



Age equality in health and social care

Joint response from the Association of Directors of Adult Social Services and the Local Government Association

Introduction

The Association of Directors of Adult Social Services (ADASS) and the Local Government Association (LGA) welcome the opportunity to provide evidence to consultation on preparing the NHS and social care in England for the age requirements in the Equality Bill that affect the provision of services and exercise of public functions.

The LGA acts as the voice of local government in order to shape public debate, influence policy and practice in public services, support innovation and excellence, help councillors exercise their democratic accountability and leadership roles, and ensure that the local government sector attracts, retains and develops staff with the skills it needs. The 424 authorities of which the LGA is comprised cover every part of England and Wales and represent over 50 million people. Together, they spend around £113 billion on local services.

The ADASS represents all Directors of Adult Social Care in England. Changes in the structure and organisation of local government mean that social care now covers a wide range of services. Many Directors of Adult Social Services are responsible for a wide range of functions. Some of these services are designed, commissioned and provided for specific needs such as support for older people or individuals with mental health needs. Others are universal in nature, such as library or housing services and have closer links/joint posts with health services.

1. General Comments

The LGA and ADASS submitted joint evidence to the review undertaken by Jan Ormondroyd and Sir Ian Carruthers OBE and both organisations were represented on the Advisory Group to the Review. To a large extent, our concerns and suggestions were either acknowledged or taken on board in the recommendations of the report to the Secretary of State. Therefore, we do not have a large number of comments to make at this stage of the consultative process.

Omission of LGA from the consultation

The LGA has a clear role in representing the views of local government in England and Wales on significant policy and legal issues affecting them. We are most concerned that, though all local authorities in England with social services responsibilities and the ADASS have been invited to respond to the consultation document, the LGA has been omitted from

the list of consultees (the Improvement and Development Agency (IDeA) which is part of the LGA Group of organisations has been invited to respond). While individual authorities may wish to respond to the consultation, it is vital for the DH to consider the collective view of local government in implementing policy and legislation. We can only assume that this is unintentional oversight rather than a conscious decision to exclude the LGA from the consultation process. We urge the DH to ensure that all future consultations include the LGA.

We have commented only on the proposals of direct relevance to local authority social care services.

2. Key messages in relation to the Equality Bill

The LGA and ADASS support the introduction of the general public equality duty as a useful contribution to increasing consistency and minimising unnecessary burdens. We also welcome the provisions in the Bill to make 'unjustifiable' age discrimination illegal in the provision of goods, facilities and services. However, this will have significant resource and implementation implications for social care at a time when public spending is likely to come under severe pressure.

Social care already faces huge funding challenges: the Health Secretary has spoken of a £6 billion funding 'gap' within the next 20 years due to demographic changes. But social care faces more pressing financial challenges. The Personal Care at Home Bill, to be debated in the House of Lords shortly and due to come into effect in October 2010, is likely to have major financial implications. A recent survey conducted by ADASS shows that the Government have vastly underestimated the level of local authority funding required to provide free personal care for older people high levels of needs. The Government has estimated that local authorities will need to find an additional £250 million in efficiency savings to fund free personal care but, according to the ADASS survey, the true cost to local authorities being more than twice the estimate.

We reiterate that expanding services for older people can only be achieved with adequate additional funding. If more money is not provided, the inevitable result will be cuts to provision.

Proposal 1: Timing of the ban on age discrimination - The timetable of 2012 as the commencement of the new provisions for adult social care is achievable, though ambitious. Much will depend on agreeing the detail of a fully costed implementation plan for social care and the NHS. The LGA and ADASS are committed to working with DH to produce a robust financial framework to ensure that the implementation of the duty is fully funded. The DH must ensure that local government and their representative bodies are fully consulted on the timetable for transition.

Proposal 2: Exceptions - We support the view of the Review and the DH proposal that there are no areas within health and social care that should be removed wholesale from the scope of the ban on age discrimination. With regard to specific exceptions, we look forward to commenting on the Government's proposals in the forthcoming policy statement and the draft Order to be published in 2010. We trust that the LGA and ADASS will both be included in all future consultations in relation to the implementation of provisions in the Equalities Bill.

3. Mainstreaming the requirements of the Equality Bill into the DH processes

Proposal 5: Research - We welcome the acceptance by DH that further research can play a useful role in helping DH and other bodies to meet the requirement of the public sector equality duty in relation to age. This will particularly play a role in tackling indirect age discrimination, and in remedying the relative lack of reliable research in social care. We urge the DH to work closely with the LGA, ADASS and with local authorities in the design of any further research to ensure that it builds on existing knowledge and that it is focused on achieving positive outcomes for older people.

Proposal 6: Quality-adjusted Life Years (QALYs) - We accept that the DH does not own the QALY methodology and the decision of the DH to continue to use QALYs because of the lack of alternative methodologies. However, we urge that the DH work with local government and professional bodies to develop a framework for judging equality of outcomes for all social care users. While outcomes should be determined by the client's own wishes and aspirations, the challenge for social care is supporting older people to be ambitious but realistic in their aspirations.

