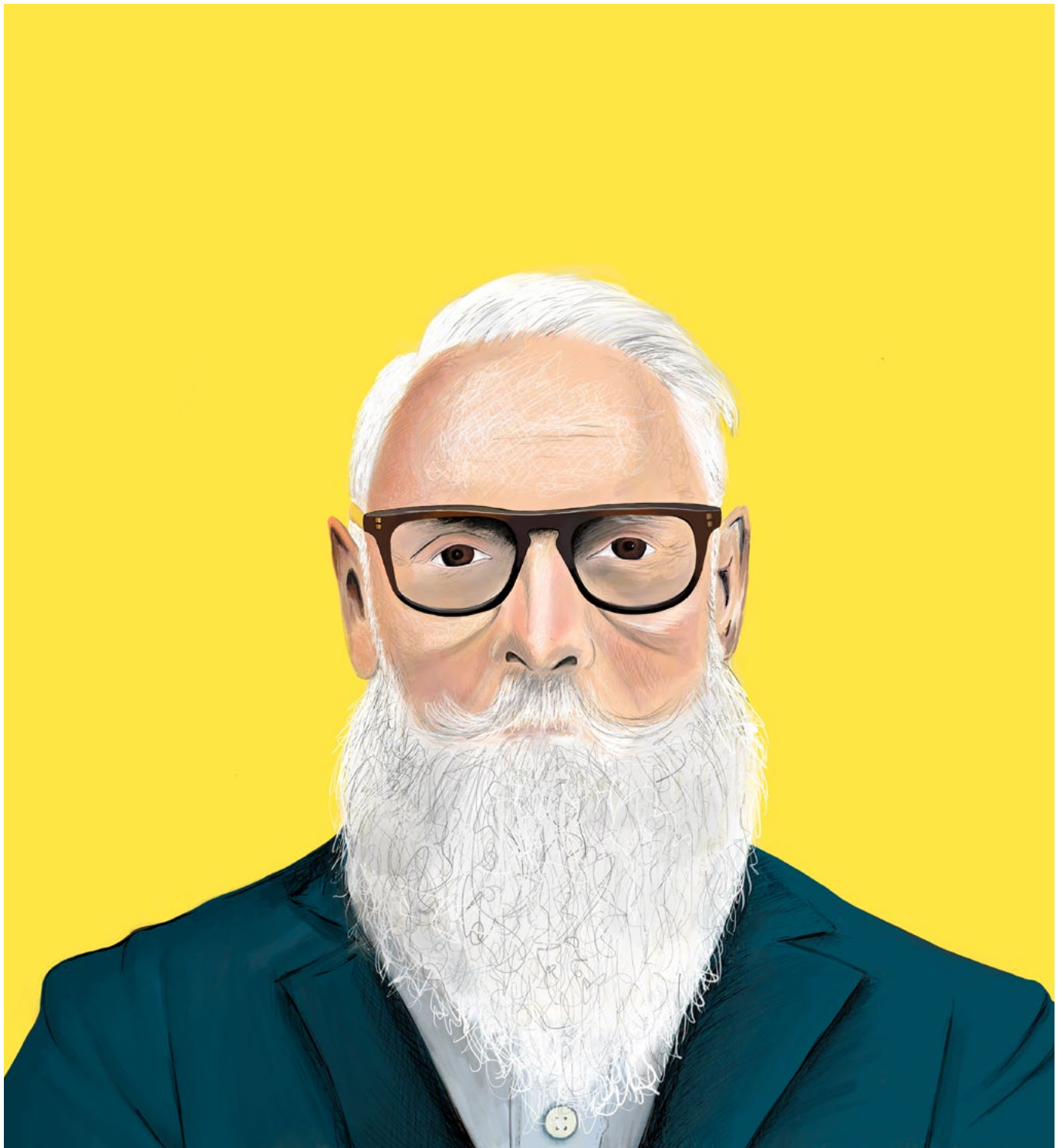


Human Rights are Lifetime Rights



Introduction

Human rights are basic rights that belong to all of us simply because we're human. They embody the key values which underpin our society such as fairness, dignity, equality and respect.

They are an important means of protection for us all, especially those who may face abuse, neglect and isolation. Most importantly, these rights give us power and enable us to speak up and to challenge poor treatment from a public authority.

As we age, we're still entitled to the same human rights that we were born with. The topic of human rights can sometimes sound abstract or academic, but every day we encounter situations that relate to our human rights.

It can be read alongside the Making Rights Work For Older People <https://gov.wales/your-rights-care-and-support-older-person> booklets produced by Social Care Wales in partnership with the Welsh Government, and the Social Care Wales Hub learning resources <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy> on providing professional advocacy. There are two versions of Making Rights Work For Older People. The first is designed to help public bodies comply with the Social Services and Well-being (Wales) Act 2014 and the Human Rights Act 1988, as well as the UN Principles For Older Persons. This version is available at <https://gov.wales/older-peoples-rights-care-and-support>. The second version is written with the general public in mind, in plain and clear language. This booklet is available at <https://gov.wales/your-rights-care-and-support-older-person>.

Similarly, in 2013 the Older People's Commissioner For Wales produced A Declaration of the Rights of Older People in Wales. This remains an excellent guide to the rights of older people, which sets out what rights you should expect, and how they relate to different Articles of the Human Rights Act.

There are many other excellent guides to advocacy and human rights, and we list some at the end of this toolkit.

Who is this toolkit for?

This toolkit can be used by older people and anyone who advocates on behalf of older people. This might include friends, family, carers, a professional or a volunteer advocate. We hope that it helps to support informed discussions around human rights in conversations about health, social care, and housing.

