

Public Policy Statement

Discrimination, Human Rights and Welsh language rights

September 2022¹

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. This must be robustly enforced by the Equality and Human Rights Commission.

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 ensures 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

¹ Welsh language rights section (November 2022).

justification. Most women diagnosed with breast cancer are over 50.² However, women aged over 70 years in Wales are not automatically called for breast cancer screening, and would need to self-refer. The Welsh Government must publish the objective justification for having upper-age limits on screening services for cancer.

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, and insurance, making it harder for older people to shop around for the best products. A signposting system exists for travel and motor insurance, but nothing similar for lending.

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.

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. 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.

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 supported to be able to exercise them, and are also aware when their rights have been violated. We welcome the rights based approach of Welsh Government's Strategy for an Ageing Society³ and the programme of work being taken forward to raise awareness of older people's rights.

The Welsh Language (Wales) Measure 2011⁴ makes Welsh an official language in Wales, and created Welsh language standards which promote and facilitate the Welsh language and ensure that the Welsh language is not treated less favourably than the

² [NHS 111 Wales - Health A-Z : Cancer of the breast, female](#) (Accessed 29/09/22)

³ Welsh Government (2021) [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)

⁴ [Welsh Language \(Wales\) Measure 2011 \(legislation.gov.uk\)](#)

English language in Wales.^{5,6} Welsh speakers have a right to receive Welsh language services from public organisations* without having to ask for those services, including, for example, letters, emails, online forms and telephone calls in Welsh, and the use of Welsh on websites and social media. These rights to use the Welsh language are created by the Welsh language standards to ensure that the language can be used in all aspects of everyday life.⁷

Welsh Government's Strategy for an Ageing Society highlights the importance of Welsh language services in health and care. For many older people using their Welsh is a matter of clinical need, especially those with dementia or have had a stroke who may lose their English language skills.⁸ Welsh Government's 'More than just words' five-year plan⁹ details how they will embed Welsh language in health and social care so that people can access the care they deserve and require. The five-year plan reported an inconsistency of progress with widespread variation in both the availability and quality of Welsh language services, and seeks to address such issues.

It is vital that those public organisations required to do so comply with Welsh language standards to ensure that people's rights to use the Welsh language in all aspects of everyday life are upheld.

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 must undertake a full impact assessment to identify the impact of any changes to the Human Rights Act on those with protected characteristics.
- 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, the Equality and Human Rights Commission and civil society should place a high priority on promoting

⁵ [Welsh language standards \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales/)

⁶ [Welsh language standards: Planning and Environment Decisions Wales | GOV.WALES](https://gov.wales/welsh-language-standards-planning-and-environment-decisions)

* There are over 120 public organisations required to implement Welsh language standards [Welsh Language Standards \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales/) Accessed 17/11/2022

⁷ ['Mae gen i Hawl' campaign \(welshlanguagecommissioner.wales\)](https://welshlanguagecommissioner.wales/)

⁸ [Age friendly Wales: our strategy for an ageing society | GOV.WALES](https://gov.wales/age-friendly-wales)

⁹ [More than just words \(gov.wales\)](https://gov.wales/more-than-just-words)

awareness, understanding and protection of human rights, in relation to older people.

- The UK Government and the Welsh Government, 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.
- Further to the United Kingdom exiting the European Union, we urge the UK Government to retain existing UK equalities legislation.
- 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 contact to combat ageism.
- 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 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 must publish the objective justification for having upper-age limits on screening services for cancer.
- 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.
- 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 services and support service providers to implement it by providing ongoing guidance and support.
- The UK and Welsh Governments and the Equality and Human Rights Commission must take steps to raise awareness of the ban on harmful age discrimination in services and support service providers to implement it by providing on-going guidance and support.
- Service providers must ensure that services provided online are high quality and easy to use, whilst offline services must be of equal quality and fully accessible, and must ensure that the provision of online information is not to the detriment of the provision of information in other formats.

- Recognising the high levels of multiple discrimination faced by some groups of older people, particularly women and Black, Asian and Minority Ethnic older people, in the media, in the workplace and in public life, section 14 of the Equality Act should be brought into force.
- 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.
- People must be supported in making as many decisions for themselves as possible, and where they are unable to do so, decisions must be made in that person's best interests, and principles of the Mental Capacity Act must be adhered to.
- Welsh Government must develop a policy to deal with the Deprivation of Liberty Safeguards (DoLS) backlog of applications until the Liberty Protection Safeguards (LPS) come into force.
- Welsh Government must effectively monitor the implementation of the 'More than just words' five-year plan to ensure that people can access the health and social care services through the medium of Welsh that they deserve and require.
- The office of the Welsh Language Commissioner must continue to ensure compliance with Welsh language standards.

Discrimination, human rights and Welsh language rights

This policy statement covers:

- Current legislation and policy
- Brexit
- Open-ended working group on ageing
- Ageism
- Age discrimination in health services
- Age discrimination in financial services
- Age discrimination in employment
- Digital exclusion
- Multiple discrimination
- Human rights
- Deprivation of Liberty Safeguards (DoLS) / Liberty Protection Safeguards
- Raising awareness of older people's rights
- Advice and support services
- Welsh language rights.

