports that older people from Black minority ethnic backgrounds may be particularly ashamed or embarrassed at experiencing abuse from their partners. Family honour may particularly influence an older person's decision not to seek support. Older people from Black minority ethnic backgrounds are sometimes less likely than younger people to speak or understand English, which can make disclosing abuse very difficult where specialist services are not available.³⁰

The above document also draws attention to some of the additional barriers to reporting thought to be faced by LGB people and Trans people.³¹ LGB people tend to under-report forms of violence and abuse, and there is limited evidence available relating to older LGB people.³²

²⁷ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

²⁸ Welsh Government (2015) Written Statement. Welsh Government response to the Flynn report. <https://gov.wales/written-statement-welsh-government-response-flynn-report>

²⁹ Age Cymru (2017) Consultation response to the Welsh Government's (2017) Consultation on 'Social Services and Well-being (Wales) Act 2014. Statutory guidance in relation to Part 7 of the Act, on Handling Individual Cases to Protect Adults at Risk.

³⁰ Welsh Government (2017) Information and guidance on domestic abuse: Safeguarding older people in Wales.

³¹ Ibid.

³² Ibid.

Older people with dementia are at higher risk of abuse due to their impaired ability to seek help, advocate for themselves or remove themselves from potentially abusive situations.³³

Welsh Government state they are clear that abuse or neglect in any form of older people will not be tolerated. This includes financial scams (fraud), physical and mental abuse and neglect. Age does not diminish an individual's right to live with dignity and respect.³⁴

The abuse and neglect of older people remains a largely hidden issue.³⁵ The hidden nature of abuse is an issue, and the stigma. If abuse is to be tackled effectively it is important to ensure that there is raised awareness of what abuse is and what can be done to stop or prevent it. More publicity is needed to raise awareness of abuse and neglect, and people need to know how, and where, to report concerns.

Older people have suggested raising awareness through TV programmes, older people's groups, and by group members through their wider networks. Involvement from community police, tackling anti-social behaviour, improved street lighting and Neighbourhood Watch schemes were also suggested.

Public policy proposals

- The implementation of recommendations of the Flynn report (the independent review commissioned by the Welsh Government into the neglect of older care home residents) must be monitored effectively.

Safeguarding

The term 'safeguarding' means a range of activities aimed at upholding an individual's fundamental right to live in safety, free from abuse and neglect.³⁶

The Social Services and Well-being (Wales) Act 2014 provides the framework for improving the well-being of people who need care and support. Part 7 of the Act relates to Safeguarding specifically. It is the legislation that provides the framework for Wales. Accompanying the Act, the Welsh Government has published statutory guidance 'Working Together to Safeguard People'.³⁷

³³ Welsh Government & Older People's Commissioner for Wales (2017) Information and guidance on domestic abuse: Safeguarding older people in Wales.

<https://gov.wales/sites/default/files/publications/2019-06/safeguarding-older-people-in-wales.pdf>

³⁴ Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales.

<https://gov.wales/strategy-ageing-society-age-friendly-wales>

³⁵ Age UK (2018) Policy Position Paper. Adult safeguarding (England).

<https://www.ageuk.org.uk/globalassets/age-uk/documents/policy-positions/health-and-wellbeing/adult-safeguarding-policy-position-nov-2018-final.pdf>

³⁶ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

³⁷ Welsh Government. Safeguarding guidance. Last updated 18/3/2021

<https://gov.wales/safeguarding-guidance>

The Wales Safeguarding Procedures have been designed to enable frontline practitioners and their managers apply the legislative requirement and expectations of the Social Services and Well-being (Wales) Act 2014. The aim is to improve person-centred outcomes for adults at risk of abuse and neglect and children at risk.³⁸

Safeguarding enquiries are made under s126 of the Social Services and Well-being (Wales) Act. Following a report, social services have a duty to make enquiries if there is a reasonable case to suspect that a person [...] is an adult at risk.³⁹ With reference to this duty to make enquiries, the rhetoric is that the public and professionals are encouraged to make referrals. However, the reality can be very different when attempts are made to make referrals.

We would like to see a more open and transparent approach to the receipt of referrals or concerns, with local authorities putting their duty to make enquiries at the heart of their response to initial concerns being raised. Alongside this, we would like to see clear data gathering in relation to initial safeguarding enquiries to improve transparency as to which referrals or concerns are taken forward and those that are turned away at the first point of contact.