Age Cymru is currently delivering two advocacy projects: the dementia advocacy project and HOPE (Helping Others Participate and Engage). Our dementia advocacy project works with paid advocates to support people living with dementia to have a voice in decisions that are being made. Referral forms and contact details can be found on our website <https://www.ageuk.org.uk/cymru/our-work/advocacy/> HOPE delivers independent advocacy support through a network of trained volunteers. If you would like to find out more about this or would like to volunteer for the project, please contact advocacy@agecymru.org.uk.

We recognise that everyone will have different levels of prior understanding of both advocacy and human rights, and at the end of the toolkit we will signpost to other resources that you might like to explore to expand your knowledge. There is a lot of good work being undertaken in this area, and we want to celebrate this where we can.

If you would like to find advocacy support, you could contact our Age Cymru advice line on **0300 303 44 98**. There are many other brilliant organisations out there providing advocacy services. You might like to contact Dewis (<https://www.dewis.wales>), or check this list of advocacy providers listed by the Older People's Commissioner for Wales (<https://www.olderpeoplewales.com/en/assistance/advocacy-hub/providers.aspx>).

This easy-read advocacy charter sets out what you might expect from an advocacy service, <http://connectlambeth.org/wp-content/uploads/2020/06/The-Advocacy-Charter-Easy-Read.pdf>.

Human Rights Quiz

Before delving further, why not test your knowledge about the history of human rights?

1. In which year did the United Nations adopt the Universal Declaration of Human Rights?

- a. 1918
- b. 1945
- c. 1948
- d. 1955

2. In which country was the first Older People's Commissioner appointed?

- a. Wales
- b. Finland
- c. New Zealand
- d. Thailand

3. In 1991 the UN adopted further specific principles about the human rights of older people, organised around themes. What are the themes they chose?

- a. Wellbeing, participation, care, self-fulfilment, and dignity
- b. Independence, participation, care, creativity, and dignity
- c. Independence, prosperity, care, self-fulfilment, and dignity
- d. Independence, participation, care, self-fulfilment, and dignity

4. True or false: In order to breach someone's human rights, inhumane or degrading treatment must be deliberate and intentional?

5. True or false. Your right to respect for private and family life, home and correspondence is a qualified right, and may be restricted if the restriction is necessary and proportionate?

6. In what year was the Human Rights Act introduced in Wales?

- a. 1997
- b. 1998
- c. 2001
- d. 2010

7. True or false, you can use the language of human rights outside of formal legal processes?

8. What do we call the process by which human rights are embedded into public policy in Wales, where bodies are expected to take human rights into account?

- a. Due regard
- b. Due attention
- c. Rights in action
- d. Rights in Wales

9. True or false, you cannot take cases to the European Court of Human Rights now the UK has left the European Union?

10. True or false, Hospitals are allowed to put a 'Do Not Resuscitate' order on your file if you are above the age of 85?

Answers

1. C, 2. A, 3. D, 4. False, 5. True, 6. B, 7. True. 8. A. 9. False. 10. False.

Starting a conversation

You can use this page to jot down what score you got on our quiz, and anything else that came to mind while you were taking it. Were there any surprises for you? What questions are you hoping to get answers for in this booklet?

Kings College London and the British Institute of Human Rights have designed some tools to help people start conversations on the topic of human rights in social care settings and care homes. There is a personality test and a creative story dice activity available to download from this site <https://blogs.kcl.ac.uk/socialcareworkforce/2020/12/10/toolkit-for-reflection-on-human-rights-in-the-context-of-social-care>.

They also produced a reflective activity that you can try now:

A human rights anthem (song or poem) for me is...

The purpose of human rights for the people I support is...

An example of where I see human rights in action is...

Something that puzzles me about human rights is...

A person or group who I think are strong promoters of human rights is...

I see the responsibility for ensuring human rights are met lying with...

I think you can know human rights are being met when...



If I was describing human rights to a person who hadn't heard of the concept I would say...

How we talk about human rights

As you read about human rights, you are bound to notice that different organisations talk about human rights in different ways. This can be confusing, and so on this page we look at some key similarities and differences between the terminology you will come across.

Professor John Williams, legal expert and Chair of Age Cymru’s Board of Trustees, introduced us to this quote from Eleanor Roosevelt:

“Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world...Unless these rights have meaning there, they have little meaning anywhere.”

This can remind us that whatever language we use to talk about human rights, the heart of every model is enabling people to live with dignity.

	The Human Rights Act 1998	United Nations Principles for Older Persons	Welsh Declaration of the Rights of Older People
What is the legal status?	Enshrined in law since 2000. This brought the European Convention on Human Rights treaty into law, after first being signed in 1951.	Adopted by the General Assembly of the UN in 1991.	Developed in Wales in 2013.
Why was this document developed, and what does it do?	<p>Sets out the fundamental rights that every person has into a series of ‘Articles’. Some of these are absolute rights, and some of them are qualified rights.</p> <p>These articles apply to everyone, regardless of age or citizenship status. This Act means that you can seek justice through the courts and that public bodies must respect your rights.</p>	<p>Was introduced in order to reflect that people are living longer, and that many of the stereotypes about older age are incorrect.</p> <p>It has a great deal of influence, including on the Social Services and Well-being (Wales) Act, and the Welsh Government’s Age Friendly Wales: Our Strategy For An Ageing Society.</p>	Developed by the Older People’s Commissioner for Wales, along with her Advisory Group. This group included national older person led organisations, such as The Welsh Senate for Older People, as well as Age Alliance Wales, Professor John Williams, the Welsh Government and regional representatives of the National Partnership Forum.

