

# **Close to home**

## **An inquiry into older people and human rights in home care**

### **Executive summary**



**Equality and  
Human Rights  
Commission**

## **Inquiry into older people and human rights in home care**

Nearly 500,000 older people receive essential care in their own home paid for wholly or partly by their local authority.

For too many this care delivered behind closed doors is not supporting the dignity, autonomy and family life which their human rights should guarantee.

Good quality home care is invaluable in providing older people with the support they need to keep their independence and control over their lives in familiar surroundings.

The inquiry, the first of its kind into this issue, has found that although many older people receive care at home which respects and enhances their human rights, this is by no means a universal experience. It uncovered areas of real concern in the treatment of some older people and significant shortcomings in the way that care is commissioned by local authorities.

It also found that the legal safeguards provided by the Human Rights Act, which should be used to guarantee respect for the human rights of older people, including preventing inhuman or degrading treatment, are not as widely used as they should be.

Bare compliance with the Act is not enough; public authorities also have 'positive obligations' to promote and protect human rights. There is also a significant legal loophole which means that the majority of older people who receive care at home – that is, if they pay for all or part of it themselves or if it is delivered by a private or voluntary sector organisation – are not protected by the Act.

[www.equalityhumanrights.com/homecareinquiry](http://www.equalityhumanrights.com/homecareinquiry)

## **Key findings**

### **The experience of older people receiving home care**

Around half of the older people, friends and family members who gave evidence to the inquiry expressed real satisfaction with their home care. At the same time the evidence revealed many instances of care that raised real concerns such as:

- Older people not being given adequate support to eat and drink (in particular those with dementia) and an unfounded belief that health and safety restrictions prevent care workers preparing hot meals.
- Neglect due to tasks in the care package not being carried out, often caused by lack of time.
- Financial abuse, for example money being systematically stolen over a period of time.
- Chronic disregard for older people's privacy and dignity when carrying out intimate tasks.
- Talking over older people (sometimes on mobile phones) or patronising them.
- Little attention to older people's choices about how and when their home care is delivered.
- Risks to personal security, for example when care workers are frequently changed sometimes without warning.
- Some physical abuse, such as rough handling or using unnecessary physical force.
- Pervasive social isolation and loneliness experienced by many older people who lack support to get out and take part in community life.

Many of these incidents amount to human rights breaches. The cumulative impact on older people can be profoundly depressing and stressful: tears, frustration, expressions of a desire to die and feelings of being stripped of self-worth and dignity – much of which was avoidable. Many affronts to dignity stemmed from easily rectifiable issues, such as not covering somebody with a towel while washing them. The underlying causes of these practices are largely due to systemic problems rather than the fault of individual care workers and are caused by a failure to apply a human rights approach to home care provision.

### **The effects of different commissioning practices for home care services**

Many of these problems could be resolved if local authorities made more of the opportunities they have to promote and protect older people's human rights in:

- the way home care is commissioned
- the way home care contracts are procured and monitored.

It appears that commissioning is not being consistently used to protect human rights effectively. Indeed some commissioning practices make the experiences that older people described more likely to happen. Although practices varied a great deal, very few seemed to be consistently underpinned by local authorities' awareness of their duties under the Human Rights Act, including their positive obligations to promote and protect human rights. Local authorities appear to have a patchy understanding of these obligations, as reflected in their commissioning documents.

We found that:

- Some commissioning was driven by quality, and referred to human rights standards throughout the process, while other practices focused foremost on price. Cost pressures lead to shortened care visits and increase the risks to older people's human rights and to the quality and safety of their care.
- Whilst financial restraint is an inescapable reality, our evidence shows that some local authorities are still successfully finding innovative ways of doing things differently, rather than doing less of the same.
- In some cases, the terms for delivering home care were so tightly defined and inflexible that older people received a 'one size fits all' service that did not take into account their diverse preferences based on their religion, gender, sexual orientation, disability or cultural heritage. A 'time and task' approach which did not reflect people's wishes or fluctuating needs made some older people feel like "a task to be undertaken". Most said they had little or no choice over what support they got or the timing of care visits.
- Monitoring of contracts often focused on checking outputs and processes. Good practice, using a more person-centred approach, looked at quality of outcomes including human rights standards.
- There is a clear need for supportive senior leadership on the central importance of quality, including respect for human rights principles such as dignity and personal autonomy, in the services commissioned.
- Local authorities who use telephone contact lines to decide whether a person needs a community care assessment may be screening out older people from being assessed for care without first understanding their needs.
- Where there is good practice by local authorities who understand their legal obligations under the Human Rights Act, their commissioning approach benefitted from listening to older people.

### **Other challenges to older people's human rights**

A number of other interlinked factors are contributing to the human rights risks identified in our findings. Our evidence points to:

- Differential treatment related to age. Human rights are universal – they should not be conditional on age or any other status. However there was evidence of ageist attitudes towards older people, and indications that less money is spent on their care compared to other age groups, with care packages unlikely to support activities outside the home. However, age discrimination in services has not yet become unlawful.
- A lack of suitable information on the different processes and options for obtaining care and on the quality and different specialisms of care providers, so as to allow older people to make informed choices. People require more guidance than just being given a list of local care providers.
- Patchy or no advocacy and brokerage support on offer to assist older people interested in self-directed personalised home care.
- The lack of investment in care workers – the low pay and status of care workers – is in sharp contrast with their level of responsibility and the skills they require to provide quality home care. Poor pay and conditions also affect staff retention, causing a high turnover of care workers visiting older people.

## **How can threats to human rights in home care be brought to light?**

Many difficulties older people are experiencing with their home care go undiscovered and unresolved. It was striking how reluctant older people are to make complaints. They did not want to get their care workers into trouble, feared being put into residential care and did not want to 'make a fuss'. The vast majority want low level, informal methods of resolving issues without making a formal complaint. Whilst some local authorities and care providers have taken steps to create a regular dialogue between providers and older people, we found that the current ways for older people to raise issues about their home care service are either insufficient or not working effectively for these reasons:

- Many older people are not clear how to make a complaint or how to find out about making one. This is even less clear for self-funders.
- Few older people had taken an active part in arranging their care. Many of those whose care was set up and managed by their local authority felt they had little say, and some were surprised to hear they had any choice at all.
- Older people do not know what standards of home care they should expect when their human rights are respected.
- Too much reliance is placed on self-assessment of quality by care providers and more could be done to allow the unconstrained voices of older people to be heard by local authorities, regulators and providers so that any threats to human rights can be picked up and resolved as early as possible.

## **Our recommendations**

This inquiry has been undertaken at an important point for social care, when the funding and delivery of care faces fundamental reform. This presents a good opportunity to make the changes we recommend. Our full report makes a number of detailed recommendations which fall into the following three categories:

### **Proper protection**

The gaps in the current legal system need to be closed so that older people receive better protection. In particular, the loophole in the Human Rights Act needs to be closed so that home care is covered in the same way as residential care. The Commission will be working to secure support for these essential changes.

### **More effective monitoring**

Local authorities need to do more to incorporate human rights into the ways in which they commission care services and need to overcome the barriers which many older people face when raising concerns or making complaints. Problems in care delivery do not come to light quickly enough. The Commission will support local councils in understanding what they need to do and what is best practice.

### **Better guidance**

Older people and their families need to have access to better information when making choices about care provision and also need to know more about how their human rights should be protected when care is delivered. The Commission will work with private providers and the voluntary sector to provide accessible guidance on human rights for older people receiving care.

Clearer guidance on human rights obligations should be provided to local authorities for use in the commissioning process. The Commission will work with partners to produce this guidance.

A copy of the full inquiry findings report which includes recommendations for change is available separately on our website, together with supplementary reports which were obtained or prepared in the process of our evidence collection at

[www.equalityhumanrights.com/homecareinquiry](http://www.equalityhumanrights.com/homecareinquiry).