

UNITED KINGDOM

Part II: Non-discrimination

1. On 1 October 2012, the United Kingdom Government brought into force relevant provisions in Part 3 of the Equality Act 2010¹, banning age discrimination in the provision of goods, facilities and services, the exercise of public functions, and the running of private clubs and other associations. The ban means that unjustifiable age discrimination is also unlawful in the provision of services, and covers harassment by service providers, those exercising public functions and by clubs and associations on the basis of age related to victimisation. The ban does not protect people under the age of 18 years. The ban on age discrimination does not affect the range of age-related benefits provided by the Government designed to help older people retain their independence and dignity, such as free bus passes, inoculations against influenza in winter, and fuel payments.
2. Before the implementation of the age discrimination provisions in the Equality Act 2010, service providers could set age bands and use age in any way they wished in the provision of financial services, including the assessment of risk by the insurance industry. Whilst an exception from the ban means that such practices can lawfully continue, the UK Government has an agreement² with the Association of British Insurers (ABI) and the British Insurance Brokers Association (BIBA) that requires their members to help older customers find motor and travel insurance to meet their needs; and for the ABI to publish information on insurers' use of age in the assessment of risk for these types of insurance.

Part III: Autonomy and participation

3. The Mental Capacity Act 2005³ (MCA) came into effect for England and Wales on 1 October 2007. The equivalent legislation in Scotland is the Adults with Incapacity (Scotland) Act 2000⁴. This section described the law and practice in England and Wales.
4. The MCA is based on 5 key principles. These are designed to protect people who lack capacity to make particular decisions, but also to maximise their ability to make decisions or to participate in the decision making process as far as they are able to do so. These principles are:
 - (i) A person must be assumed to have capacity unless it is established that he or she lacks capacity;
 - (ii) A person is not to be treated as unable to make a decision unless all practicable steps to help him or her to do so have been taken without success;
 - (iii) A person is not to be treated as unable to make a decision merely because he or she makes an unwise decision;
 - (iv) An act done, or decision made, for or on behalf of a person who lacks capacity must be done, or made, in his or her best interests; and
 - (v) Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be as effectively achieved in a way that is less restrictive of the person's rights and freedom of action.

¹ <http://www.legislation.gov.uk/ukpga/2010/15>

² Details of the agreement can be found at http://www.abi.org.uk/Facts_and_Figures/Data_by_Age_and_Gender.aspx

³ <http://www.legislation.gov.uk/ukpga/2005/9>

⁴ <http://www.legislation.gov.uk/asp/2000/4>

5. The MCA introduced Lasting Powers of Attorney (LPA) which allow people to authorise a third party (an attorney) to make decisions on their behalf, in accordance with any specified wishes or guidance, in the event that they become incapable. There are two types of LPA: Property and Finance; and Health and Welfare. For those who already lack capacity and have no LPA in place, the Court of Protection⁵ can appoint a Deputy who will act in accordance with the MCA.
6. Where there is no Attorney or Deputy, an Independent Mental Capacity Advocate can be appointed to help make best interests decisions, but only in circumstances where a person lacking capacity either requires serious medical treatment or if it is proposed that the individual be moved to different residential accommodation. In both LPA and Deputyship cases, the power to make decisions on another's behalf only lasts for as long as the individual lacks capacity. If it is verified that a person has regained capacity, then all decision-making reverts back to the individual.
7. The MCA ensures people are supported, enabling them to make as many decisions on their own as possible. For example, where an individual cannot make a decision on a particular morning, the legislation gives the individual the right to make the decision later that day, or when he or she feels ready. Where decisions must be made on an individual's behalf due to a lack of capacity, the legislation stipulates that attempts must be made to consult the individual as well as trusted confidants of the individual to gain their input in the decision-making process.
8. Any decision taken on behalf of the person lacking capacity must also be the least restrictive. For example, a person lacking capacity who suffers from epilepsy should not necessarily be confined within a home with soft furnishings, where an alternative could be that they wear protective clothing to prevent injuries when outside.
9. Unlike the system of Enduring Power of Attorney (EPA) that they replaced in October 2007, LPAs include certain safeguards which aim to give the individual control over those who are involved in the application process. These include requiring a 'Certificate Provider' who ensures the donor has adequate capacity to make an application, witnesses who verify the documents have been signed in accordance with the correct protocols, and 'notified parties' who can object if they feel the application has been completed fraudulently or under duress.
10. When the Court of Protection appoints a Deputy to manage the property and affairs or personal welfare of an individual, it will be in the best interests of the individual, and the Deputy appointed must act in accordance with the MCA. Court-appointed Deputies are supervised by the Office of the Public Guardian⁶ (OPG), both to support decision-making in the best interests of those lacking capacity and as a safeguard against abuse. The OPG can investigate allegations of fraud or abuse, working closely with other agencies, including the police where necessary. Where any abuse of the power is confirmed by law in either LPA or Deputyship cases, the person can be discharged from their duty and may face criminal prosecution.
11. Over 700,000 LPAs have been registered since their introduction in 2007, with 250,000 likely to be registered in 2013-2014. There are over 40,000 Deputyship cases as of January 2013.