Why was this document developed, and what does it do?	You can bring human rights cases to the UK courts as well as to the European Court in Strasbourg.		Like the UN Principles, this has been influential to the development of policies in Wales.
How are the rights set out?	These articles are taken from ECHR's convention rights, and align with the UN Declaration of Human Rights.	These Principles are grouped around the themes of: Independence, participation, care, self-fulfilment, and dignity.	Each right is then paired with the relevant Articles from the Human Rights Act, as well as relevant quotes from older people. For example, "Don't make me sing 'Daisy, Daisy'...I like Status Quo."
What is the language like?	Written in fairly formal language. For example: "Article 8 protects your right to respect for your private and family life". These articles apply to everyone, regardless of age or citizenship status.	Each of these themes is then broken down into smaller parts, written in clear language. The Social Care Wales document, Making Rights Work For Older People, uses the UN Principles, grouping their case studies under each theme.	The Declaration talks about older people's rights in accessible language and using the first person, so that they are easily understood. For example, "I have the right to be who I am." We used these to structure our interviews in our new video, and they enabled some great conversations about human rights.

You might need to draw on one or more of these ways of thinking about human rights. For example, if you want to take legal action to address a breach of rights then you will need to use the language of the Human Rights Act. For talking specifically about the rights and needs of older people, the UN Principles for Older Persons might help you make your case. To make your language more engaging, you might want to draw on the Welsh Declaration of the Rights of Older People.

It's important to note that age is one of the protected characteristics under the Equality Act (2010), and this law should protect you from direct discrimination, indirect discrimination, harassment, and victimisation. You can read more about the Equality Act on our website

What is advocacy?

An advocate is someone who supports you to put your views forward, and helps you ensure that your rights are respected, and your needs are met. There is a broad range of advocacy, from peer advocacy, where someone with similar life experience to you advocates on your behalf, to statutory advocacy, where you are legally entitled to an advocate.

Unfortunately, we know stereotypes about older people can mean that their voices can get lost or disregarded when making vital decisions around housing, health, and social care. This is why the work of advocates is so important, especially in helping older people remain independent and free from abuse.

Advocates will listen to you, provide you with relevant information, and help you explore your options. Advocates should not be judgemental about you or the situation you're in. Advocates may also undertake a range of tasks, including writing letters for you, assisting you to write letters or make calls, helping you prepare for important meetings, accompanying you to appointments, and whatever else you feel is necessary.

An advocate must not put forward their own views, but should be helping you express yours, and supporting you to use and develop your self-advocacy tools.

Use the space below to jot some ideas about what you feel advocacy is and isn't about. We've got some of our own suggestions on the next page.

Advocacy isn't

- Befriending
- Counselling
- Mediation
- Advice. They will set out your options, but they will not tell you to take a particular action.
- Impartial. Advocates will not be putting across their own personal views. However, sometimes advocacy services may be affiliated with an organisation you are seeking a resolution with, such as energy companies. They might provide very good advocacy, but will also be representing the interests of their employer.
- Dependency
- Legal Support.

Advocacy is about

- Getting better services
- Being treated equally
- Being included
- Redressing the balance of power
- Safeguarding
- Rights
- Stating a case
- Influencing decisions
- Ending assumptions
- Working in a person-centred way.

Advocacy is

- Support
- Representation
- Empowerment
- Choices
- Rights
- Having a voice
- Making Decisions
- Confidential, where possible. Your advocate might need to share information with someone else in case of safeguarding but will not be gossiping about your case or sharing it publicly.

Age Cymru advocacy is always free, not time restricted, and non-judgemental.

These key principles are borrowed from the 'Getting In On The Act' document, developed by Age Cymru, in partnership with Disability Wales, Swansea University and former Action for Advocacy Chief Executive Martin Coyle. They explore Part 10 of the Social Services and Well-Being Act on advocacy and how advocacy fits with other parts of the Act. This document and the rest of the learning resources are available here: <https://socialcare.wales/hub/hub-resource-sub-categories/advocacy>.

Human Rights in Wales

Human rights are not a devolved area, which means that laws about human rights are made by the UK Parliament rather than by Senedd Cymru.

However, Welsh law has embedded human rights through ‘indirect incorporation’ using ‘due regard’. This means that authorities have a duty to take human rights into account when exercising specific functions.

There are three examples of this, but for us the most relevant is the Social Services and Well-Being (Wales) Act 2014.

Wales has also differentiated its approach by introducing the Well-Being of Future Generations (Wales) Act 2015. This Act requires public authorities to consider the impact of their decisions on equality. In 2021 this was joined by the socio-economic duty, which places a duty on public bodies to consider how their decisions can improve equality of outcome for those who are at a socio-economic disadvantage.

If you are interested in Wales’ approach to human rights, you could read the 2021 report, ‘Strengthening and advancing equality and human rights in Wales’, available at: <https://gov.wales/strengthening-and-advancing-equality-and-human-rights-wales>.

Social Services and Well-being (Wales) Act 2014

This legislation came into effect in 2016. The Act provides the legal framework for improving the well-being of people who need care and support, and carers who need support, and for transforming social services in Wales. The Act aims to give people greater freedom to decide which services they need, giving them a stronger voice and control.

The fundamental principles of the Act are:

- **Voice and control** – putting the individual and their needs at the centre of their care, and giving them a voice in, and control over, reaching the outcomes that help them achieve wellbeing
- **Prevention and early intervention** – increasing preventative services within the community to minimise the escalation of critical need
- **Wellbeing** – supporting people to achieve their own wellbeing and measuring the success of care and support
- **Co-production** – encouraging individuals to become more involved in the design and delivery of services.

You can read the essentials of the Social Services and Well-being (Wales) Act 2014 here: <https://gov.wales/sites/default/files/publications/2019-05/social-services-and-well-being-wales-act-2014-the-essentials.pdf>.

What has this got to do with rights and advocacy?

