

# Consultation Response

## **The United Nations Special Rapporteur on extreme poverty and human rights in the United Kingdom of Great Britain and Northern Ireland**

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Emily.McCarron@ageuk.org.uk

Age UK  
Tavis House  
1-6 Tavistock Square  
London WC1H 9NA  
T 0800 169 80 80 F 020 3033 1000  
E [policy@ageuk.org.uk](mailto:policy@ageuk.org.uk)  
[www.ageuk.org.uk](http://www.ageuk.org.uk)

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## Introduction

Age UK is a national charity that works with a network of partners, including Age Scotland, Age Cymru, Age NI and local Age UKs across England, to help everyone make the most of later life, whatever their circumstances.

In the UK, the Charity helps more than seven million older people each year by providing advice and support. It also researches and campaigns on the issues that matter most to older people. Its work focuses on ensuring that older people: have enough money; enjoy life and feel well; receive high quality health and care; are comfortable, safe and secure at home; and feel valued and able to participate.

## Key points and recommendations

- There are 11.8 million people aged 65 or over in the UK. The number of people aged 65+ is projected to rise by over 40 per cent (40.77%) in the next 17 years to over 16 million and by 2040, nearly one in four people in the UK (24.2%) will be aged 65 or over.<sup>1</sup>
- Poverty levels for older people are considerably lower than they were a couple of decades ago. However, there are still 1.9 million (16 per cent) pensioners living in poverty and Age UK is concerned that the downward trend seems to have stopped.
- Some groups are at greater risk. For example 35 per cent of private tenants and 24 per cent of social tenants are in poverty compared to 10 per cent of owner occupiers. Ethnicity is also important - 27 per cent of Asian or Asian British and 24 per cent of Black or Black British are in poverty.
- Despite existing domestic human rights and equalities legislation, older people in the UK continue to face extensive discrimination and human rights abuses in their daily lives that curtail their ability to live independently, autonomously, and with dignity.
- Poverty may compound these human rights issues. For example, digital exclusion prevents older people from accessing means tested benefits and also means that they may pay more for essential services which are discounted online.
- Older homelessness is on the rise as social welfare (and the network of information and advice often needed to access it) becomes increasingly stretched as a result of pressure on public funding.
- In particular, the failure of public funding for long-term 'social' care to keep pace with demand in supporting vulnerable people with activities such as washing,

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<sup>1</sup> National population projections for the UK, 2014-based, Office for National Statistics, 2015

toileting, and eating), pose a real threat to older people's human rights as they lose control over daily activities and where and when they receive social care.

- There are 542,000 older households (where the oldest person is aged 60+) in fuel poverty in England, affecting their health and contributing to excess winter deaths
- Cuts to local services and transport are limiting older people's ability to participate in family, social, cultural, community and political life.

## **What do we mean by poverty in later life?**

Age UK considers people to be living in poverty when their resources are not enough to meet their basic needs and also to allow them to take part in society.<sup>2</sup> Poverty and low income can be defined and measured in a number of ways and people's individual needs and circumstances vary. However, the most commonly used definition is to say that someone living in the UK is in poverty if they live in a household with an income below 60 per cent of the current median (or typical) household income, taking into account the number of people living in the household and, for children, their age. This can be measured before and after housing costs. Age UK generally uses the after housing costs figures because this is what people are left to live on after meeting their essential accommodation costs.

## **Levels of pensioner poverty in the UK and changes over time**

Using the most commonly used definition set out above (that is, income of less than 60 per cent typical household income after housing costs) 1.9 million pensioners (16 percent) are living in relative poverty. The numbers of pensioners in poverty has fallen over the last 20 or so years. Looking at the after housing costs measure, the main reduction occurred in the first decade of this century. However, since 2010/11 the numbers have remained more or less the same until 2015/16 when, worryingly, numbers rose with the figures unchanged in the latest year (2016/17).<sup>3</sup>

## **The risk of being in poverty**

As stated above in 2016/17, 16 per cent of pensioners in the UK had incomes, after housing costs, of less than 60 per cent median household income. Of these, over half (or 9 per cent of all pensioners) had incomes of less than 50 per cent median income (sometimes described as 'severe poverty').<sup>4</sup> Nine per cent of pensioners had incomes above 60 per cent, but less than 70 per cent, of median income (sometimes described as 'just above the poverty line').<sup>5</sup>

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<sup>2</sup> This is based on the definition used by the Joseph Rowntree Foundation. <https://www.jrf.org.uk/report/we-can-solve-poverty-uk>

<sup>3</sup> *Households below average income 1994/95 to 2016/17*, DWP 2018.