Note: The abuse and neglect of older people, access to justice and hate crime are covered in the Age Cymru public policy statement on 'Safeguarding older people'. Advocacy services are covered in Age Cymru's public policy statement on 'Information, Advice and Advocacy'.

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. 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)¹⁰ 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.

In Wales the PSED is supported by the Welsh specific equality duties.¹¹ In compliance with these, public authorities in Wales produce Strategic Equality Plans and report on

¹⁰ Equality Act 2010. S 149. http://www.opsi.gov.uk/acts/acts2010/ukpga_20100015_en_1

¹¹ The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
<http://www.assemblywales.org/sub-ld8462-e.pdf>

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 are meeting the PSED.¹²

The Equality and Human Rights Commission (EHRC) is the regulator of the PSED and monitors activity on the duty.¹³ 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 ensures that decisions they make do not disproportionately impact on particular groups, including older people.

In March 2021, the Welsh Government commenced the Socio-economic Duty under Part 1, section 1 of the Equality Act 2010. This applies to strategic decisions by Welsh Ministers and relevant public authorities.¹⁴ The Duty places a legal responsibility on bodies when they are taking strategic decisions to have due regard to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage.¹⁵

We welcome the commencement by the Welsh Government of the Socio-economic Duty in Wales, and we will be looking to Welsh Government to ensure that pensioners living in poverty benefit from this new measure, particularly in light of the current cost of living crisis.

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.

Welsh Government's Strategy for an Ageing Society's¹⁶ vision is an age friendly Wales that supports people of all ages to live and age well – a Wales where ageism does not limit potential or affect the quality of services older people receive. The Strategy states that 'ultimately, we want to be a nation that celebrates age and, in line with the UN

¹² Annual reporting, publishing and Ministerial duties: A guide for listed public authorities in Wales <https://www.equalityhumanrights.com/en/publication-download/annual-reporting-publishing-and-ministerial-duties-guide-listed-public> Accessed 29/09/22.

¹³ 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 29/09/22.

¹⁴ Welsh Government (2021) [Strengthening and advancing equality and human rights in Wales | GOV.WALES](#)

¹⁵ Welsh Government (2021) [WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)

¹⁶ Welsh Government (2021) [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)

Principles for Older Persons, a nation that upholds the independence, participation, care, self-fulfilment and dignity of older people at all times'.¹⁷

The Human Rights Act 1998 (the HRA, which incorporates the European Convention on Human Rights into domestic law) has greatly benefited older people in the UK, expanding legal protection and reinforcing the remedies that exist when these rights are breached. UK human rights legislation covers the whole of the UK but enforcement is devolved.

Since its inception, the HRA has been criticised for the perception that it gives some people too many rights, preventing the state from taking reasonable action. We believe that the HRA already embodies a balance of rights and responsibilities and that it is in the best interests of older people to maintain and strengthen the existing legislation. The HRA provides a strong foundation for preventing abuses of older people's rights and should be improved and strengthened.

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. At the time of writing, the Bill of Rights Bill, to reform the law relating to human rights, was introduced to the House of Commons and given its First Reading in June 2022.¹⁸ MPs were due to consider the Bill at the Second Reading on 12 September 2022,¹⁹ however on 7 September 2022 the current Bill was shelved and was deemed unlikely to progress in its current form.²⁰

The Human Rights Act has benefited older people in the UK. It has expanded legal protection for the rights of older people and helps to protect their dignity and safety at times when they are at their most vulnerable. It has also provided powers to investigate and remedy any breaches of these rights. We were concerned that proposals to replace the Human Rights Act with a Bill of Rights would significantly weaken the framework which protects the rights of ordinary people, including older people, as well as key mechanisms to investigate and remedy those breaches.²¹ We believe that a full impact assessment should be undertaken to identify the impact of any changes to the Human Rights Act on those with protected characteristics.²²

The human rights issues facing older people that have arisen during the Covid-19 pandemic include:²³

- the use of 'blanket' policies being applied to older people, including DNAR orders for care home residents

¹⁷ Ibid.

¹⁸ UK Parliament (2022) [Bill of Rights Bill - Parliamentary Bills - UK Parliament](#)

¹⁹ Ibid.

²⁰ [Bill of Rights: Liz Truss shelves plans to reform human rights law - BBC News](#)

²¹ Age UK (2022) Consultation response to Human Rights Reform: A Modern Bill of Rights [Microsoft Word - Age UK HRA reform consultation response final March 2022](#)

²² Ibid.

²³ Age UK (2020) [older-people-and-human-rights-during-the-covid-19-pandemic.pdf \(ageuk.org.uk\)](#)

- restricted access to the help, care and support that many older people needed to sustain their health and wellbeing with specific challenges faced by older people in residential settings, those who live alone and older people who receive care at home.

It is vital that human rights are protected, and that older people are included in plans for pandemic recovery.

