



Comisiynydd Pobl Hŷn Cymru
Older People's Commissioner for Wales

Ensuring access to information and services in a digital age

**Guidance for Local Authorities and
Health Boards**

**An independent voice and champion
for older people**

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Guidance for Local Authorities and Health Boards

This Guidance has been issued to local authorities and health boards in Wales under Section 12 of the Commissioner for Older People (Wales) Act 2006.

Under the act, bodies subject to Section 12 Guidance must have regard to the Guidance in discharging their functions.

You can read the relevant section of the Act in full here: <https://www.legislation.gov.uk/ukpga/2006/30/section/12>

This Guidance sets out what needs to be delivered by local authorities and health boards to ensure older people can access information and services in a digital age, and that older people's rights are protected and upheld.

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1. Introduction

The increasing use of digital technology means that the ways in which we access services and information, and the ways we communicate, have changed significantly in recent years.

This change has accelerated during the Covid-19 pandemic, with a range of new digital services now being delivered by public bodies throughout Wales.

However, the pandemic has also highlighted a stark digital divide in Wales, and older people have shared concerns with the Commissioner about accessing information and services as more has gone online.

Whilst moving services online and introducing new ways of interacting with the public can offer potential benefits to those who can access them – reducing the need to travel to an appointment, for example – it is also important to recognise the risk of excluding those who do not want to, or are unable to, access services in this way, which includes a considerable number of older people.

The change we are seeing across our public services therefore brings with it a need to ensure that people are not excluded, and to reach out to help those who might need extra support to access services.

As set out in greater detail in the section on the legal and policy frameworks below (p6-9), the right to access information is a key element of the broader right to freedom of expression and is protected across several human rights instruments, including the UN International Covenant on Civil and Political Rights, the European Convention on Human Rights, and the Human Rights Act 1998.

The purpose of these human rights instruments is to support a culture of respect for everyone's human rights and ensure that promoting and upholding these rights is a feature of everyday life.

The move to 'digital first' seen across our public services must be accompanied by measures to ensure that the human rights of older people are protected and that they are enabled to access information and get to the services they need by offline channels, or should they choose, are supported to gain the skills and confidence to be able to connect online.

2. Ensuring equity and fairness in access to information and services

This section sets out what should be delivered by local authorities and health boards to ensure older people can access information and services in a digital age and that older people's rights are protected and upheld. It has been developed through extensive engagement with older people, public bodies and other key stakeholders, and draws upon good practice already being delivered in certain areas of Wales.

Target Group	Action Required
Older people who are not online	Arrangements and facilities in place to ensure that older people have alternative routes to information and services.
	Access routes to offline information and services should provide older people with a suitable alternative to online routes.
	The design of access routes to offline information and services should show an understanding of people's individual needs, including language needs.
Older people interested in getting online	Outreach programmes should be in place to identify older people who wish to engage digitally.
	Support should be provided to enable older people to get online and use the internet safely (in the language of their choice). This support could include: <ul style="list-style-type: none"> • Providing older people with access to devices • Providing access to broadband / 4G data • Assistance with gaining skills and confidence
Older people using the internet	Ongoing assistance should be available to ensure older people are able to maintain and develop their online skills so they can continue to access information and services as technology changes and develops.
	Information and support should be provided to ensure older people can stay safe online.

3. Legal and Policy Frameworks

This section provides information about the legal and policy frameworks in place in Wales, the ways they relate to older people's rights to information and services, and the kinds of action required from public bodies to ensure they are complying with their legislative duties.

3.1 Human Rights Legal Framework

The right to receive information is one element of the broader right to freedom of expression, which includes both the right to receive information and the right to impart information.

The right to freedom of expression is found in several human rights instruments, including the UN International Covenant on Civil and Political Rights (Article 19),¹ European Convention on Human Rights (Article 10²), and the Human Rights Act 1998.³

The Human Rights Act 1998 places a duty on public authorities to act in ways that are compatible with the European Convention on Human Rights. Public authorities have an obligation to act in accordance with the Human Rights Act 1998 and to take human rights into account in their day-to-day work. This is the case whether delivering a service directly to the public or devising new policies or procedures.

The purpose of the Human Rights Act is to support a culture of respect for everyone's human rights and ensure that promoting and upholding these rights is a feature of everyday life.