⁵ <http://www.gov.uk/court-of-protection>

⁶ <http://www.justice.gov.uk/about/opg>

Part IV: Protection from violence and abuse

12. The Safeguarding Vulnerable Groups Act 2006⁷ ensures that employers and voluntary organisations have access to information about an individual's criminal record and barred status before engaging them in activities that pose the highest risk of abuse. This enables those organisations to ensure that a person providing personal care to older adults, for example, does not have a criminal record that would call in question their suitability for that type of work, and to check that they are not barred from working with vulnerable groups. People who are barred pose a continued risk to adults and they are prevented by the state from providing high-risk activities for adults including healthcare, personal care, social work and assistance with cash, bills or shopping.
13. The United Kingdom government has a prosecution policy for crimes against older people. Such offences are flagged to enable better tracking and to highlight that additional measures may be needed to support the giving of evidence. The policy recognises that access to justice is bound up with the status of older people and the regard in which they are held by society, and above all that older people must be treated with dignity whatever the circumstances.
14. The variety, context and prevalence of crimes against older people mean that the Crown Prosecution Service (CPS) works closely with social services, social care and health care inspection and regulatory bodies, general practitioners⁸, hospitals and advocacy and specialist services for older people when handling cases. This does not relate solely to matters of investigation and charge, but includes, where appropriate, supporting older people who are victims and witnesses.
15. The CPS work with a range of service providers that may be available locally to ensure that older people get the support they need that goes beyond the criminal justice system. For example, specialist advocacy services for older people, Victim Support⁹, or independent mental capacity advocates can play a critical role in providing ongoing support and assistance in communicating with professional agencies. These services can provide help to older people, whether or not criminal proceedings take place.
16. It is recognised that, on occasions, a key witness will feel intimidated to come forward and 'blow the whistle' on criminal behaviour in, for example, a care home or day service setting. These witnesses play a crucial role in exposing criminal practice and helping bring offenders to justice. The CPS has a range of programmes and policies that aim to put every victim and witness at the heart of the criminal justice system. In addition, support is available from a range of agencies at each stage of the criminal process: support needs are identified by the police, Witness Care Units and CPS prosecutors and other staff.
17. The CPS is fully committed to taking all practicable steps to help victims and witnesses through the often difficult experience of becoming involved in the criminal justice system through methods such as:
 - (i) The Prosecutors' Pledge: This ten-point pledge describes the level of service victims can expect to receive from prosecutors. It ensures that the specific needs of older and vulnerable victims are addressed. For example, prosecutors should challenge inappropriate questioning where the older person is not provided with sufficient time to respond or which unnecessarily confuses them.
 - (ii) The Code of Practice for Victims of Crime (Victim's Code): This sets out the obligations of the CPS towards victims. For example, section 7.8 of this Code states that CPS prosecutors must consider whether to make an application for special measures for potentially vulnerable or intimidated victims such as older people who are to be called as witnesses to give evidence.