Human rights are embedded across a wide range of Welsh legislation, including the Social Services and Well-being (Wales) Act 2014, which places a duty to have ‘due regard’ to the United Nations Principles for Older Persons on those who are carrying out functions in relation to adults with care and support needs, and for adult carers who need support.²⁴ 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’.²⁵

In January 2020 the Welsh Government commissioned research to examine options to strengthen and advance equality and human rights in Wales.²⁶ The research findings highlight that ‘The evidence received from research participants suggests dissatisfaction with the piecemeal incorporation of human rights in Wales which to date has been limited to indirect incorporation of international children and disabled people’s rights, and UN principles which promote the interests of older people. The evidence indicates support for incorporation of more human rights into Welsh law [...].²⁷ Amongst the many recommendations of the research were: ‘The Welsh Government should introduce primary legislation to give effect to international human rights in Welsh law through a Human Rights (Wales) Act to make select international human rights part of Welsh law so that they are binding on Welsh Ministers and public authorities in the exercise of devolved functions and may be enforced by a court or tribunal’; and ‘The Welsh Government should continue to examine options for incorporation of international human rights through sectoral legislation, with a particular focus on [...], and on older persons, [...]. The pursuit of general human rights legislation should not serve to undermine or postpone these efforts’²⁸

Welsh Government’s response to the commissioned research included ‘[...] Ministers have said that a holistic approach such as a Welsh Human Rights Bill should remain

²⁴ [The Welsh Government’s Response to the ‘Human Rights Act Reform: A Modern Bill of Rights’ consultation, launched by the UK Government on 14 December 2021](#)

²⁵ 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>

²⁶ Welsh Government (2021) [Strengthening and advancing equality and human rights in Wales | GOV.WALES](#)

²⁷ Welsh Government (2021) [Strengthening and advancing equality and human rights in Wales: summary \(gov.wales\)](#)

²⁸ Ibid.

under consideration and that other options, including in relation to older people's rights and children's rights, should also remain in view'.²⁹

Welsh Government has stated that it is committed to developing a 'Human Rights Approach' in relation to older people's rights.³⁰ The Strategy for an Ageing Society³¹ adopts a rights based approach that promotes equality and social justice across a range of policy areas,³² and it is vital that the Strategy is implemented to increase knowledge and raise awareness of the rights of older people across Wales.

It's essential that older people are aware of their rights and are able to exercise them. Welsh Government has published two guides Making rights work for older people – guide for health and social care professionals; and Making rights work for older people - guide for older people, and has funded Age Cymru to work with older people's groups to raise awareness of rights.^{33, 34}

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 and Welsh Government and the Equality and Human Rights Commission must take steps to raise awareness of the ban on harmful age discrimination in services and support service providers to implement it by providing on-going guidance and support.
- 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 must undertake a full impact assessment to identify the impact of any changes to the Human Rights Act on those with protected characteristics.
- 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 and Welsh Government, the Equality and Human Rights Commission and civil society should place a high priority on promoting

²⁹ [Strengthening and Advancing Equality and Human Rights in Wales research report: Welsh Government response](#),

³⁰ Ibid.

³¹ Welsh Government (2021) [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)

³² Ibid.

³³ Age Cymru. Human Rights project [Human rights project | Age Cymru \(ageuk.org.uk\)](#)

³⁴ [Strengthening and Advancing Equality and Human Rights in Wales research report: Welsh Government response](#),

awareness, understanding and protection of human rights, in relation to older people.

- The UK Government and the Welsh Government, 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.

Brexit

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.

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.³⁵

Public policy proposal

- Further to the United Kingdom exiting the European Union, we urge the UK Government to retain existing UK equalities legislation.

Open-Ended Working Group on Ageing

Under a mandate from the UN General Assembly, an Open-Ended Working Group on Ageing (OEWGA) has been considering how 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 a new 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.

³⁵ Age UK (2020) Human Rights, United Kingdom. Policy Position Paper [human-rights-feb-2020.pdf](https://www.ageuk.org.uk/human-rights-feb-2020.pdf) ([ageuk.org.uk](https://www.ageuk.org.uk))

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

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. 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. A 2018 report by the Royal Society for Public Health found that ageist attitudes exist across generations, affecting our health and wellbeing.³⁶

These ageist attitudes are all too often reflected and amplified by the media. Older people 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. This includes representation of older people which was also highlighted in Ofcom’s 2019 report ‘ Diversity and equal opportunities in television Monitoring report’ on the UK broadcasting industry.³⁷

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 people and to present a more positive image of later life in their programme making and broadcasting.³⁸

In Wales, recent research studies by the Older People’s Commissioner for Wales report that 8% of people aged 60+ in Wales have experienced discrimination which they felt was in some way related to their age; one in five older people (21%) say they would not be confident in identifying instances of ageism.³⁹

³⁶ Royal Society of Public Health, That Age Old Question, London, 2018, cited in Age UK (2020) Policy Position Paper. Ageism and Age Equality (Great Britain) [ageism-and-age-equality-feb-2020.pdf \(ageuk.org.uk\)](#)

³⁷ Age UK (2020) Policy Position Paper. Ageism and Age Equality (Great Britain) [ageism-and-age-equality-feb-2020.pdf \(ageuk.org.uk\)](#)

³⁸ Ibid.