3.2 The right to receive information

The right to receive information involves the right to access and gather information and to seek information through all possible lawful sources. Additionally, the right to receive information includes the right of the public to be adequately informed, including on matters of public interest.

The right to receive information is also a facilitator right, that is, it is not only important in itself but it also plays a central part in the protection of other human rights.

For example, in the context of a pandemic with its associated restrictions placed on individuals the right to receive information is essential to ensure the protection of the right to life, the right to the enjoyment of the highest standard of physical and mental health, and the right to take part in cultural life.⁴

3.3 The right to receive information & the digital age

The use of the Internet as an important means of dissemination of information and engaging with services is acknowledged by human rights bodies. The European Court of Human Rights (ECtHR) calls it a 'vital tool' in exercising the right to freedom of expression:

[T]he Internet has now become one of the principal means by which individuals exercise their right to freedom to receive and impart information and ideas, providing as it does essential tools for participation in activities and discussions concerning political issues and issues of general interest. ... in the light of its accessibility and its capacity to store and communicate vast amounts of information, the Internet plays an important role in enhancing the public's access to news and facilitating the dissemination of information in general.⁵

However, while acknowledging the advantages brought by digital dissemination, human rights law has also recognised that this development brings with it concerns about availability and accessibility.⁶ The right to receive information applies not only to the content of information but also to the means of its dissemination. Any restriction caused by and experienced by an individual with respect to the latter necessarily interferes with the right of that individual to receive and impart information.

3.4 Digital dissemination and older people

A reliance on the Internet by public authorities for information and service delivery causes specific concerns with respect to older people. Covid-19 has highlighted the nature of these concerns, as recently documented by the UN Special Rapporteur for Older People:

Digital exclusion significantly impedes the access of older persons to essential information regarding the pandemic and related health and socioeconomic measures. Low digital literacy rates, unequal power relations within households that may deny older persons' access to mobile telephones, hearing and visual impairments, and cognitive impairments, such as dementia, may effectively exclude older persons from information on COVID-19 and support services... Older persons who live alone, in care homes, in rural or remote areas or in areas lacking connectivity might have limited access to information distributed through new technologies because of a lack of access to devices and limited digital skills and assistance.⁷

Her report recommends that:

With the acceleration of the use of online and mobile services as a result of restrictions of movement, it is essential to ensure that information is accessible to older persons in terms of language and format and that it is available for those with limited knowledge of and access to online services.⁸

Digital dissemination of information creates two distinct categories of need amongst older people:

1. Those not able to access information and engage with services digitally

The right to receive information of those individuals who are not able to access information and engage with services digitally should be protected and fulfilled by state authorities (such as local authorities and health boards) through alternative non-digital means.

This category of need includes those older people who are not able to access information digitally on grounds of physical health or mental health, those with hearing, or visual impairments or cognitive impairment such as dementia. It also includes older people with limited or no digital skills, a lack of confidence often characterised by anxiety and who feel a sense of alienation from the digital world.

The delivery of information and accessing services for these individuals should instead utilise a variety of non-digital channels such as telephone helplines, call centres, printed material and face-to-face meetings.

2. Those wishing to access information and engage with services digitally

In recognition of the important role played by the Internet in people's lives, and in particular as certain information becomes exclusively available online, the European Court of Human Rights, and other human rights bodies, can now be seen to be developing a human right to access the Internet under Article 10.

This is done through extending the existing positive obligation on states to promote and facilitate the right to freedom of expression to include an obligation to facilitate access to the Internet.⁹ Nonetheless, it must be noted that the ECtHR has held that Article 10 cannot be interpreted as imposing a general obligation to provide access to the Internet.¹⁰

However, human rights bodies, such as the UN Special Rapporteur on Freedom of Expression, have consistently recommended that governments take all steps to promote Internet access, including the need to extend telecommunications to rural and underserved areas, to reduce financial barriers and to support marginalised and/or older people who may require training support.