The Act says that:

- The Welsh Government's definition of well-being explicitly relates to a person's ability to secure rights and entitlements. Many of the other aspects of well-being also relate to rights, such as control over day-to-day life, protection from abuse and neglect, and being part of the community
- People will be able to get help from an independent advocacy service to make a complaint
- Welsh Ministers may make regulations that tell a local council to arrange advocacy services for people who need care and support
- Anyone who runs a care home must tell people about advocacy services.

The Part 10 Code of Practice (Advocacy) that was issued alongside the Act sets out a Code of Practice on the exercise of social services functions in relation to advocacy under Part 10 of the Act, and any other related parts of the Act.

This Code of Practice placed a requirement on local authorities to arrange provision of an Independent Professional Advocate under certain circumstances. You can read all of the Part 10 Code of Practice here <https://gov.wales/sites/default/files/publications/2019-05/part-10-code-of-practice-advocacy.pdf>

Age Friendly Wales: Our Strategy for an Ageing Society

In 2021 the Welsh Government launched their Strategy for an Ageing Society <https://gov.wales/age-friendly-wales-our-strategy-ageing-society>, and in 2022 they followed this up with a detailed delivery plan and news of £1.1million to support local authorities to engage with older people and work towards membership of the WHO's Network of Age Friendly Cities and Communities.

Theme 3 of the delivery plan <https://gov.wales/sites/default/files/publications/2021-10/our-strategy-for-an-ageing-society.pdf> outlines the importance of taking a rights-based approach. The Welsh government state that a rights-based approach will empower older people to have choice and control over how they travel, where they live and work, their incomes, and the choices they make while planning for later life. It is clear that in Wales there is a strong commitment to supporting the human rights of older people.

Role of the Commissioner

In Wales we have the Older People's Commissioner working to protect and promote the rights of older people. Her current priorities include protecting and promoting older people's rights, including strengthening the rights of older people living in care homes, and ending ageism and age discrimination. The Commissioner has an Advice and Assistance team who provide direct support if you are 60+, living in Wales, and experiencing problems with services such as health, social care, or housing. To contact the Commissioner's Advice and Assistance team you can visit <https://olderpeople.wales/advice-and-assistance-team/> or write to Older People's Commissioner for Wales, Cambrian Buildings, Mount Stuart Square, Cardiff, CF10 5FL, telephone them at 03442 640 670 or 029 2044 5030, or email ask@olderpeoplewales.com.

The Commissioner has also produced an excellent guide to the law regarding the Protection of Older People in Wales. This booklet covers human rights as well as consent, refusal and mental capacity; deprivation of liberty; confidentiality and data protection; powers of access and arrest, and other issues relating to the law. You can access that booklet here: https://olderpeople.wales/library/Protection_of_Older_People_in_Wales_-_A_Guide_to_the_Law_2019_2.pdf.

The Equality Act: Welsh Specific Duties

The Equality Act was brought into law in 2010 across the UK. However, to support the implementation of the Act there are also specific duties. These duties are devolved powers, and this means the situations in England, Scotland, and Wales are different.

The Public Sector Equality Duty in Wales goes further than in England and contains specific provisions about engagement and equality impact assessments.

Equality Impact Assessments are a tool that can be used by organisations to make policies and decisions, ensuring that they do not discriminate against people based on any protected characteristics under the Equality Act, such as age.

People have been able to use the Public Sector Equality Duty to challenge decisions made by local authorities, asserting their right to be free from discrimination.

All Wales Dementia Care Pathway of Standards

In 2021 Improvement Cymru launched the All Wales Dementia Care Pathway, aiming to provide a clear pathway towards implementing effective standards within dementia care in the next two years. This is important for us as Standard 11 states that Wales will adopt the Dementia Friendly Hospital Charter which takes a rights-based approach, and Standard 15, which talks about the use of advocacy to ensure the rights of the person are upheld. You can view this document here <https://phw.nhs.wales/services-and-teams/improvement-cymru/news-and-blog/publications/dementia-standards/>.

The Active Offer for services in the Welsh language

The Active Offer is part of the Welsh language standards, as part of the Welsh Language (Wales) Measure 2011. Organisations must provide a service in Welsh without people having to ask for it. It is important to ensure that services make sure that people's preferences and needs are accommodated. Sometimes older people who speak Welsh as their first language find that they are more comfortable talking about intimate topics in their first language, especially if they are living with dementia.

The Active Offer was derived from the Welsh Government Strategy More Than Just Words... Strategic Framework for Welsh Language Services in Health, Social Services, and Social Care <https://gov.wales/sites/default/files/publications/2019-04/more-than-just-words-progress-report-year-2.pdf>.

If you would like to contact the Welsh Language Commissioner's staff about issues relating to the Active Offer, you can email them at post@cyg-wlc.wales, call them on 0345 6033 221 or write to Cardiff Office, Market Chambers, 5-7 St Mary Street, Cardiff, CF10 1AT.

Human Rights

These are the Articles under the Human Rights Act:

Article 2: Right to life

- Everyone has the right to have their life protected by law
- A ‘Do Not Resuscitate’ order should not be placed on your medical file without consultation, nor should an institution have a policy saying that DNR orders can be placed on all people over a certain age. Regardless of whether a person does or does not have capacity, it remains essential that decisions relating to end of life care are made on an individual basis
- Medical staff should not make assumptions about the quality of life of older people
- In the Welsh Declaration of the Rights of Older People, this relates to the section on safety, security and justice
- Sometimes, patients cannot access treatment due to insufficient resources. Public authorities should have policies to make sure their resources are distributed fairly. Human rights arguments may come up when authorities need to justify their decisions.