³⁹ Older People’s Commissioner for Wales (2022) [Understanding-Wales-ageing-population-23-August.pdf \(olderpeople.wales\)](#)

Public policy proposals

- 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 contact to combat ageism.
- 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 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.

In Wales, a recent research study by the Older People's Commissioner for Wales highlighted that 8% of older people in Wales report that they have been made to feel too old to receive health services.⁴⁰

Most women diagnosed with breast cancer are over 50.⁴¹ However, 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 70.⁴² We believe that Welsh Government must publish the objective justification for having upper-age limits on screening services for cancer, including breast cancer and bowel cancer.

Public policy proposals

- Health services in Wales must be monitored and assessed against patient experience to ensure their compliance with the Equality Act 2010.

⁴⁰ Ibid.

⁴¹ [NHS 111 Wales - Health A-Z : Cancer of the breast, female](#) (Accessed 29/09/22)

⁴² ICM (2012) Age Cymru Wales Poll, March 2012.

- The Welsh Government must remove the upper age limit for invitations to breast cancer screening.
- The Welsh Government must publish the objective justification for having upper-age limits on screening services for cancer.

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, and insurance, making it harder for older people to shop around for the best products.⁴³ 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.⁴⁴ A signposting system exists for travel and motor insurance, but nothing similar for lending.⁴⁵

Public policy proposal

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

Age discrimination in employment

While many older people continue to enjoy fulfilling careers there are others who face discrimination and find they're unable to continue in their job or find new employment. For the country this is a waste of skills at a time when many sectors are experiencing skills shortages, and for the individual it's often devastating in relation to personal finances, health and self-esteem. Age discrimination in employment is illegal and the default retirement age was abolished in 2011. However, perceptions and stereotypes of older workers – usually negative – are still held and challenging these is of great importance. Ensuring that older workers aren't forced out of the labour market and providing appropriate support to those who do find themselves unemployed, is vitally important⁴⁶ and takes on increasing significance as a result of demographic change and the rising State Pension Age.

We believe that everyone should be able to remain in work as long as they desire and are capable of doing so, and that no-one should be disadvantaged because of their age.

⁴³ Financial Conduct Authority, [Access in Financial Services in the UK](#) 2016

⁴⁴ Just a number? age, complaints and the ombudsman, Financial Services Ombudsman, November 2015

⁴⁵ Age UK (2020) Policy Position Paper. Ageism and Age Equality (Great Britain) [ageism-and-age-equality-feb-2020.pdf \(ageuk.org.uk\)](#)

⁴⁶ See: Age Cymru (2021/2) EnvisAGE: A spotlight on employment and older people. [envisage15_english.pdf \(ageuk.org.uk\)](#)

Tackling prejudice and discrimination is an essential part of making work better. We welcome Welsh Government's Strategy for an Ageing Society⁴⁷ which highlights: 'If Wales is to have a workforce that is fit for the future, employers must consider the health and caring implications of this demographic shift and identify ways to create more age friendly workplaces and combat ageist stereotypes of older workers'.

There is evidence that ageism at work affects around 12% of older workers in Wales.⁴⁸ Based on Statistics Wales figures that there are just over 316,000 people aged 50-64 in employment in Wales, this would mean that almost 38,000 older workers feel that they've been treated less well at work because of their age.⁴⁹

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.

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. 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.

Employment is addressed in more detail in the Age Cymru public policy position on 'Employment and contribution', and

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.
- 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 services and support service providers to implement it by providing ongoing guidance and support.

⁴⁷ Welsh Government (2021) [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)

⁴⁸ Age Cymru (2021/22). EnvisAGE: A spotlight on employment and older people. Article by Martin Hyde: Employment trends and challenges for our ageing workforce. [envisage15_english.pdf \(ageuk.org.uk\)](#)

⁴⁹ Ibid.

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.⁵⁰

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. Technology can offer a vital portal to information and advice for older people but access and take-up remains low amongst older age groups.

Older people have told us about the increasing expectation by various service providers that everyone has a smartphone and access to the internet, with people being referred to online services, with no alternative formats being offered. It was felt that there should be respect for people's choices. Concern was expressed about the move to online banking and security issues as many local bank branches have closed. Online tickets for events can be a barrier to people who don't have smartphones. A major issue which was highlighted in Age Cymru's third national Covid survey was accessing GP surgeries and appointments - people told us of their frustration that they couldn't access online appointments or booking systems as they didn't have a computer.⁵¹

The National Survey for Wales reports shows that 31% of over 75s do not have access to the internet at home and 33% of over 75s do not use the internet (including Smart TV and handheld devices), compared to 13% of 65-74s and 0% of 25-44s.⁵² Older people are far less likely to have accomplished 5 digital skills compared to other age groups – 36% of over-75s and 58% of 65-74 year olds, compared to 79% of 45-64 year olds, 87% of 25-44 year olds and 89% of 16-24 year olds.⁵³

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.⁵⁴

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

⁵⁰ 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

⁵¹ Age Cymru (2022) [age-cymru---report-on-the-current-experiences-of-people-aged-50-or-over-across-wales-of-the-covid-19-pandemic-and-views-on-the-year-ahead---june-2022.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) (ageuk.org.uk)

⁵² Welsh Government (2022) National Survey for Wales April – June 2021. Available at: [National Survey for Wales: results viewer | GOV.WALES](https://www.gov.wales/national-survey-for-wales-2021) Cited in Older People's Commissioner for Wales (2022) [Understanding-Wales-ageing-population-23-August.pdf](https://www.olderpeople.wales/understanding-wales-ageing-population-23-august.pdf) (olderpeople.wales)

⁵³ Ibid.