With reference to third party referrals to local authorities, there are issues about the digitalisation of safeguarding referrals to local authorities. Local authorities ask for referral forms to be completed on websites, which might not be accessible to all members of the public who wish to share concerns. Furthermore, some older people might not have access to, or understand, the use of information technology. We believe that local authorities must ensure that referral forms are accessible and available in a range of formats to facilitate referrals by third parties, including older people.

We believe that training in safeguarding adults for staff that support or provide care services to older people is important in raising awareness about the abuse of older people, how to recognise and prevent it, and the processes to instigate in cases of suspected abuse. All those involved in adult safeguarding should also have a sound understanding of the principles, and practical application of the Mental Capacity Act (2005). Training can also promote best practice and bring about a change in cultural and institutional attitudes towards older people so that they are treated with dignity and respect. Human rights must be mainstreamed into the development of policy and practice by all agencies involved in the care and support of older people. This will ensure that all older people have a right to be free from abuse and neglect and a mechanism for protecting people's rights.

Public policy proposals

- All agencies involved in the care and support of older people must adopt a consistent approach to safeguarding. Training on safeguarding adults must be mandatory for all staff involved in the care and support of older people.

³⁸ Wales Safeguarding Procedures <https://www.safeguarding.wales/int/i1/i1.p1.html>

³⁹ Wales Safeguarding Procedures <https://safeguarding.wales/adu/a3pt1/a3pt1.p6.html>

- Local authorities must put their duty to make enquiries at the heart of their response to initial safeguarding concerns being raised, with improved transparency in the way that referrals and concerns are processed.
- Local authorities must ensure that safeguarding referral forms are accessible and available in a range of formats to facilitate referrals by third parties, including older people.
- Human rights must be mainstreamed into the development of policy and practice by all agencies involved in the care and support of older people.

Advocacy

Advocacy is covered in more detail in Age Cymru's public policy position on 'Information, advice and advocacy'.

Adults at risk of harm are amongst the most vulnerable people in our communities, and it must be ensured that they have a voice and are safeguarded from abuse. Independent advocacy can help to redress the power imbalance that occurs in abuse situations and can enable the person to take back some control. All older people who have been the victim of abuse, regardless of whether they meet the criteria of an adult at risk, should be offered the services of an advocate by local authorities.

The Social Services and Well-being (Wales) Act 2014 places statutory duties upon local authorities with regard to the provision of advocacy. The Act defines advocacy as a right for all individuals in Wales in certain circumstances including (but not exclusively) assessment, care planning, review and safeguarding.⁴⁰

Public policy proposals

- The Welsh Government and local authorities should work together with voluntary service providers to raise awareness and understanding of the existence, purpose and benefits of advocacy among both older people and the professionals who work with them.
- All older people who have been the victim of abuse, regardless of whether they meet the criteria of an adult at risk, should be offered the services of an advocate by local authorities.

Access to Justice

Failure to appropriately record and categorise an offence represents a significant barrier to older people's access to justice. Older people must have equal access to support and justice that is available to other adults.

⁴⁰ Age Cymru (2016) Advocacy Counts 5. Executive summary.
<http://www.ageuk.org.uk/cymru/policy/golden-thread-advocacy-programme/advocacy-counts/>

A principal objective of the Access to Justice Pilot was to enable vulnerable victims of domestic abuse to access criminal or civil justice processes in seeking protection from further abuse. This objective was founded on the need to ensure that the human rights of older people are protected in the right to be safe. The Welsh Government noted that there are ‘few more basic human rights than that of being protected from violence or exploitation’.⁴¹

The Pilot recommended that consideration should be given by the Welsh Government to how domestic abuse and elder abuse procedures, policies and guidance can be integrated more effectively.⁴²

The term ‘elder abuse’ raises awareness of the fact that older people not only experience neglect but can also be the victims of physical, psychological, financial and sexual abuse. The Older People’s Commissioner for Wales highlights, however, that the term ‘elder abuse’ can suggest that the abuse of older people is somehow different to the abuse of others: sometimes the abuse faced by older people is also a criminal offence but is identified as ‘elder abuse’ and referred to adult protection services instead of the police; if it is later reported to the police, vital evidence may have been destroyed.⁴³

Public policy proposal

- Improved inter-agency working is required between adult protection and domestic abuse services so that older people receive appropriate support and interventions as early as possible.

Hate crime and older people

The CPS are aware that ‘crimes against older people may be underpinned by ageism or prejudice against older people’.⁴⁴ They state that whilst there is no statutory definition of crimes against older people, nor legislation allowing for a sentence uplift to be applied as with hate crimes, they are committed to ensuring that justice is delivered for older people by prosecuting offences against them and supporting victims and witnesses throughout that process.⁴⁵

Age Cymru is a member of the Action Group to End Abuse of Older People in Wales, and in response to a consultation by the Law Commission on hate crime laws,⁴⁶ the Group responded that age should be recognised as a protected characteristic for the purposes of hate crime law. Including age in hate crime legislation is a necessary

⁴¹ Welsh Government (2012) Access to Justice Pilot Project.