⁷ <http://www.legislation.gov.uk/ukpga/2006/47>

⁸ A medical doctor who provides general primary care functions in the community such as the treatment of illness and the provision of preventative care and health education.

⁹ <http://www.victimsupport.org.uk/>

- (iii) Victim Personal Statements: This is a statement made by a victim of crime explaining the effect that the crime has had on them. Older people who are victims of a crime can use this statement to describe how they have been affected by the crime. They can talk about their wishes or needs during the case and any concerns they may have as a result of the offence, for example, about safety, intimidation or bail. They can mention their support (or absence of support) for the prosecution and any requests they have for help from any of the support agencies.
- (iv) The CPS East Midlands Community Engagement: As a result of community engagement activity, this CPS Area has developed a strategic alliance with several local and national organisations that represent and support the interests of older adults: the Age Action Alliance including East Midlands Later Life Forum and the national Change AGENTS. A number of presentations to both organisations have been made, raising awareness of the role of the CPS and its policy on crimes against older people. Feedback was provided from the hate crime scrutiny panel discussion, and information distributed to members. The Chief Crown Prosecutor attended the Change AGENTS Board meeting and support has been provided to its strategic advisory panel that informs their Executive Board. Both of these organisations provided very useful support when the Area's Hate Crime Scrutiny Panel focused on crimes against older people. The contacts have also contributed to an increase in understanding and confidence in handling issues facing older members of the community.

Part V: Social protection and employment

Housing

18. In 2012-13, the Government allocated £220m to local authorities in **England and Wales** to support the Disabled Facilities Grant (DFG). This grant helps fund the provision of adaptations to enable disabled people to live as comfortably and independently as possible in their homes, including in private and social rented housing. In addition, the Government has provided £51m between 2011 and 2015 to fund local handypersons services which provide help with small repairs, security and safety in the home. Such support can make a significant difference to older people's lives, reducing accidents and falls and the health and care costs that follow.
19. Sunderland¹⁰ Home Improvement Agency provides a service in supporting adaptations and other works to help disabled people remain living independently or to return home from hospital quickly. An environmental inspection is carried out in all homes where an adaptation is required. The inspection helps to identify risks and services that a service user may require but have not been identified and may also highlight the need for further adaptations or home improvements. In cases of palliative care a minor adaptations grant is available up to a maximum of £6000 with no financial test of resources, thus speeding up the process. The Agency's service has been recognised as good practice with an award for "excellence in delivering major adaptations".

Fuel Poverty

20. Fuel poverty is a serious concern in the United Kingdom and the Government is committed to developing ways to tackle it. The Department of Energy and Climate Change has a range of measures to tackle fuel poverty, including the Energy Company Obligation (ECO) and the Green Deal which will deliver affordable improvements to the energy efficiency of homes.