⁵⁴ 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>

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.

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.

Public policy proposal

- Service providers must ensure that services provided online are high quality and easy to use, whilst offline services must be of equal quality and fully accessible, and must ensure that the provision of online information is not to the detriment of the provision of information in other formats.

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.⁵⁵

Public policy proposal

- Recognising the high levels of multiple discrimination faced by some groups of older people, particularly women, and older Black, Asian and Minority Ethnic people, section 14 of the Equality Act 2010 should be brought into force.

⁵⁵ Age UK (2020) Policy Position Paper. Ageism and Age Equality (Great Britain) [ageism-and-age-equality-feb-2020.pdf](https://ageuk.org.uk/ageism-and-age-equality-feb-2020.pdf) (ageuk.org.uk)

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.

Many older people 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 or 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.

The Human Rights Act 1998 has greatly benefited older people in the UK, expanding legal protection and reinforcing the remedies that exist when these rights are breached. Evidence shows that it helps to safeguard the dignity and safety of older people at times when they may be at their most vulnerable and heavily reliant on public services. For example, on several occasions residents have successfully challenged care home closures on the basis that the authority has not taken into account how their right to life or right to respect for private life would be affected.⁵⁶ The Act has also made it easier for members of the public to speak up and challenge poor treatment and breaches of their human rights without needing to take a case to the European Court of Human Rights in Strasbourg.⁵⁷

However, there are many older people who are not in a position to hold public authorities to account under the HRA as they face multiple barriers to doing so including mental and physical ill health, and fear of repercussions. Public authorities could be doing much more to meet their obligations under the HRA to act preventatively, by adopting human rights frameworks and ensuring that the right systems are in place.

Effective implementation of the Human Rights Act to protect older people is currently patchy, largely due to lack of awareness. There is more to do to ensure that older people understand their rights and are able to action them, and that staff in organisations that interface with older people are clear about their responsibilities and know how they apply in practice.

It continues to be a matter of serious concern across the UK 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 not covered (unless their care has been arranged by a local authority).

⁵⁶ Age UK (2020) Public Policy Position: Human Rights. United Kingdom [human-rights-feb-2020.pdf \(ageuk.org.uk\)](#)

⁵⁷ Age UK (2022) Consultation response to Human Rights Reform: A Modern Bill of Rights [Microsoft Word - Age UK_HRA reform consultation response final_March 2022](#)

Public policy proposal

- 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.

Deprivation of Liberty Safeguards (DoLS) / Liberty Protection Safeguards

Deprivation of Liberty Safeguards (DoLS) are applicable under the Mental Capacity Act 2005,⁵⁸ and are needed if restrictions or restraints used on a person will deprive that person of their liberty, and misuse of the safeguards could have a negative impact on a person's ability to exercise control of their own care. The Act includes DoLS for situations where people without capacity may be being deprived of their right to liberty, as a result of being confined to a hospital or care home. Care homes and hospitals have to seek authorisation if they consider they are, or may have to, deprive a person of liberty.⁵⁹

Older people who lack mental capacity for some decisions have little or no voice and are among the most excluded groups in society. They are all too frequently deprived of their human rights to freedom, respect, equality, dignity, and autonomy.⁶⁰

For too many older people who lack mental capacity, restrictive care or treatment is being sanctioned as a first measure rather than as a measure of last resort with many older people being unlawfully deprived of their liberty in care and health settings through a misuse of measures available under the Mental Capacity Act 2005.⁶¹

The Department of Health and Social Care and the Ministry of Justice has recently consulted⁶² on changes to the Mental Capacity Act 2005 Code of Practice, applying to England and Wales, including guidance on the Liberty Protection Safeguards, which are due to replace the Deprivation of Liberty Safeguards. The consultation includes draft regulations relating to the Liberty Protection Safeguards.⁶³

⁵⁸ 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>

⁵⁹ Age UK (2016) Policy Position Paper: Mental Capacity (England and Wales). April 2016. http://www.ageuk.org.uk/Documents/EN-GB/For-professionals/Policy/health-and-wellbeing/ppp_mental_capacity_England_and_Wales.pdf?dtrk=true

⁶⁰ Age UK (2016) Policy Position Paper: Mental Capacity (England and Wales). April 2016.