Article 3: Freedom from torture and inhuman or degrading treatment

- Everyone has the absolute right not to be tortured or to be treated in an inhuman or degrading way
- This Article isn’t just about deliberate torture, but any treatment that causes severe mental or physical harm, or any treatment that is grossly humiliating and undignified
- Only the most serious cases of ill treatment are covered by this right, but they do not need to be deliberate.

Article 4: Freedom from slavery and forced labour

- Everyone has the absolute right to be free from enslavement or perform forced work. Modern slavery can take on many forms but there might be signs, such as victims having their passports taken away, being locked into their accommodation between shifts, or being told that they must work to pay off massive debts
- The North Wales Police and Crime Commissioner said that he has seen an increase of older people forced into modern slavery during his tenure.

Article 5: Right to liberty and security

- Everyone has the right to both liberty and security. Older people might assert these rights by campaigning for streetlights to allow them to confidently walk around their community in the evening, or by asking for support to attend events or go shopping
- Your right to liberty can be limited if you have been detained under the Mental Health Act, or if you have been lacking capacity to consent to treatment.

Article 6: Right to a fair trial

- Everyone has the right to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law
- You have the right to be in court during a trial, so courts must be made accessible, and you have a right to legal representation or an interpreter
- The Senior Women For Climate Protection Switzerland are bringing a case to the ECHR to say that they were not given a fair trial. Previously, they had tried to bring a lawsuit against the Swiss government for violating their right to life by not taking action on climate change, but this lawsuit was dismissed. They said this dismissal violated their right to a fair trial, so they once more used human rights to advocate for themselves.

Article 7: No punishment without law

- You cannot be punished for something that was not a crime when you did it.

Article 8: Respect for your private and family life, home and correspondence

- This is a very broad category that applies to many human rights issues that older people experience
- This right overlaps with a few items in the Welsh Declaration of the Rights of Older People, including “I have the right to decide where I live, how I live and with whom I live,” “I have the right to be who I am,” and “I have free will and the right to make decisions about my life.”
- It covers your right to determine your sexuality, your lifestyle, the way you look and dress, your right to control who sees and touches you. It also includes your right to participate in economic, social, cultural and leisure activities
- Family life includes relationships between unmarried couples as well as with adopted and fostered children
- You are also protected from public authorities entering your home without good reason.

Article 9: Freedom of thought, belief and religion

- Everyone has the right to freedom of thought, conscience, and religion, and to practice these beliefs alone or with others
- This could include your right to wear items associated with your beliefs, such as a headscarf or a cross necklace
- This can also include beliefs such as atheism, agnosticism, veganism or pacifism
- This is conditional on the expression of your beliefs not infringing on the rights of others.

Article 10: Freedom of expression

- The right to express your views through public protest and demonstration
- It also includes the right to express your views through broadcasting, literature, social media, works of art etc
- It also gives you the right to receive information and opinions
- This right can also be limited in certain circumstances.

Article 11: Freedom of assembly and association

- Everyone has the right to peaceful protest and to join associations such as political parties or trade unions
- In Wales we have a number of national organisations for older people advocating for their rights, as well as a number of local 50+ forums.

Article 12: Right to marry and start a family

- Everyone has the right to marry and start a family, if it is legal for them to do so. This is your decision, and stereotypes about what it is appropriate for older people to do should not affect your decision.

Article 14: Protection from discrimination in respect of these rights and freedoms

- The Equality Act provides more protection from discrimination, but Article 14 protects you from discrimination in the enjoyment of all the other rights
- Age is covered by the Equality Act, but it is important to know about Article 14 too
- For example: you should not be denied lifesaving health treatments just because of your age. This is a case of age discrimination impeding your right to life.

How do rights affect our lives?

It might be helpful to look at rights not just in terms of the individual rights themselves, but how they relate to some of the most important issues that affect older people: housing, social care and health care.

Housing

An Age UK briefing on housing states that, “The Department of Communities and Local Government (DCLG) has projected that older households over 65 will represent almost half (48 per cent) of all household growth up to 2026.

Older people want comfortable and attractive housing alternatives that promote healthy and active lifestyles – but too often they find themselves in poor or inaccessible housing, in the wrong places.”

Housing connects to many human rights issues, whether you choose to remain living independently at home, or whether you want to look at various options which offer more support. The UN Principles for Older Persons includes a right to live at home as long as possible, so no one should make you feel that you can't make that choice.

There are other rights relating to housing:

- You have a right to liberty and security. You should be free to come and go as you please, and to have a home where you feel safe from abuse, and safe from being burgled or stolen from
- You have a right to peaceful enjoyment of your property, including your home
- You have a right to respect for your private life, home, and correspondence
- You have a right to life, no-one should force you to live in accommodation where the standards jeopardise your right to life.

If you want more information about your housing options and how they relate to your rights, call Age Cymru Advice on 03003034498 or visit our website www.agecymru.org.uk/advice

Health and Social Care

Health and social care services are under pressure. We know that it can be extremely difficult to ensure older people get the support they need, and carers are often left to manage alone. This means that older people should be aware of their rights, so that they can act if their rights are not being met.

- You have the right to respect for private and family life. This includes being able to talk about medical issues in private, having visits from family and friends in hospital, or if you are not treated well while receiving care
- You have the right to be free of serious mistreatment and neglect in a hospital or care home, and the right to regular food and drink
- You have the right to not being restrained for long periods of time
- You should not have a do not resuscitate order placed on your file without your consent, and you should not be refused treatments just because of your age. You should also be protected from serious medical malpractice.

To find out more about social care, including your right to a needs assessment, please contact Age Cymru Advice to access our factsheet on social care.

Absolute, limited, and qualified rights.

Human rights are divided into three categories: absolute, limited, and qualified rights.

Absolute rights can never be restricted or limited.

These include:

- Your right not to be tortured or treated in an inhuman or degrading way
- Your right to life.