¹⁰ A city in northern England

21. Most older people receive an annual payment to help with fuel bills. The Government has retained the Winter Fuel Payment at £200 for a household with someone at the women's state pension age, and £300 for a household with someone aged 80 and over. Households with a vulnerable person on a low income may receive a payment for each week of cold weather. The Government has permanently increased the Cold Weather Payment from £8.50 a week to £25 a week. Around two million households will receive assistance each year through the Warm Home Discount scheme, with up to one million of the poorest pensioners receiving a discount of £130 off their electricity bill this year. The Government securely shares data with energy companies in order to identify the most vulnerable pensioners to receive the discount.
22. *Extending working life*
23. The UK abolished the Default Retirement Age (DRA) in 2010; individuals can now no longer be forced to retire from their jobs just because they have reached an arbitrary age. Employers can now only set a fixed retirement age if it can be objectively justified in their particular circumstances – but this is open to challenge before a tribunal. The UK Department for Work and Pensions' (DWP) Age Positive Initiative provides guidance¹¹ and case studies to employers and business organisations on employing older workers and the business benefits of adopting flexible approaches to work and retirement. The DWP's extensive Sector Initiative has been working with employer-led organisations across nine of the largest employment sectors to help employers manage removal of the DRA.
24. The UK's Age Action Alliance, an independent partnership of nearly 300 organisations, is working through its Healthy Workplaces group with the DWP, leading business and age expert organisations to develop and promote practical resources to help employers effectively manage the health and productivity of an ageing workforce. The DWP is currently undertaking the most radical reforms in the history of its welfare system. The UK Government, through Universal Credit, the Work Programme and Jobcentre Plus flexibilities, is making reforms to improve incentives and provide more effective support to those without work. Jobcentre Plus, the benefits and employment support arm of the DWP, works with a network of partners to best support customers of all ages, tailoring provision to individual needs as well as local needs. Examples of local approaches for customers aged 50 or over include customer focus groups, advice on becoming self-employed, Work Clubs, and specific IT provision for this age group.

Parts VI Care

25. The Health and Social Care Act 2012¹² sets out a new responsibility for the National Institute for Health and Clinical Excellence (NICE) to develop quality standards and guidance for social care in England. From April 2013, NICE's role will be significantly expanded to include its first set of joint health and social care quality standards, which were referred to the Institute by the Department of Health. The care and wellbeing of adults and children with autism, and the mental well-being of older people in residential care are amongst the first topics that will be developed into quality standards.
26. Quality standards are based on accredited and evidence-based guidance which can, amongst others, include NICE clinical guidelines and public health guidance. If this guidance does not exist or is considered insufficient, NICE will produce a set of guidance on these topics before moving on to develop the resulting quality standards. NICE will also produce social care standards and guidance on medicines management in care homes.

¹¹ Available at www.dwp.gov.uk/agepositive

¹² <http://www.legislation.gov.uk/ukpga/2012/7>

27. The Care Quality Commission (CQC)¹³ is the independent regulator of health and adult social care providers in England and has a key responsibility in the overall assurance of essential levels of safety and quality of health and adult social care services. Under the Health and Social Care Act 2008¹⁴ all providers of regulated activities, including NHS and independent providers, must be registered and continue to meet a set of registration requirements.
28. The 16 safety and quality registration requirements reflect the essential levels of safety and quality of care that people should be able to expect. Collectively, they form a coherent set and are built around the main risks inherent in the provision of health and adult social care services.
29. The scope of registration (i.e. which activities require registration) is proportionate to risk and based on the activity being carried out rather than the setting. This provides the same assurance of essential levels of safety and quality wherever people access services. In drawing up the list of regulated activities the Department considered the risk of harm to the person using the service, and what contribution regulation by the CQC could make to the mitigation of those risks. The scope of registration includes the provision of personal care where a person is living (domiciliary care agencies), or the provision of accommodation for people who require nursing or personal care (care homes).
30. Failure to comply with the requirements is an offence and under the 2008 Act, the CQC has a wide range of enforcement powers that it can use if the provider is not compliant.
31. The Department of Health's End of Life Care Strategy¹⁵, published in 2008, aims to improve care for people approaching the end of life whatever their diagnosis and wherever they are, including enabling more people to be cared for and die at home if they wish. It covers all adults in England with advanced, progressive illness and care given in all settings.
32. In particular, the Strategy aims to change people's attitudes towards discussion of death and dying so that they are comfortable with expressing their wishes and preferences for care at the end of life. It also aims to support the development of services in the community so that people can choose to die at home, or in a care home, if that is their preference.
33. The Government remains committed to implementing the End of Life Care Strategy. The new initiatives that the Government has set in motion, such as the work of the independent review into the funding of palliative care and the current palliative care funding pilots, as well as the introduction of Electronic Palliative Care Coordination Systems, will be key to continuing the momentum to delivering better care and increased choice for patients at the end of life.
34. In July 2012 the Government published the results of the first national survey of bereaved people. The VOICES (views of informal carers for the evaluation of services) survey was conducted during 2011 and 2012. The Department of Health, with support from the Office for National Statistics (ONS), produced a report, the 'First national VOICES survey of bereaved people: key findings report'¹⁶, to make the findings from the survey more accessible. This groundbreaking national survey, provides real evidence of the way patients and carers experience the care they receive at the end of life, helping to understand how people actually experience care at the end of life and giving commissioners of services an invaluable critique of services.