⁶¹ Age UK (2018) Consultation Response. UK Torture review. https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/equality-and-human-rights/age_uk_submission_to_cat_review_november_2018.pdf

⁶² The Department of Health and Social Care and the Ministry of Justice (2022) [Changes to the MCA Code of Practice and implementation of the LPS - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/changes-to-the-mca-code-of-practice-and-implementation-of-the-lps)

⁶³ Age UK (2022) [consultation-response-changes-to-the-mca-code-of-practice-and-implementation-of-the-lps-ministry-of-justice.pdf \(ageuk.org.uk\)](https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/consultation-responses-and-submissions/equality-and-human-rights/age_uk_submission_to_cat_review_november_2018.pdf)

We broadly welcome the changes to the Mental Capacity Act 2005 (MCA) Code of Practice and introduction of the Liberty Protection Safeguards (LPS). We believe aspects of the LPS will improve outcomes for older people and we particularly welcome the inclusion of a definition of deprivation of liberty in the draft MCA Code of Practice.⁶⁴

Welsh Government recently consulted on the Draft Regulations for Wales: Liberty Protection Safeguards.⁶⁵ In particular, we welcome:

- the emphasis on the person being the centre of the decision-making process and increasing participation, voice and control.
- the application of the framework to all settings where an older person may receive care or treatment, which we hope will provide better access to safeguards for those receiving care or treatment outside of a care home or hospital than is the case under the current framework. For example, those in receipt of 'hospital at home' services.
- the expectation that the LPS should be integrated with other care or treatment processes the older person may be subject to, such as the Social Services and Well-being (Wales) Act 2014.

However, we do have concerns regarding the proposed processes around the implementation of the LPS in Wales, in particular the current delays in the DoLS system which may prevent the new system from achieving improvements in the short term.

In particular, current delays in the DoLS system may prevent the new system from achieving improvements in the short term. The Care Inspectorate Wales (CIW) and Healthcare Inspectorate Wales (HIW) report on Deprivation of Liberty Safeguards for 20/21⁶⁶ shows that 55% of standard applications and 51% of urgent applications from health boards took more than 28 days to process. For local authorities the figures were 85% and 64% respectively. At year end, 32% of assessments were still in progress.

The current backlog in DoLS applications will still be there once LPS are introduced, unless steps are taken in advance to address this issue. Unless the backlog is addressed, the new system will be behind from the moment it is implemented.

It is vital that the new framework will bring about a significant improvement in processing applications, as the CIW and HIW report found that the length of time taken to process DoLS applications was poor, suggesting that supervisory bodies were unable to assure themselves that people's human rights were not being breached by being deprived of their liberty unlawfully.⁶⁷ A plan is needed on how the backlog can be addressed, which should take into account the number of Approved Mental Capacity Professionals (AMCPs).

⁶⁴ Ibid.

⁶⁵ Welsh Government (2022) [Liberty protection safeguards | GOV.WALES](https://gov.wales/liberty-protection-safeguards)

⁶⁶ Care Inspectorate Wales (CIW) & Healthcare Inspectorate Wales (HIW) Deprivation of Liberty Safeguards 2020-21 <https://hiw.org.uk/sites/default/files/2022-03/20220304%20-%20DoLS%20-%20FINAL%20ENGLISH.pdf>

⁶⁷ Ibid.

Public policy proposals

- People must be supported in making as many decisions for themselves as possible, and where they are unable to do so, decisions must be made in that person's best interests, and principles of the Mental Capacity Act must be adhered to.
- Welsh Government must develop a policy to deal with the Deprivation of Liberty Safeguards (DoLS) backlog of applications until the Liberty Protection Safeguards (LPS) come into force.

Raising awareness of older people's rights

It is essential that older people are aware of their rights and are supported to be able to exercise them, and are also aware when their rights have been violated. In many areas of society such as health and social care and in shaping our local communities, not only are the rights of older people often overlooked, but many older people are also unaware of their rights. We believe that work is needed in terms of culture and practice to promote and protect the rights of older people.

We welcome the rights based approach of Welsh Government's Strategy for an Ageing Society⁶⁸ and the programme of work being taken forward to raise awareness of older people's rights. It is vital that the Strategy is implemented to increase knowledge and raise awareness of the rights of older people across Wales.

Welsh Government has published two guides: Making rights work for older people – guide for health and social care professionals; and Making rights work for older people - guide for older people.

Age Cymru was funded from January to July 2022 to deliver a human rights project in partnership with the Welsh Government. The purpose of this project was to raise awareness of human rights, and to engage with older people across Wales to embed the message that older people are citizens and participants in society, who should expect to have their human rights upheld.^{69, 70}

The project created a short animated film 'Don't Get Me Started' which interviews older people across Wales, allowing them to explore issues that are important to them,⁷¹ and also developed an advocacy toolkit⁷² (see below).