<sup>4</sup> Age UK, *Poverty in Later Life*, April 2018

<sup>5</sup> Age UK, *Poverty in Later Life*, April 2018

Some groups of pensioners are at greater risk of living in poverty<sup>6</sup>:

- Older pensioners: 19 per cent of those aged 80-84 and 17 per cent of those aged 85+ compared to 13 per cent of 65-69 year olds.
- Women: 14 per cent of women compared to 17 per cent of men.
- Single older women: 23 per cent of single women pensioners, compared to 18 per cent of single men and 13 per cent of couples.
- Tenants: 36 per cent of private tenants and 31 per cent of social rented tenants, compared to 12 per cent of older people who own their home outright.
- BME pensioners: 29 per cent of Asian or Asian British pensioners and 33 per cent of Black or Black British, compared to 14 per cent of white pensioners.<sup>7</sup>

High expenditure (e.g. on energy) may push some pensioners who are above the poverty line into poverty. On 17 September the independent Social Metrics Commission published a proposed new measure of poverty for the UK which takes into consideration the hidden costs of debt repayments, childcare and, the extra costs of living with a disability. Whilst the report states that overall, pensioner poverty has reduced, of the 1.4 million pensioner age adults in poverty, 900,000 live in families where someone is disabled.<sup>8</sup> However, we are concerned that the Commission has not included the cost of social care in its methodology, nor the need to keep a modest amount of savings to cover future contingencies.

## Material deprivation

The Department for Work and Pensions' annual 'Households below Average Income' report also includes a measure of 'material deprivation' among people aged 65 and over. This is based on questions asking if people have access to 15 basic items or services that research has shown to be a good indication of quality of life among older people: for example - having a damp free home, being able to pay regular bills, and seeing friends or family at least once a month. People are considered to be in material deprivation if they reach a certain threshold which links to lacking 3 items or more. The latest figures from DWP, found that around 800,000 pensioners aged 65 or over (7 per cent) were in material deprivation in 2016/17.

**Recommendation:** The Government should set targets for the continued reduction and eventual abolition of pensioner poverty. Age UK's position is that pensioner poverty should be halved by 2020, but progress has stalled. To achieve this goal the Government should work with national and local organisations to investigate the most effective ways of reducing poverty and establish a clear reform programme.

## Age discrimination

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<sup>6</sup> Households below average income: an analysis of the income distribution 1994/95 – 2016/17, DWP, 2018. Tables 3.5db, 6.3db and 6.4db. <https://www.gov.uk/government/statistics/hbai-199495-to-201617-population-data-tables>.

<sup>7</sup> Due to the small number of older people in non-white groups this is based on a three year average.

<sup>8</sup> Social Metrics Commission, *A new measure of poverty for the UK*, London, 2018.

Ageism and discrimination prevent many older people from accessing employment. For example, in employment, unjustified age discrimination is still rife, in spite of 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.

A deterioration in income which results in loss of financial independence increases people's dependence on others, thereby depriving them of the ability to live independently and autonomously.

**Recommendation:** The Government must make the case for employing older workers more effectively, in particular to smaller businesses, including improving awareness of age discrimination. With the UK's ageing workforce, employers must recognise that older workers often have the skills and expertise necessary to add value to their business, and judge people on their individual attributes rather than stereotypes.

## Means tested benefits

Means-tested benefits provide a safety net to protect older people on the lowest incomes yet many miss out on this vital support despite work to encourage take-up of benefits. The most recent DWP analysis<sup>9</sup> (which applies to 2015-16) shows that 19 per cent of pensioners who are entitled to Housing Benefit are not receiving it; about a third of a million pensioner families (single people or couples) are not getting the Housing Benefit due to them; and nearly a billion pounds in benefit (£950,000) goes unclaimed each year.