¹³ <http://www.cqc.org.uk/>

¹⁴ <http://www.legislation.gov.uk/ukpga/2008/14/>

¹⁵ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_086277

¹⁶ <http://www.dh.gov.uk/health/2012/07/voices/>

35. These new data provide the first systematic assessment of the quality of end of life care in different settings, for different conditions and in different parts of the country. With this information, local commissioners and providers will be able to target their service improvements. The survey – which is currently being repeated – will provide the data for an end of life care indicator in Domain 4 of the NHS Outcomes Framework (patients’ experience of care), which will be the measure against which the NHS will have to deliver improved outcomes for end of life care.

Part VII: Justice

36. The Prison Service Instruction “Ensuring Equality”¹⁷ sets out the framework for the management of equalities issues, including for older people, in prison. It sets out the policy approach and lists some key mandatory actions designed to ensure legal compliance. These are supplemented by comprehensive guidance in the annexes to the document.

37. The Department of Health has developed an Older Prisoner Care Pathway¹⁸. The purpose of this toolkit is to assist the delivery of individually-planned care for older prisoners whilst in prison, followed by successful resettlement back into the community, receiving the necessary support to sustain an optimum quality of life and reduce re-offending.

38. The National Offender Management Service (NOMS) provides grant funding to the charity RECOOP, which offers care and support to offenders aged 50 and over, to undertake some capacity-building work, broadening the knowledge base of prisons and voluntary sector organisations, and in doing so developing the range of support and interventions for older offenders across England and Wales.

39. The RECOOP website went live six months ago; in the time since, their members’ site¹⁹ for professionals working with older offenders and ex-offenders has reached over 75 members and over 150 free resources have been downloaded. Popular resources include:

- (i) NACRO²⁰ Resource Pack for Working with Older Prisoners;
- (ii) Information regarding the application of the Equality Act 2010 to older prisoners;
- (iii) RECOOP Capacity Building Project leaflet;
- (iv) Benefits of Older Prisoners’ Forums; and
- (v) Age UK Practice Ideas for Supporting Older People in Prison.

40. RECOOP have also managed projects at Leyhill and Dartmoor prisons. Working in partnership with Dartmoor prison and the Red Cross, some rooms have been converted into a wheelchair repair workshop and day centre for older prisoners. The aim is to improve their health and wellbeing, while teaching new skills, getting them involved in purposeful activity and making reparation to the community. The prisoners will also be volunteers for the Red Cross, which is keen to encourage skills in other activities such as first aid. The charity has already run a first aid and safer handling workshop as part of a recent and very successful Health Day.