⁶⁸ Welsh Government (2021) [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)

⁶⁹ Age Cymru. Human Rights project [Human rights project | Age Cymru \(ageuk.org.uk\)](#)

⁷⁰ Welsh Government [Strengthening and Advancing Equality and Human Rights in Wales research report: Welsh Government response,](#)

⁷¹ Age Cymru. Human Rights project [Human rights project | Age Cymru \(ageuk.org.uk\)](#)

⁷² Age Cymru (2022) Human Rights are Lifetime Rights [human-rights-toolkits-v8.pdf \(ageuk.org.uk\)](#)

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.⁷³

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. Older people's voices must be heard. Difficulty in making one's own views and wishes heard is a major barrier to exercising one's rights. Independent advocacy services can play an important role by helping people to have a voice and regain control in difficult situations, and can help secure their rights and represent their interests. Advocacy services must be available to everyone who needs them.

Age Cymru's human rights project, funded by Welsh Government, developed an advocacy toolkit⁷⁴ to be used by older people and anyone who advocates on behalf of older people, to help to support informed discussions around human rights in conversations about health, social care, and housing.

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'.

Welsh language rights

Cymraeg 2050 sets out Welsh Government's strategy to achieve a million Welsh speakers in Wales by 2050.⁷⁵

The Welsh Language (Wales) Measure 2011⁷⁶ makes Welsh an official language in Wales, and created Welsh language standards which promote and facilitate the Welsh language and ensure that the Welsh language is not treated less favourably than the English language in Wales.^{77,78}

Welsh speakers have a right to receive Welsh language services from public organisations* without having to ask for those services, including, for example, letters, emails, online forms and telephone calls in Welsh, and the use of Welsh on websites and social media. These rights to use the Welsh language are created by the Welsh language standards to ensure that the language can be used in all aspects of everyday life.⁷⁹

⁷³ Equality Advisory & Support Service <http://www.equalityadvisoryservice.com/> (Accessed 29/09/22).

⁷⁴ Age Cymru (2022) Human Rights are Lifetime Rights [human-rights-toolkits-v8.pdf](http://ageuk.org.uk/human-rights-toolkits-v8.pdf) (ageuk.org.uk)

⁷⁵ [Cymraeg 2050: Welsh language strategy | GOV.WALES](http://gov.wales/cymraeg-2050-welsh-language-strategy)

⁷⁶ [Welsh Language \(Wales\) Measure 2011](http://legislation.gov.uk) (legislation.gov.uk)

⁷⁷ [Welsh language standards](http://welshlanguagecommissioner.wales) (welshlanguagecommissioner.wales)

⁷⁸ [Welsh language standards: Planning and Environment Decisions Wales | GOV.WALES](http://gov.wales/welsh-language-standards-planning-and-environment-decisions-wales)

* There are over 120 public organisations required to implement Welsh language standards [Welsh Language Standards](http://welshlanguagecommissioner.wales) (welshlanguagecommissioner.wales) Accessed 17/11/2022

⁷⁹ ['Mae gen i Hawl' campaign](http://welshlanguagecommissioner.wales/maegenihawl) (welshlanguagecommissioner.wales)

Welsh language standards are a list of legal requirements, establishing the rights to use Welsh when dealing with public organisations.^{80,81} The Welsh Language Commissioner decides which standards to set on organisations.⁸² The purpose of Welsh language standards is to: ensure clarity to people in Wales what they can expect from organisations in terms of the Welsh language; ensure clarity to organisations in relation to the Welsh language; and ensure greater consistency in Welsh language services and improve quality to users.⁸³

Welsh language standards were introduced for social care and more recently for health, and Welsh Government's 'More than just words' Strategic Framework (see below) should effectively complement the implementation of the standards.⁸⁴

In 2012 Welsh Government published 'More than just words', a Strategic Framework to strengthen Welsh language services in health, social services and social care.⁸⁵

Follow-on strategic frameworks included seven priority areas: children and young people; older people; people with learning disabilities; mental health service users; people living with dementia; people accessing stroke services; and people accessing speech and language therapy services, putting the needs of the individual at the centre of care.⁸⁶ The frameworks aimed for a greater level of recognition among service providers that the use of the Welsh language is not just a matter of choice but also a matter of need.⁸⁷

The principle of an Active Offer was a core element of each framework, which meant providing a service in Welsh without someone having to ask for it, creating a culture that places the responsibility on health and social care providers to provide a proactive language offer so that people can access care, as equal partners, through the medium of Welsh.⁸⁸ The Active Offer conveyed the importance of Welsh language service provision not only as a right or a choice, but as an essential need for many Welsh speakers.⁸⁹

In August 2022, Welsh Government published the 'More than just words' five-year plan 2022-2027⁹⁰ on how they will embed Welsh language in health and social care so that people can access the care they deserve and require.

The five-year plan reported an inconsistency of progress with widespread variation in both the availability and quality of Welsh language services. There was also a lack of

⁸⁰ [Welsh Language Standards \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

⁸¹ ['Mae gen i Hawl' campaign \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

⁸² [Welsh Language Standards \(welshlanguagecommissioner.wales\)](https://www.welshlanguagecommissioner.wales)

⁸³ Ibid.