Limited rights: these rights can be limited in specific circumstances which are described in the Human Rights Act.

For example, being detained following a criminal conviction does not breach your right to personal freedom.

Qualified rights: The majority of rights are qualified in some way. These rights may be restricted in order to be balanced with the interests of the wider community; however any restriction of a person's rights must be:

- Lawful
- Legitimate
- Necessary
- Proportionate

For example, if a care home resident wanted to add a religious poster to a notice board, and that poster said that it was unacceptable to be gay, they might be asked to take their poster down. It would not be a breach of their human rights to freedom of thought and belief, as it interferes with the rights of other residents to live free of discrimination.

What is a human rights based approach?

A human rights based approach is about using the framework and language of human rights to empower people, and ensuring that the principles of human rights are used by organisations and in policies affecting people's lives. The Welsh Government has written about the importance of taking a rights based approach in their Age Friendly Wales: Strategy For An Ageing Society <https://gov.wales/age-friendly-wales-our-strategy-ageing-society>.

This approach is about asserting that older people are not passive recipients of care, but citizens who have the same human rights they were born with. As people grow older there is a risk that services and organisations start to look at people in a different way and treat them in a way they wouldn't have treated them when they were younger.

Human rights provide weight to our arguments when we need to make the case that the situation we are dealing with isn't right.

The European Union Agency for Fundamental Rights said that the human rights based approach is about a "shift from thinking about old age in terms of 'deficits' that create 'needs' to a more comprehensive one encompassing a 'rights-based' approach towards ageing...A human rights approach does not contradict the reality of age-specific needs; on the contrary, a rights-based approach enables one to better meet needs, as required, while framing them in a human rights-based narrative"

Similarly, the Scottish Human Rights Commission say that "a human rights based approach is about empowering people to know and claim their rights and increasing the ability and accountability of individuals and institutions who are responsible for respecting, protecting and fulfilling rights."

The Scottish Human Rights Trust Commission have developed a helpful acronym called PANEL to help us remember the key principles behind the rights based approach, and how they can be put into practice.



Participation

People should be involved in decisions that affect their rights.



Accountability

There should be monitoring of how people's rights are being affected, as well as remedies when things go wrong.



Non-Discrimination and Equality

All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realising their rights should be prioritised.



Empowerment

Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives.



Legality

Approaches should be grounded in the legal rights that are set out in domestic and international laws.

Applying a human rights based approach can help older people or their advocates frame their case in a different way.

For example, in a case where an older person had moved into supported accommodation and then started to use a wheelchair, at some point the ramp leading from the property to the pavement had been damaged and not fixed. Their accommodation provider assured them that the ramp was due to be fixed, but in the meantime the resident used a temporary ramp to help them get down to the street. This allowed them some freedom, but they needed to rely on staff being available to put the ramp out for them to use. Rather than building an argument based on a close reading of policies or tenancy agreements, they could build their case around their human right to liberty and to a private life. Putting their case in these terms may help the housing provider realise the seriousness of this problem and prioritise this repair. With a permanent ramp installed, this resident could come and go as they please, exercising their human rights.

The Social Care Wales booklet Making Rights Work For Older People <https://gov.wales/sites/default/files/publications/2021-12/making-rights-work-for-older-people.pdf> has many examples of cases where older people and their advocates used the UN Principles for Older Persons to ensure that their rights were respected. What is noteworthy about these examples is that the solutions are small and everyday, rather than lofty or legal.

The Scottish Human Rights Commission have also developed an acronym called FAIR, to help people and their advocates formulate a plan to deal with an issue using a human rights-based approach.

F

Facts

What is the experience of the individual?

Is the individual being heard and if not, do they require support to do so?

What are the important facts to understand?

A

Analysis of right(s) at stake

What are the human rights or issues at stake?

Is the right to life or the right not to be subjected to inhuman or degrading treatment at stake?

If so, these rights are absolute and cannot be restricted.

Can the right be restricted? What is the justification for restricting the right? Is the restriction on the right 'proportionate'? i.e. is it the minimum necessary restriction to meet the aim or is a "sledgehammer being used to crack a nut"?

I

Identification of shared responsibilities

What changes are necessary? Who has responsibilities for helping to make the necessary changes?

R

Review actions

Have the actions taken been recorded and reviewed and has the individual affected been involved?

FAIR Exercise

Take a moment here to reflect on a situation that you are involved in or aware of.

How can you use the FAIR acronym to apply a human rights-based approach to the person?

Facts: What are the facts in the situation you are thinking about?

Analysis: What are the issues at stake?

If you feel that someone is at risk of inhuman or degrading treatment, or their right to life is being violated, then you must take urgent action.

Identification: What changes are necessary? Who is responsible for them?

Review actions: Have you recorded actions taken, and have you involved the person you are thinking about?

Taking Action

Safeguarding

Sometimes you might encounter situations where you are concerned about the people involved and need some advice on how you can keep the person you are advocating for safe.

This is what we advise to our own staff at Age Cymru. If you are a professional advocate, then you should refer to your own safeguarding policies and procedures.

Concern about an adult who needs care and support

I think that an adult who needs care & support might be being abused
An adult who needs care & support has told me that they are being abused

Can the adult who needs care and support, or the person telling you, get support themselves if you give them the right information?

↓ YES – advise them to -

Contact the following

Police - if a crime may have been committed or if the adult who needs care and support or other members of the public may be at risk 999 (emergency or 101 (non-emergency)

Adult social services At the local council for the area where the abuse has happened (via main council number).

CIW - for concerns about health and social care services 0300 790 0126

Age Cymru Information & Advice line – for other local and national sources of support 08000 223 444

↓ NO

Is there an immediate and significant risk to their safety and health, or that of others?