¹⁷ http://www.justice.gov.uk/downloads/offenders/psipso/psi-2011/psi_2011_32_ensuring_equality.doc

¹⁸ http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_079928

¹⁹ <http://www.recoop.org.uk/pages/members/index.php>

²⁰ National Association for the Care and Resettlement of Offenders

41. At HMP Leyhill, RECOOP have developed the Lobster Pot, a centre for men over 50 in the prison. This was developed with prison staff in light of the evolving needs of this group of prisoners. The intention is for the Lobster Pot to become a 'one stop shop' for everyone over 50 providing information and advice on a range of subjects relevant to release and resettlement. The centre will also provide a range of strategies for healthy lifestyle choices, and provide purposeful activities, such as creative writing for all older prisoners.
42. A number of prisons have a dedicated unit for prisoners who require palliative care. This includes HMP Whatton, which has developed a palliative care unit where terminally ill prisoners can spend the last few days of their life. The unit has close links with local hospices in the Nottinghamshire and Lincolnshire area. The staff involved in the development of the unit have been awarded a Butler Trust commendation, for the implementation of high quality care for prisoners with a terminal illness.
43. Offender Health is working together with NOMS, the three prisons on the Isle of Wight and the local council, social services and local healthcare service. This project will look at the links between organisations and who is responsible for commissioning and providing the services to meet the prisoners' social care needs. This will feed into work by the Department of Health to develop and implement national protocols on social care provision and ensure minimum transferable standards across all prisons.
44. At Wakefield, the prison regime has been adapted to offer 'core day unlock' to older prisoners who do not wish to attend either off-wing activities or paid work. This facility enables prisoners to interact with their peer group in a less hectic environment. With the exception of two workshops, older prisoners are able to access all areas of the prison as ramps and lifts make the environment suitable for those with mobility issues.
45. Age UK have set up projects at Norwich and Hull prisons, forming partnerships with agencies in the community to run social engagement sessions and regular forums with the aim of promoting mental well-being and cognitive stimulation and to provide onward referral to appropriate specialist support services. Age UK Hull has supported the establishment and running of the "Buddy" schemes, has provided training to staff and prisoners at Everthorpe prison to raise awareness of the potential issues facing older men in custody, and has been involved in visiting local Approved Premises to discuss individuals and handing over to key workers post-release.

WALES

Human Rights Approach

The Welsh Government recognises that all public service partners must work collectively and embrace the opportunities and challenges that an ageing population will bring. A high priority has been given in Wales to the impact of demographic change on public services and the responses needed for the future as these trends continue.

Welsh Government Strategy for Older People

The Strategy for Older People has been based on the United Nations Principles for Older People (2002) since its inception and these are enshrined in the primary legislation that created the Commissioner for Older People in Wales (The Commissioner for Older People (Wales) Act 2006). This was a landmark move for Wales to make as this was the first time in the UK that the UN Principles had been used in Legislation in this way.

Phase 3 of the Strategy for Older People launched on the 22 May 2013 and will cover the period up to 2023. The Strategy sets out a vision for our ageing population and aims to improve quality of life for older people in ways that go beyond the traditional health and social care agenda – addressing discrimination, lack of opportunity for fulfilled lives, poverty and environments that create dependence and exclusion.

The Strategy Phase 3 clearly sets out the Welsh Government's challenge for the next ten years:

- To create a Wales where full participation is within the reach of all older people and their contribution is recognised and valued.
- To develop communities that are age-friendly while ensuring older people have the resources they need to live, will improve participation and individual wellbeing.
- To ensure that future generations of older people are well equipped for later life by encouraging recognition of the changes and demands that may be faced and taking action early in preparation. Population ageing is a permanent feature of our modern society. There is a need to work collectively and embrace this reality for the opportunities and challenges it brings.

Detailed Delivery Plans that set out commitments against the Welsh Governments portfolio will be published at the end of the year (2013). The Strategy has been developed based on engagement and consultation with older people from across Wales.

Commissioner for Older People

The proposal for a Commissioner for Older People originated in the development work that was undertaken to develop the Strategy for Older People in Wales in 2002.

The Commissioner for Older People (Wales) Act 2006 and subsequent Regulations in 2007 established the post of Commissioner for Older People and their office. The Commissioner is appointed by the First Minister for a period of 4 years renewable once through open competition.

The first Commissioner was appointed in January 2008 and took up post in April 2008. At the end of the 4 year term an open recruitment process took place and a second Commissioner was appointed.