⁴² Ibid.

⁴³ Older People’s Commissioner for Wales. Abuse of, and crimes against, older people.

⁴⁴ CPS (2019) Policy guidance on the prosecution of crimes against older people [Policy guidance on the prosecution of crimes against older people | The Crown Prosecution Service \(cps.gov.uk\)](#)

⁴⁵ Ibid CPS (2019)

⁴⁶ Law Commission (2020). Hate crime laws. [Hate Crime | Law Commission](#)

part of taking successful action to prevent abuse and to support those that experience it.⁴⁷

Diverse Cymru carried out a research project^{48,49} into Crimes Against Older People (50+) on behalf of the Welsh Government. They reported that over 50% of survey respondents thought every type of crime, except threatening behaviour, were age-related. Fraud, burglaries, neglect, anti-social behaviour and 'mate' crime as well as threats and verbal insults were most frequently thought to be crimes against older people. Barriers to reporting crimes against older people included: fear of reprisals or making a situation worse; not being believed, understood, listened to, or taken seriously; fear of unwelcome interventions, losing care, support or family; not knowing who to report to or how; feelings of guilt, embarrassment and shame; communication difficulties and mental capacity.⁵⁰ The report made recommendations to help tackle crimes against older people, as well as raising awareness of the issues and supporting people who have been affected by age-related crime.

Financial abuse

Financial abuse is illegal or unauthorised theft or use of a person's property, money, or other assets or possessions. To help tackle these problems agencies must be vigilant and have appropriate training to be able to investigate suspected cases at the earliest possible opportunity. Advice and advocacy, including access to legal support, can also play a role in helping people to put appropriate Lasting Powers of Attorney (LPA) in place prior to any loss of capacity. LPAs are important and relevant legal documents that allow important 'Best Interest' decisions to be made on behalf of the donor in regards to their finances, health and welfare.⁵¹

Older people can be particularly at risk of abuse by scams (fraud) – evidence from National Trading Standards show 85% of victims of doorstep scams are aged over 65.⁵² The impact on health and well-being can be often far greater than the financial loss. People lose confidence and can suffer from increased isolation and become more fearful. This in turn leads to a deterioration in both mental and physical health.⁵³

⁴⁷ Older People's Commissioner for Wales (2021) Law Commission Consultation on Hate Crime Laws. 1.3.21

https://www.olderpeoplewales.com/Libraries/Consultation_Responses_2021/Hate_Crime_Consultation_Response OPCW_and_Action_Group_on_Abuse_E_002.sflb.ashx

⁴⁸ Diverse Cymru. Age of Justice. An executive summary of the Diverse Cymru research project into Crimes Against Older People (50+) carried out on behalf of the Welsh Government.

⁴⁹ Diverse Cymru (2016) Age of Justice. News release. 24 March 2016.

<https://www.diverseecymru.org.uk/age-of-justice/>

⁵⁰ Ibid.

⁵¹ Older People's Commissioner for Wales (2017) Consultation response to the Welsh Government's (2017) Consultation on Social Services and Well-being (Wales) Act 2014. Statutory guidance in relation to Part 7 of the Act, on handling Individual Cases to Protect Adults at Risk.

http://www.olderpeoplewales.com/Libraries/Consultation_Responses_2017/Consultation_response_on_WG_Statutory_Guidance_in_relation_to_part_7_of_the_Act.sflb.ashx

⁵² Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales.

<https://gov.wales/strategy-ageing-society-age-friendly-wales>

⁵³ Ibid.

Many fraudsters use telephony companies, internet service providers and postal services such as the Royal Mail almost unhindered meaning that these networks, whether inadvertently or not, are facilitating fraud. Age Cymru believes that these networks should take responsibility and devise new ways to protect unwitting victims from being scammed.

To achieve an age friendly Wales older people should be able to live without the fear of falling victim to fraudsters, whether on their doorstep, through the post, telephone or online.

The Wales Against Scams Partnership (WASP)⁵⁴ is a partnership of organisations (including Age Cymru) committed to keeping Wales safe from scams, and has developed a 'Charter Against Scams'⁵⁵ to help better protect people in Wales from scams and fraud, and to support victims.