Proposal 7: Reviewing age-related criteria and weighting - We particularly welcome the commitment of the DH to review the relative weighting of the Relative Need Formulae (RNF). It is essential that the review is completed in advance of the implementation of the ban on unjustifiable age-related discrimination in 2012 to ensure that resource allocation enables local authorities to implement their statutory duties. We look forward to working with the DH to review the RNF and to develop a set of criteria that is compliant with legislation and which accurately assesses resource requirements for social care authorities.

4. DH support of health and social care to meet the requirements of the Bill

Proposal 8: Resource pack for local authority social care - ADASS is already a key partner in the development of the illustrative practice guide for social care and support. By drawing on good practice that is already in place in many local authorities, the resource pack will support local authorities to identify, develop and implement good practice in promoting age equality in the assessment of need, commissioning and provision of services. It will be important that the resource pack acknowledges the contribution from a wide range of authorities and agencies. For example, the Improvement and Development Agency (IDeA) has produced a number of tools to support councils, including good practice guidance on Equalities Impact Assessments, setting up a web-based Community of Practice on equality and diversity and designed tools specifically for councillors on equality and diversity.

Good practice in social care and support needs to be seen within the wider context of plans and strategies aimed at promoting greater independence, wellbeing and choice to support people to live active and healthy lives irrespective of their age or where they live. Many mainstream services support older people to do this. For example, concessionary fares, concessionary prices for leisure, recreational and educational activities, and winter fuel payments keep older people active and healthy and help prevent dependency and ill health. The IDeA is currently developing a Later Life Peer Review with support from DWP that will support local authorities to assess the extent to which they are 'mainstreaming' age equality into the planning, commissioning and provision of mainstream services and identifies how to improve performance. We urge the DH to ensure that the resource pack encourages this approach.

Proposal 9: Age-specific data set - While we recognise the importance of a nationally consistent data set to monitor and review patterns of service provision, we would not support any substantial additional requirement for local authorities to collect and analyse data. New requirements with regard to an age-specific data-set should be an alternative to rather than in addition to information that is already collected.

Proposal 10: Performance measures - We support the DH commitment that any future performance measures should be developed in accordance with the ban on age discrimination, though these should be an alternative to existing measures in order to avoid increasing the bureaucratic burden on local authorities and their partners. Furthermore, the LGA and ADASS consider that the focus needs to shift from measuring performance to measuring outcomes. The Later Life National Indicators for older people (Nis 137, 138 and 139) are outcome focused and should remain as part of the National Indicator Set.

Proposal 13: Registration, inspection, regulation and assessment - The Care Quality Commission (CQC) will need to work closely with the LGA and ADASS and with local authorities to ensure that they have a shared understanding of the legal requirements in the planning and provision of social care in relation to registration, inspection, regulation and assessment of the health and social care system. We welcome the DH's commitment to keep to a minimum any burdens on local authorities in relation to registration, inspection, regulation and assessment.

5. Proposals relating to other bodies

Proposal 15: Visible leadership - The LGA and the ADASS have consistently emphasised the vital role of elected members in driving the age equality agenda. Many authorities already have senior elected members who act as Older People's Champions. They have been instrumental in raising the profile of older people and promoting a change in culture and attitudes that are necessary in achieving age equality in plans and services. Non Executive Directors of health bodies have a vital role to play in championing age equality within the NHS.

Proposal 16 Joint working – LINKs and overview and scrutiny committees – We agree that LINKs and overview and scrutiny committees (OSCs) have an important role to play in ensuring that local health and social care services do not unjustifiably discriminate on the grounds of age but they will need help and support if they are to make an effective contribution. We urge the DH to provide resources at local, regional and national level to support LINKs and OSCs to develop their capacity to provide robust challenge.

Proposals 17 – 21 – We acknowledge that local authorities will need to undertake a comprehensive review of their plans and procedures for commissioning and providing care and support to ensure that they are compliant with age equality legislation but the financial implications in doing so need to be acknowledged by the DH and reflected in funding for social care.

All councils undertake rigorous Equalities Impact Assessments for all policies and plans which identify and address age-related discrimination. LGA and ADASS are already working with councils to end differential service specifications based on ageist assumptions.

6. Conclusion

Central and local government need to work constructively to make the legislation work across the piece. Local government is committed to playing its part in this. However, we feel that the implementation of the Equalities Bill will only be achieved if there is interdepartmental coordination and a cross-departmental adoption of approach based on citizenship, partnership and co-production in health and social care.

We also welcome the emphasis on local leadership and need to disseminate as widely as possible positive examples of anti-discriminatory practice. The health and social care systems must ensure that people using the services do not encounter age related differences of practice or resource allocation in both the general and specific sense. Personalisation and self-directed support has led to the need for new tools, for example a Resource Allocation System that does not discriminate on the basis of age. Implementation of the single equalities duty may well identify the need for new and different tools and expertise.

Many councils already use such tools as Equality Impact Assessments and have refined their single Equality Schemes in anticipation of the single equalities duty. The Improvement and Development Agency (IDeA), part of the LGA group of agencies, has developed a wide range of resources, toolkits, reviews and discussion forums for councils to share good practice on a wide range of equality and diversity issues, including age equality.

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