In a recent report, the UN Special Rapporteur on Freedom of Expression has specifically noted the relationship between Internet access and the right to life in the time of a public crisis:

In a moment of global pandemic, the right of access to the Internet should be restated and seen for what it is: a critical element of health-care policy and practice, public information and even the right to life... the pandemic, and the importance of digital access to health-care information, highlights the profound need for expanding infrastructure to allow for access in the first place.¹¹

In taking measures to promote Internet access (where the scope of the meaning of 'access' can be understood in the widest sense to include connectivity, access to digital devices and training), all state bodies have a duty to act in a non-discriminatory manner, which includes the need to treat people according to their needs and thus not necessarily in an identical manner.

Further, the principle of universal community service (laid down in Recommendation No. R(99)14 of the Committee of Ministers, Council of Europe¹²) stresses that public authorities should make reasonable efforts to facilitate access to the Internet for specific categories of individuals such as those living in remote areas and people with disabilities. It emphasises that those with low income or special needs or disabilities can expect specific measures from public authorities in relation to their Internet access.

A failure to respond to the differing needs of groups in society in this manner, including the needs of older people, raises concerns under Article 10 taken in conjunction with Article 14 of the European Convention on Human Rights (the right to non-discrimination); as well as under the direct and indirect discrimination provisions of the Equality Act 2010.

3.5 Equality Act 2010

The Equality Act places a duty on public bodies to consider the needs of those with protected characteristics as part of their general duties to "advance equality of opportunity between people who share a protected characteristic and those who do not" and also to "remove or minimise disadvantages suffered by people due to their protected characteristics".¹³

The Welsh Government enacted the Socio-Economic Duty within the Equality Act 2010 on 31 March 2021 and published statutory guidance for public bodies covered by the duties.¹⁴

The examples of inequalities of outcome provided in the guidance identifies digital exclusion and access to services as aspects of participation that clearly demonstrates the link between socio-economic disadvantage and inequalities of outcome.¹⁵ The guidance also highlights the link between socio-economic disadvantage, equalities, and human rights.

Given that the cost of getting online has been identified as one of the most common barriers to older people getting online by the Digital Inclusion Alliance Wales,¹⁶ local authorities and health boards may need to provide financial support to older people who wish to get online in order to ensure they are complying with the Socio-Economic Duty.

3.6 Digital Strategy for Wales

In March 2021, the Welsh Government published its Digital Strategy for Wales, which set out its vision for how digital can improve the lives of everyone through collaboration, innovation and better public services. The strategy includes six missions to support this vision.

The needs of those who are not online are reflected in the Welsh Government's Digital Inclusion Forward Look¹⁷ and in the Digital Strategy for Wales – Mission 2 – Digital Inclusion¹⁸, which states that:

For people who cannot, or decide not to, participate digitally, we will continue to apply the principles of user centred design so that there are alternative ways to access public services in Wales. The alternative access routes will be as good as those offered online.

3.7 Draft Digital Service Standards

Key to delivering on the vision set out in the Welsh Government's Digital Strategy for Wales will be the Centre for Digital Public Services, established in 2020.

The Centre's Draft Digital Service Standards for Wales also highlights the need to 'Understand Users and their Needs'¹⁹ stating that:

Teams should aim to address the user journey from start to finish, understanding the different ways and channels people will interact with services, whether that's online, over the phone, or in person. Public services are for everyone, so considering accessibility is essential. Every encounter, online or offline, should move a user closer to their goal.

4. Good Practice Examples

During the development of this Guidance, many examples of good practice were shared by stakeholders. Some of these examples are set out below, highlighting the types of interventions that local authorities and health boards might wish to focus their efforts on when developing support plans and strategies whilst also giving regard to this Guidance.

Non-digital access to information and services	
Providing information via non-digital options	<ul style="list-style-type: none"> • Telephone services • Information booklets • Newsletters / updates
Providing assistance and support	<ul style="list-style-type: none"> • Development of face-to-face 'Connect to' services • Single access points / drop-in centres • Further development of telephone services that can provide information / support
Getting older people online	
Reaching out to older people	<ul style="list-style-type: none"> • Work with voluntary sector partners at community level to identify and reach out to older people who want to get online
	<ul style="list-style-type: none"> • Support to remove barriers that may prevent older people from getting online, including cost, connectivity, skills and motivation: <ul style="list-style-type: none"> • Provision of devices • Provision of pre-paid data bundles / Wifi dongles • Work with Digital Community Wales to set up local networks of Digital Companions / Buddies to help older people gain online skills and confidence • Supporting frontline staff to become more digitally confident so they can act as Digital Champions and support older people • Establish drop-in digital support hubs to provide ongoing support and resolve questions and queries • Enhance the digital support available through libraries / community hubs