Problems claiming can be compounded by lack of support to make a claim. Historically, local authorities have funded many local advice services, and the Care Act 2014 set out high level requirements for local authorities to provide a universal information and advice service on care and they are also required to provide public health information. Yet the Competition and Markets Authority found that the support and advice offered by local authorities to those needing care is both variable and limited, particularly for people not eligible for financial support. This is a result of a 28.6% real-terms reduction in local government spending power since 2010iv: for example, in 2018/19 a quarter of local authorities are planning to reduce spending on local Citizens' Advice Bureaux, on top of cuts in previous years. A third are further reducing spending on libraries, which often act as an informal gateway to sources of information and advice, including online information. Many other advice centres, including local Age UKs, are fighting to maintain consistent and well-staffed services, with the pressures of high demand in urban areas and access challenges in rural areas.

In early 2018, Age UK carried out a mystery shopping exercise, ringing 100 randomly picked local councils in England, to ask what options people have if they want to claim help with their rent and council tax but do not use the internet. Experiences varied but around two-fifths (41 per cent) of councils told us that claims have to be made online, or by downloading a form from their website, and others strongly encouraged online claims. The

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<sup>9</sup> Income-related benefits: estimates of take-up: financial year 2015/16 DWP, 2017. <https://www.gov.uk/government/statistics/income-related-benefits-estimates-of-take-up-financial-year201516>

proportion of people in older age groups using the internet has increased over recent years but approximately half of people aged 75+ have never used the internet.<sup>10</sup> Our concern is that the move to online claiming is acting as a barrier to older people, making people even more reluctant to claim.

**Recommendation:** Local councils and other providers should assess the impact that providing services online has for different groups protected by the Equality Act and make sure their services are equally accessible to all.

## Older homelessness

Age can be a significant factor in the vulnerability of homeless people. Older homeless people are often identified as those aged 55 and above, because homelessness and long periods of rough sleeping can accelerate ageing and health conditions associated with ageing. You are likely to die at a much younger than average if you become homeless.

It is a serious concern that we do not have a current and accurate picture, but overall, we have seen an increase in homelessness which is likely to impact on many older people. The Local Government Association report that there has been a 111 per cent increase in older (over 60) statutory homeless applicants since 2009/10.<sup>11</sup> Specialist homelessness agencies, like St.Mungo's, and Thames Reach, suggest that older people form a significant and particularly vulnerable group among the homeless population.

The key difficulties experienced by homeless older people include: a lack of specialist resettlement services and long term support; difficulties finding specialist housing to move on to from hostels that cater for people with multiple needs; a lack of trust among older clients requiring a more intensive approach; an acceleration of the ageing process due to rough sleeping and poor conditions; frail older people being discharged from hospital on to the streets and not put in touch with the relevant support services; a high incidence of mental health problems, sometimes combined with drug and alcohol issues; and difficulties around identifying and treating older homeless people with dementia and learning difficulties. There is a notable lack of services designed for older homeless people.

**Recommendation:** The Ministry of Housing, Communities, and Local Government should urgently commission up-to-date research on the numbers of older homeless people in England and use it as the basis for targeted action with local authorities and voluntary agencies.

## Social care

In recent years, funding for older people's social care in the UK has suffered extensive cuts, leaving the provision of this care in a state of crisis. Cuts to social care funding mean that fewer older people in the UK, proportionately, are eligible for social care support. The

<sup>10</sup> Internet Users in the UK ONS, 2017.

<https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2017>

<sup>11</sup> Local Government Association, The Impact of homelessness on health: a guide for local authorities, 2017.

result is that there are now 1.4 million older people who have difficulty with daily living activities such as eating, bathing and taking their medication, whose needs are not fully met by either paid or unpaid carers thereby severely limiting their ability to live independently.<sup>12</sup>

Funding cuts to social care have also meant that people are unable to receive the type and level of social care that respects their dignity and autonomy. For 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. Under the Act, care homes and hospitals have to seek authorisation for a 'Deprivation of Liberty Safeguard' (DOLS) if they consider they are already in, or may have to move a person into, more restrictive care or treatment in that person's 'best interests'. Ultimately, this deprives a person of their liberty, which is why it is necessary to seek a DOLS under the Mental Capacity Act.