⁸⁴ [More than just words \(gov.wales\)](https://www.gov.wales)

⁸⁵ [Written Statement - More than just words.... Strategic Framework for Welsh language services in Health, Social Services and Social Care \(6 December 2012\) | GOV.WALES](https://www.gov.wales)

⁸⁶ [More than just words \(gov.wales\)](https://www.gov.wales)

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ [Ibid](#)

awareness of the Active Offer with little evidence of it being referenced in actual plans. The five-year plan seeks to address such issues,⁹¹ and the key aims of the plan are to: to embed a healthy culture of belonging for the Welsh language in health and social care and to deliver the aims and principles of More than just words; and to demonstrate evidence of leadership at all levels to support the use of Welsh to deliver quality services and improved outcomes for individuals.⁹²

We welcome the proposals and actions contained within this five-year plan, and in particular the emphasis on monitoring progress. It is vital that people who speak Welsh as their first language are accommodated and supported by health and social care services to communicate in Welsh. Communication is absolutely key to ensuring that service provision is effective, appropriate and, crucially, person-centred.

Findings of research which included drawing on the experiences and voices of people living with dementia⁹³ showed positive examples of Welsh speakers in some areas receiving a great deal of their care in Welsh and settings doing their best to provide Welsh language services despite constraints. In general, however, a number of people did not receive much of their care through the medium of Welsh, despite the fact that they would like to do so. The concerns of people afraid to ask for Welsh language services in case they did not receive services at all were also heard.⁹⁴

Welsh Government's Dementia Action Plan for Wales (2018-2022) highlights that for Welsh speakers living with dementia, receiving care and support in their first or preferred language is a matter of clinical need. The language needs of people living with dementia may change as the condition progresses, and services need to be aware of and able to respond to a person's language and communication needs. As their condition progresses, people with dementia may understand or be able to communicate in their first language only.⁹⁵

Welsh Government's Strategy for an Ageing Society highlights the importance of Welsh language services in health and care as the quality of care may be compromised by not communicating with people in their first language. For many older people using their Welsh is a matter of clinical need, especially those with dementia or have had a stroke who may lose their English language skills.⁹⁶

Issues around accessing Welsh language services are not just confined to health and social care. For example, Age Cymru Gwynedd a Môn has previously highlighted issues⁹⁷ around the difficulties in getting a Welsh representative on tribunal cases, which

⁹¹ Ibid.

⁹² Ibid.

⁹³ Age Cymru (2019) EnvisAGE 'Keeping voice, choice and control when growing older'. Welsh speakers' dementia care - article by Lowri W. Williams, written on behalf of the Welsh Language Commissioner and Alzheimer's Society Cymru. [Age Cymru | EnvisAGE \(ageuk.org.uk\)](https://ageuk.org.uk)

⁹⁴ Ibid.

⁹⁵ [dementia-action-plan-for-wales.pdf \(gov.wales\)](https://gov.wales/dementia-action-plan-for-wales.pdf)

⁹⁶ [Age friendly Wales: our strategy for an ageing society | GOV.WALES](https://gov.wales/age-friendly-wales-our-strategy-for-an-ageing-society)

⁹⁷ Age Cymru (2020) Consultation response to the Welsh Language Commissioner's 5-year report.

has often delayed the process and added extra stress to their clients - in one case the client had to wait two years. Tribunal cases can be a daunting task for people at the best of times, but to go to Court to battle for one's benefit entitlement without the arrangement to communicate through the medium of Welsh can be very stressful for some people, and means that they are unable to exercise their rights to use the Welsh language.

We believe it is especially important that service providers make Welsh language resources available to older Welsh speakers, particularly when they are discussing important information such as their personal health and social care and other personal information. Being able to communicate often sensitive and vital information through the medium of Welsh is likely to make that communication more effective and result in better outcomes for both the service providers and the older individual.

The Welsh Language Commissioner's Annual Report notes that in a recent survey of Welsh speakers in Wales: 42% of respondents indicated that they felt that opportunities to use Welsh were increasing in their daily lives and 57% felt that the opportunities to use Welsh with the public sector were increasing.^{98,99}

Welsh Government's Strategy for an Ageing Society highlights the importance of making it easier for people to access Welsh language services and use their Welsh wherever they are on their Welsh language journey – and the need to create an environment where everyone will want to use their Welsh and feel comfortable to do so in all aspects of their lives.¹⁰⁰ It is important that people can access everyday services such as, for example, council tax forms, housing benefit, housing advice and support and parking permits through the medium of Welsh, and for people to know where they can access information about the provision of care services through the medium of Welsh.

It is vital that those public organisations required to do so comply with Welsh language standards to ensure that people's rights to use the Welsh language in all aspects of everyday life are upheld.

Public policy proposals

- Welsh Government must effectively monitor the implementation of the 'More than just words' five-year plan to ensure that people can access the health and social care services through the medium of Welsh that they deserve and require
- The office of the Welsh Language Commissioner must continue to ensure compliance with Welsh language standards.

⁹⁸ [The Welsh Language Commissioner's Annual Report: A year of challenges and loss \(senedd.wales\)](#)

⁹⁹ Welsh Language Commissioner Annual Report 2021-22 [gen-ld15363-e.pdf \(senedd.wales\)](#)

¹⁰⁰ [Age friendly Wales: our strategy for an ageing society | GOV.WALES](#)