↓ YES

Call the emergency services on their behalf on 999.

↓ NO

Can they consent/ agree to you contacting support on their behalf?

YES

Offer to get in touch with support services on their behalf

↓ NO

Immediately consult your manager or the Designated Safeguarding Officer.

If you are an individual, please contact the Age Cymru Information and Advice line for advice and signposting.

What else can we do?

If you have ruled out the need to urgently contract the Police or Adult Social Services, then you might be wondering what other actions you could take.

In 'Our Rights, Our Voices', our colleagues at Age UK have written that "there are three easy ways to think about the type of actions that you could take – the three C's: Complain, campaign, and communicate." See their excellent guide https://www.ageuk.org.uk/globalassets/age-uk/blocks/promo/ourrightsourvoices_toolkit.pdf for more case studies that demonstrate successful action that older people have taken to secure their rights.

A note of caution

Sometimes when you advocate for yourself or someone else, even when you do all the right things, it does not go to plan. You might need to think about whether there are any risks or downsides to taking action. It is important to remember that you might not get the outcome that you want, but you will have had your say and you will know you have done all you can. For many people, this can be rewarding in itself.

Complain

You have every right to raise awareness of a problem if you do not feel that your human rights have been respected. It does not always need to be an adversarial process. For example, you might really like your carer but have some concerns about the system they are working within. Raising a concern can be a powerful, positive tool for giving the people or organisation you have been dealing with an opportunity to understand where you are coming from and do things differently in the future. By making your voice heard, you have the power to change things for yourself and others like you.

There are two options for making a complaint: informally and formally.

Complaining informally can often be the simplest way of resolving a situation. You could speak or write directly to the person involved or ask your advocate to do so. We have a template for an informal complaint further on in the toolkit.

Complaining formally can sometimes feel more daunting, but all public service providers have a duty to protect your rights and should all have a formal complaints process in place. Public service providers must also investigate your complaint and provide you with a response. As part of your complaint, you could ask to see the Equality Impact Assessment for this organisation and try and see if there is something they have overlooked in their approach to the rights of older people.

In the first instance, you should go directly to the public service you want to complain about to make a formal complaint.

The Older People's Commissioner For Wales also has a legal power to assist older people in Wales in making complaints about or representation to public bodies, and has a casework team to assist her in doing some.

If you are not satisfied with the outcome of the formal complaint process, the Public Services Ombudsman for Wales can deal with complaints of maladministration in public services in Wales including NHS Trusts, GP services, housing associations, and housing provided by local authorities.

You can call the Ombudsman's Complaints Advice Team on 0300 790 0203 or write to them at the Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ. You could also ask your advocate, local councillor, or MP to complain on your behalf.

If your complaint isn't successful, then you might choose to take legal action. Hopefully it will not come to this, as many human rights issues can be address with everyday changes. Taking legal action can be time consuming and expensive. If you want to take legal action then you will need to get legal advice as soon as you can, as cases usually have to be filed within a year of an incident happening. If you want to find out more about this please contact our Age Cymru Advice phonenumber. We also have a factsheet about getting legal and financial advice here <https://www.ageuk.org.uk/globalassets/age-cymru/documents/information-guides-and-factsheets/fs43.pdf>.

Taking action with others

Campaigning, can be a very effective way to encourage other people to get involved with an issue you care about, and to change things for the better. Putting human rights at the centre of your campaign can help you clarify and communicate why change is needed.

For example, if you wanted to campaign to increase the visiting hours at a local care home it might be beneficial to use human rights to support your argument. Care home residents are free citizens who should be able to spend time with their loved rooms. Restricting visiting hours could be a breach of their human right to a private life.

As you plan your campaign, it would be useful to identify who you need to influence, what other groups might be able to help you. In Age Cymru we work with a number of national older people's organisations who campaign for the rights of older people in Wales. If you would like to find out more about this please email [**engagement@agecymru.org.uk**](mailto:engagement@agecymru.org.uk).

The Age UK guide, Our Rights, Our Voices https://www.ageuk.org.uk/globalassets/age-uk/blocks/promo/ourrightsourvoices_toolkit.pdf has some excellent tips for campaigning, including some guidance on how you might use social media. Similarly, HelpAge International have produced a practical toolkit <https://www.helpage.org/what-we-do/un-convention/> to make a case for older people's rights, which includes templates for talking to government officials and the media.

If your campaign concerns a devolved issue, then you could think about starting a petition to have it debated in Senedd Cymru. You can read more about this here <https://petitions.senedd.wales/>.

It can be isolating to think that you are the only person who is affected by the problem you have identified. Campaigning can help you identify other people with similar experiences, and others who would like to support you.

Tools

Letter Template and Examples

Here is a useful template to help you structure a letter about human rights.



Here is an example letter using the template.

Your address
Date

Their address

Dear ____,

I am writing to make a complaint regarding my care. My care workers are very friendly and professional, but my last visit is at 8pm and that is when I am taken to the toilet and assisted to my bed. Although I understand there are staffing issues and it is difficult to find carers who are happy to work in the evenings, this is not acceptable to me.

I enjoy staying up to watch films that are on in the evening, and like to vary my bed time depending on how I feel on that day. Being put to bed makes me feel like a child, which is not compatible with the United Nations Principles for Older Persons of dignity and independence.

Similarly, the current arrangement does not support me to enjoy my right to a private life. The right to a private life covers my right to enjoy my home peacefully, and to take part in leisure activities of my choosing. I have always been a film-buff and some of the best films are shown after the watershed.

I raised this in a review meeting with my occupational therapist. She suggested that I could be provided with a recliner chair that could double as a bed. That would allow me to stay up late to watch films, and choose my own bed time. I would be grateful to hear whether you thought this would be a suitable solution to this problem.