Despite the legislation, underfunded councils are not properly resourced to undertake the assessments of deprivation of liberty, as well as reviewing cases in the necessary timescales. As a result, there are many people whose deprivation does not have suitable conditions placed on it or should not be occurring at all.<sup>13</sup> There currently exists a backlog of over 100,000 referred cases waiting for authorisation. The Mental Capacity (Amendment) Bill currently in the House of Lords attempts to address these issues by proposing a specific system for authorising arrangements which amount to a deprivation of liberty in a care home. However, the system set out in the Bill will only work if truly person-centred, good quality care and support is in place which remains a significant challenge in the current environment, where in the past five years there has been a £160 million cut in total public spending on older people's social care.

**Recommendation:** Local Authority funding for care homes should be sufficient to enable the provision of high quality care and sufficient availability of places.

**Recommendation:** Care home residents are still citizens with legal rights and protections. This means that residents should be assured of security of tenure, respect for dignity and human rights, freedom from abuse, and support to take action if these rights are infringed.

## Pressure on public spending and public services

Older people's autonomy and independence have also been impacted on as local authorities have cut access to local services, including transport, day centres, and lunch clubs, for older people. Lack of public transport, or somewhere to sit down, or access to clean public toilets limits how far older people are able to get around and poor quality pavements, poor street lighting or fear of crime can stop people feeling confident enough

<sup>12</sup> See the Care Quality Commission, *The state of health care and adult social care in England 2016/17*, October 2017.

<sup>13</sup> See the Select Committee on the Mental Capacity Act 2005, *Mental Capacity Act 2005: post-legislative scrutiny*, House of Lords, 2014.

to go out at all. This limits people's rights to participate in family, social, cultural, community and political life. The characteristics of rural areas, with low population densities and large distances between residential and/or commercial centres, can exacerbate the challenges older people face.<sup>14</sup>

**Recommendation:** The Government needs to make reducing social isolation and loneliness a priority in public transport policy and funding.

**Recommendation:** Equality and human rights legislation must inform the reshaping of our public services to meet the needs of our diverse older population and to gain the benefits of empowering them to participate in age friendly communities.

## Fuel poverty

There are 542,000 older households (where the oldest person is aged 60+) in fuel poverty in England, according to the latest statistics. This equates to about 1 million people aged 60+. There are 2.3 million households in fuel poverty of all ages. The depth of fuel poverty is highest among older households; the average fuel poverty gap (between required and median costs) for people aged 60+ is £450.<sup>15</sup>

During winter 2014/15 there were an estimated 43,900 excess winter deaths in England and Wales, the majority of which were among older people. At the root of many winter deaths are cold, poorly insulated homes. Guidance published by NICE in 2015 highlights the health implications of living in a cold home – estimated to cost the NHS at least £1.36 billion per year – and calls on health services, housing associations and local authorities to work together to reduce fuel poverty and its associated health impacts.

**Recommendation:** Age UK wants to see major investment to improve the energy efficiency of the housing stock. This is the best way to tackle fuel poverty and reduce bills.

## The human rights framework

The human rights of older persons in the United Kingdom are contained in two key pieces of legislation: the Human Rights Act 1998 which incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law; and the Equality Act 2010 which brought together all the already existing legislation covering equality and discrimination in the UK into one single piece of legislation which protects the rights of individuals and advances equality of opportunity for all. There is no separate piece of legislation that refers specifically to the rights of older people.

Despite these two major pieces of legislation, older people in the UK continue to face extensive discrimination and human rights abuses in their daily lives. Furthermore, whilst these two acts cover civil rights, political rights, cultural rights, economic rights and the rights to equality and non-discrimination, neither refer to specific social rights including the

<sup>14</sup> Holley-Moore, G. & Creighton, H., *The Future of Transport in an Ageing Society*, Age UK and ILC, 2015.

<sup>15</sup> Annual Fuel Poverty Statistics Report, DECC, 2015



rights to health, social security, social care, an adequate standard of living, adequate housing, and food.

**Recommendation:** Age UK strongly believes that a UN Convention on the rights of older persons which has at its core a strong emphasis on promoting and protecting older people's rights to autonomy and independence and support for independent living would address many of the issues outlined above. This Convention should also contain a fuller articulation of social rights and explicitly prohibit age discrimination.