We welcome proposals to fund additional Community Support Officers to carry out awareness raising about scams with local residents, particularly older people.⁵⁶

We believe that a preventative approach to fraud is essential to educate people about the types of fraud that target people and stop them from becoming chronic fraud victims. We deem that the Welsh Government must ensure that equal weight is given to the prevention of abuse in Wales, and must support the development of innovative programmes of preventative work to ensure this happens.

Public policy proposals

- The UK Government to provide greater protection for older people targeted by fraud by placing a duty on postal, telephone and internet providers to reduce the volume of scams in their networks.
- The Welsh Government must ensure that equal weight is given to the prevention of abuse in Wales, and support the development of innovative programmes of preventative work to ensure this happens.

⁵⁴ WASP Wales Against Scams Partnership (2016) Charter Against Scams.

⁵⁵ Ibid.

⁵⁶ Welsh Government (2020) Strategy for an Ageing Society: age friendly Wales.
<https://gov.wales/strategy-ageing-society-age-friendly-wales>

Appendix: Definitions of different forms of abuse

The following definitions are taken from Age Cymru's 'Safeguarding' factsheet.⁵⁷

Abuse can take a number of different forms, including:

- Physical abuse is abuse involving contact intended to cause or resulting in pain, injury, or other physical suffering or bodily harm. It can also result in feelings of fear and other psychological problems.
- Financial abuse; illegal or unauthorised theft or use of a person's property, money, or other assets or possessions.
- Psychological abuse, also referred to as emotional abuse, is a form of abuse characterised by a person subjecting or exposing another to behaviour that, whilst not necessarily harming them physically, can cause significant emotional distress. It is often associated with situations of power imbalance, such as abusive relationships.
- Sexual abuse can be defined as when coercion or force is used to directly or indirectly involve someone in sexual activity without their consent. People who do not fully understand what is happening to them – due to reduced mental capacity, for example – are unable to consent to sexual activity.
- Neglect is a form of abuse in which the perpetrator is responsible for providing care for someone who is unable to care for him or herself, but fails to provide this – be it no care at all, or care that is clearly not of an adequate standard to meet the person's needs. As such, neglect can be deliberate, or can occur as a result of not understanding what someone's needs are.
- 'Self-neglect' – has potential relevance in abuse cases. Most forms of neglect or abuse are perpetrated by another person and the law generally presumes there is a perpetrator as well as a victim – however, self-neglect can also be a cause for concern in terms of safeguarding as, for example, a person in this situation could become a target for unscrupulous doorstep selling, or people carrying out scams. Older people who might be more likely to neglect themselves include people with mental health issues (such as depression or dementia), or alcohol or drug problems. Alternatively, it can indicate the onset of other illnesses.

There are also additional types of abuse that may be a factor in relation to the abuse of older people, which have been identified by various organisations or sources of research.⁵⁸

- Institutional abuse (also referred to as 'organisational' abuse) is repeated instances of poor care, be it through neglect or poor professional practice resulting from inadequate policies, processes or structures within an organisation. It can occur in any setting where one or more service users receive a service, whether on a daily or residential basis – for example, a care home, a day services centre, a hospital ward or a person's own home. The service may not meet the necessary professional standards or there is a need for further training and the development of a more caring and person centred approach.

⁵⁷ Age Cymru (2020) Safeguarding older people in Wales from abuse and neglect. Factsheet 78w. January 2020.

⁵⁸ Ibid.

- Abuse motivated by discrimination, including potential instances of hate crime
Discriminatory beliefs and practices limit the lives of the people upon whom they are imposed.
- Hate crime. The Welsh Government’s safeguarding guidance advises that various ‘forms of abuse [can] be motivated by the personal characteristics of the victim. This can make it a hate crime. ‘These involve a criminal offence perceived by the victim or any other person, to be motivated by hostility or prejudice based on a person’s actual or perceived disability, race, religion and belief, sexual orientation [or] transgender [status].^{59,60}
- Abuse of an older person by a stranger could be perpetrated by, for example, a corrupt salesperson, builder or solicitor. Strangers will sometimes take advantage of older people and will over-charge for services (such as minor building works on a property), or put pressure on people to buy things they cannot afford, or do not want.
- Domestic violence and abuse is any incident, or repeated incidents, of controlling, coercive or threatening behaviour by a person towards an intimate partner (or someone who used to be an intimate partner), regardless of their gender or sexuality.

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⁵⁹ Ibid.

⁶⁰ Welsh Government (2016) Social Services and Well-being (Wales) Act 2014: Working Together to Safeguard. People: Volume 1 – Introduction and Overview.