Thank you for dealing with my letter in line with your complaints policy, and I look forward to hearing from you within 30 days.

Yours sincerely,

Starting the conversation

If an older person that you know starts a conversation about a situation that they are experiencing, here are some things to bear in mind. If you already do some advocacy work, they may already be second nature to you.

- Ask open questions, such as “what happened next?” or “how did you feel when they said that?”
- Try and steer clear of giving too much advice (unless they ask you for some) or asking judgemental questions like, “Why didn’t you just tell them to stop?”
- You could also summarise the situation to check you have understood correctly. For example, “So you asked to volunteer in the community garden project, but they said they were worried about your back. You said that made you feel ‘past it’, did I get that right?”
- Rather than starting with the Articles of the human rights act, try and stick to more informal language. You might want to start with a simple statement like, “You’ve got a right to be involved in your community, and to not be discriminated against. It sounds like what happened wasn’t respectful of your rights.”
- Ask them what they would like to happen next – then you can take action together.
- When you have this conversation, why not bring along something like this booklet or the Making Rights Work For Older People document?

Taking Care of Yourself

Whether you're a professional advocate or advocating for someone you know, there might be times where you feel frustrated because of the challenging work you are doing. Fighting for the rights of others can be incredibly rewarding, but change can be slow and difficult. It's okay to feel that you have reached your limit, and then take action to boost your resilience.

The best activities for our wellbeing are connecting with others, being physically active, taking notice of the smaller details in our surroundings, continuing to learn, and giving to others.

Try and see how many of those five things you can pack into your week with this diary template:

	Connecting with others	Keeping Active	Taking Notice	Learning	Giving
Monday					
Tuesday					
Wednesday					
Thursday					
Friday					
Saturday					
Sunday					

You don't have to run a marathon or take up oil painting, but even taking a lunchtime walk or sitting on a bench to listen to birdsong can lift your mood. If you are 50+ and want to start some physical activity, our local Age Cymru partners deliver a range of activities such as Nordic walking, Tai Chi, and Low Impact Functional Training across Wales.

It's okay to have some boundaries between your advocacy and the rest of your life, such as not responding to phone calls or emails in the evenings. This can be difficult, especially for volunteer advocates and people advocating on behalf of family and friends. The person you're advocating for may not even understand or remember that you have put these boundaries in place. However, it is important to have some time away from advocacy for you to get on with the rest of the things you need to do.

It is important to remember that you cannot control the outcome of your advocacy work. You are not responsible for the actions of the people you are advocating for, and people have the right to make decisions you would not make.

If you want some more information about mental health, Mind's Infoline can be a helpful place to call. They are open 9am – 6pm, Monday to Friday, and their number is 0300 123 3393.

In Wales we also have the CALL service, offering a confidential listening and support service. They are open 24/7 and can be reached at 0800132737.

Further reading

Age UK's Our Rights, Our Voices

https://www.ageuk.org.uk/globalassets/age-uk/blocks/promo/ourrightsourvoices_toolkit.pdf

British Institute of Human Rights' flowchart. Is this issue about human rights?

<https://knowyourhumanrights.co.uk/using-my-human-rights/flowchart-1/>

Welsh Government's Delivery Plan for the Strategy for an Ageing Society

https://gov.wales/sites/default/files/publications/2022-04/strategy-for-an-ageing-society-delivery-plan-2022_0.pdf

<https://gov.wales/age-friendly-wales-our-strategy-ageing-society>

The Advocacy Charter <https://qualityadvocacy.org.uk/resources/advocacy-charter/>

The Advocacy Charter, Easy Read <http://connectlambeth.org/wp-content/uploads/2020/06/The-Advocacy-Charter-Easy-Read.pdf>

Link for the OPC's website

Home - Older People's Commissioner for Wales <https://olderpeople.wales/>

Further resources from King's College London. The tools were co-produced by ARC South London's social care Post-doctoral fellow Dr Caroline Green together with Dr Edel Roddy at My Home Life Scotland, Dr Belinda Dewar at Wee Culture, Carlyn Miller at the British Institute of Human Rights and Dr Kritika Samsi of ARC South London.

Toolkit for reflection on human rights in the context of social care | Health & Social Care Workforce: (kcl.ac.uk) <https://blogs.kcl.ac.uk/socialcareworkforce/2020/12/10/toolkit-for-reflection-on-human-rights-in-the-context-of-social-care/>

Further resources from the Scottish Human Rights Commission

Human Rights Based Approach | Scottish Human Rights Commission <https://www.scottishhumanrights.com/projects-and-programmes/human-rights-based-approach/>

More information about the Declaration of the Rights for Older People in Wales

Written Statement - Launch of A Declaration of the Rights for Older People in Wales (16 July 2014) | GOV.WALES <https://gov.wales/written-statement-launch-declaration-rights-older-people-wales>

HelpAge International's 'It's About Rights' campaigning toolkit UN convention on the rights of older people: It's time for action | What we do | HelpAge International <https://www.helpage.org/what-we-do/un-convention/>

Age Cymru's Human Rights Project Page, where you can get further information and watch our short film, 'Don't Get Me Started' Human rights project | Age Cymru ([ageuk.org.uk](https://www.ageuk.org.uk)) <https://www.ageuk.org.uk/cymru/our-work/human-rights-project/>

UN Principles for Older Persons United Nations Principles for Older Persons | OHCHR <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons>

Hawliau gydol oes yw hawliau dynol

Human rights are lifetime rights

Nid oes terfyn oedran. **I ddeall mwy, ewch i'n gwefan**
There is no age limit. **To understand more, visit our website**

agecymru.org.uk/hawliaudynol
agecymru.org.uk/humanrights