A further list of the examples shared with the Commissioner is available here: <http://www.olderpeoplewales.com/en/Publications/digitalguidance/goodpractice.aspx>

References

- 1 UN International Covenant on Civil and Political Rights (Article 19) - Available at: <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- 2 European Convention on Human Rights (Article 10) - Available at: https://www.echr.coe.int/documents/convention_eng.pdf
- 3 Human Rights Act 1998 - Available at: <https://www.legislation.gov.uk/ukpga/1998/42/contents>
- 4 Article 6 UN International Covenant on Civil and Political Rights; Article 12 15 UN International Covenant on Economic, Social and Cultural Rights; Article 15 UN International Covenant on Economic, Social and Cultural Rights
- 5 Cengiz and Others v. Turkey, judgment of 1 December 2015, §§ 49 and 52
- 6 Kalda v. Estonia 19 January 2016 (judgment)
- 7 Impact of the coronavirus disease (COVID-19) on the enjoyment of all human rights by older persons' report of the Independent Expert on the enjoyment of all human rights by older persons, Claudia Mahler, in accordance with Human Rights Council resolution 42/12. Ga A/75/205. Para 54 -57- Available at: <https://digitallibrary.un.org/record/3879146?ln=en>
- 8 *ibid*; Para 87
- 9 Positive obligations place a duty on State authorities to take active steps in order to safeguard rights. In most cases these are not stated explicitly in the text but have been implied into it by courts. By contrast, negative obligations place a duty on State authorities to refrain from acting in a way that unjustifiably interferes with rights. Most rights are framed in this way.
- 10 Jankovskis v. Lithuania 17 January 2017 (judgment)
- 11 United Nations Human Rights Office of the High Commissioner (2020) A/HRC/44/49: Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression - Available at: https://www.ohchr.org/Documents/Issues/Opinion/A_HRC_44_49_AdvanceEditedVersion.docx
- 12 Council of Europe Committee of Ministers, Recommendation No. R (99) 14 of the Committee of Ministers to Member States on Universal Community Service Concerning New Communication And Information Services - Available at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680502333
- 13 The Equality Act - Welsh Specific Duties - Public Health Wales (nhs.wales) - Available at: <https://phw.nhs.wales/services-and-teams/equality-impact-assessment-in-wales-practice-hub/the-equality-act-welsh-specific-duties/>
- 14 Welsh Government (2021) The Socio-economic Duty: guidance and resources for public bodies - Available at: <https://gov.wales/socio-economic-duty-guidance>
- 15 Welsh Government: Socio-economic Duty: examples of inequalities of outcome - Available at: <https://gov.wales/socio-economic-duty-examples-inequalities-outcome>

16 Digital Inclusion Alliance for Wales (2021) From Inclusion to Resilience: An agenda for digital inclusion - Available at: <https://www.digitalcommunities.gov.wales/wp-content/uploads/2021/04/DIAW-Inclusion-to-Resilience-0221-1.pdf>

17 Welsh Government (2020) Digital Inclusion Forward Look: towards a digitally confident Wales - Available at: <https://gov.wales/digital-inclusion-forward-look-towards-digitally-confident-wales-html>

18 Welsh Government (2021) Digital Strategy for Wales: Mission 2 – Digital Inclusion - Available at: <https://gov.wales/digital-strategy-wales-html>

19 Centre for Digital Public Services (2021) - Digital Service Standards - Available at: <https://digitalpublicservices.gov.wales/toolbox/digital-service-standards/>

The Older People's Commissioner for Wales

The Older People's Commissioner for Wales protects and promotes the rights of older people throughout Wales, scrutinising and influencing a wide range of policy and practice to improve their lives. She provides help and support directly to older people through her casework team and works to empower older people and ensure that their voices are heard and acted upon. The Commissioner's role is underpinned by a set of unique legal powers to support her in reviewing the work of public bodies and holding them to account when necessary.

The Commissioner is taking action to end ageism and age discrimination, stop the abuse of older people and enable everyone to age well.

The Commissioner wants a Wales where older people are valued, rights are upheld and no-one is left behind.

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