

Human Rights

United Kingdom

September 2023

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

Many older people experience infringements of their human rights in later life. In health and care settings this can take the form of abuse and degrading treatment, a loss of autonomy, a 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. The Covid-19 pandemic further exacerbated the lack of older people's rights in care settings and older people were subject to blanket bans on visiting, the widespread use of Do Not Resuscitate Orders, and unsafe discharge from hospitals to care homes.¹

Older people and human rights legislation

The Human Rights Act 1998, which brings the European Convention on Human Rights into domestic law, has greatly benefited older people in the UK. 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. It also provides a mechanism of redress when things go wrong. However, not all older people in social care settings in the UK are afforded the protections of the Human Rights Act – users of regulated care services who are paying for their own care are not covered for example.

The Windrush scandal

In 2017 it emerged that hundreds of Commonwealth citizens, many of whom were from or descendants of the 'Windrush generation', had been wrongly detained and deported. This was a contravention of their right to liberty and their right to family life.

A new UN Convention?

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.

Public Policy Proposals

- Any future human rights legislation must protect and strengthen 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 urge the Government to we urge the government to strengthen the Human Rights Act and ensure that public bodies have the resources to fully operationalise it.
- Public bodies should be effectively resourced in order to safeguard the rights of those in their care, and work should be undertaken so that staff at all levels working in these settings feel confident to promote and protect the human rights of older people.
- The Government must extend HRA 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.
- We urge the Government to tackle the Deprivation of Liberty Safeguards backlog and provide the resources Local Authorities require to fully operationalise the law in this area.
- Following the pandemic, the Government must ensure that older people's rights are properly considered in any future emergency planning.
- We call on the Government to address the delays and issues with the Windrush compensation scheme to ensure that it is accessible and fit for purpose.
- There is an urgent need to reframe the debate on human rights, emphasising the protection they provide to older people when they may be at their most vulnerable. Government, national human rights institutions, and civil society should place a high priority on promoting awareness and understanding of human rights, especially in relation to older people.
- We urge the Government to continue to support the development of a new UN Convention on the rights of older people.
- A distinct Bill of Rights for Northern Ireland should be developed to conform with the provisions of the Belfast /Good Friday Agreement. Age NI supports a strong and inclusive Bill of Rights for Northern Ireland, which should include rights supplementary to those in the ECHR, reflect the particular circumstances of Northern Ireland and have recognisable gains for the most vulnerable in society.

Want to find out more?

Age UK has agreed policy positions on a wide range of public policy issues. Our policies cover money, health and care, housing and communities, and crosscutting themes such as age equality and human rights.

www.ageuk.org.uk/our-impact/policy-research/policypositions/

ⁱ Age UK Written evidence to the Joint Committee on Human Rights on Human Rights in Care Homes
<https://committees.parliament.uk/writtenevidence/40781/pdf/>