



**Comisiynydd Pobl Hŷn Cymru**

**Older People's Commissioner for Wales**

# **Engagement and consultation with older people in Wales**

## **Guidance for local authorities**



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

# The Older People's Commissioner for Wales

The Older People's Commissioner for Wales is an independent voice and champion for older people throughout Wales.

**The Commissioner wants Wales to lead the way in empowering older people, tackling inequality and enabling everyone to live and age well.**

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**This Guidance has been issued to local authorities 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>

**Mae'r ddogfen hon ar gael yn Gymraeg // This document is available in Welsh**

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# Introduction

Public services – including services such as social care and community services such as buses, day centres, libraries, public toilets and much more – provide crucial support to many older people across Wales, enabling people to remain independent and do the things that matter to them.

These services also play an important role in helping to ensure our communities are age-friendly and supporting people to live and age well, crucial elements of the broader preventative health agenda in Wales.

Potential changes to, or the loss of, public services can create significant concerns for everyone affected, but older people (people aged 60+) may have particular concerns due to the impact of other barriers they can face – such as a lack of transport or digital exclusion.

It is therefore vital that listening and responding effectively to older people's voices is a key part of engagement, consultation and decision-making, and that this is consistent across Wales.

Older people have shared with me, however, that they often find it difficult to make their voices heard and influence decisions affecting their lives or communities.

Older people have told me that opportunities for them to participate and the support available to enable them to participate can be limited, which leaves them feeling powerless and that their voices and experiences don't matter.

Older people have also told me that it is often not clear what consideration has been given to the views or ideas they have shared or the impact their voices have made. This has led to a belief amongst some individuals I've spoken to that engagement and consultation simply exist to 'tick boxes' rather than to offer meaningful opportunities for people to have their say.

Addressing these kinds of concerns is important to ensure that older people do not feel excluded from engagement, consultation and decision-making and that people of all ages in all of their diversity are enabled to make their voices heard, crucial as part of age-friendly communities and to enable genuine co-production.

Ensuring everyone has a voice is an ambition I know is shared across our public services, which is why I am sharing this Guidance to support local authorities in their planning and delivery of activities relating to engagement, consultation and decision-making and help to ensure they are meeting their statutory duties. The content below reflects what older people have told me about how they feel these activities could be improved, as well as drawing on wider principles that enable inclusive, person-centred approaches.



**Rhian Bowen-Davies**  
**Older People's Commissioner for Wales**

# Legislative Context

This section provides a helpful summary of key legislation and regulations that create specific duties for public bodies that should inform the development and delivery of engagement and consultation activities with a range of protected groups, including older people.

## Public Sector Equality Duty (PSED)

The Equality Act 2010 includes a general duty, the Public Sector Equality Duty (PSED)<sup>1</sup>, which aims to ensure that public authorities and those carrying out a public function consider how they can positively contribute to a fairer society through advancing equality and good relations in their day-to-day activities.

The PSED ensures that equality considerations are built into the design of policies and the delivery of services and that they are kept under review, something that achieves better outcomes for all.

Under the Duty, public bodies are required to have due regard to the need to:

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act.
2. Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

In order to meet the general duty, a public authority must ensure:

- **Knowledge:** Staff and leadership must be aware of the duty's requirements and consider them consciously when making decisions.
- **Timeliness:** The duty must be considered before and during policy formulation, not justified after decisions are made.
- **Meaningful consideration:** The duty must be integrated rigorously into decision-making, not treated as a mere formality.
- **Sufficient information:** Decision-makers must assess existing information and identify any further information needed to address the duty.
- **Review:** The duty applies during policy development, decision-making, implementation and review as a continuous obligation.
- **Non-delegation:** The duty remains with the public authority, even if functions are delegated to another organisation.

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<sup>1</sup> <https://www.gov.uk/government/publications/public-sector-equality-duty-guidance-for-public-authorities/public-sector-equality-duty-guidance-for-public-authorities>

## Specific duties in Wales

The purpose of the specific duties in Wales is to help listed bodies in their performance of the general duty and to aid transparency. The specific duties in Wales and the matters they cover are set out in the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011.<sup>2</sup>

### Engagement

The PSED in Wales requires a listed body to engage with and involve individuals it considers to be representatives of one or more protected groups and who have an interest in how the authority delivers its functions.

In addition, a listed body may consult and involve other individuals it considers appropriate. When determining who is suitable, and where it is reasonably practicable to do so, the authority must take into account the need to engage or consult with people from one or more protected groups who have an interest in how the authority operates.

#### This engagement must take place in relation to:

- setting equality objectives
- preparing and reviewing a Strategic Equality Plan
- identifying how an authority's work and activities may contribute to meeting the general duty
- assessing the likely impact on protected groups of any policies or practices being proposed or reviewed

### Intersectionality

Intersectionality reflects that individuals hold a range of characteristics, and socio-economic status, and that these, in combination, can lead to distinct forms of discrimination or disadvantage. This is an important concept when thinking about engaging with older people.

### Socio-economic duty

The Socio-economic Duty came into force in Wales on the 31 March 2021, it expands the Equality Act, and places a legal responsibility on bodies when they are taking strategic decisions to have due regard to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage.<sup>3</sup>

**“When making decisions of a strategic nature about how to exercise its functions, have due regard to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage.”**

<sup>2</sup> <https://www.legislation.gov.uk/wsi/2011/1064/contents>

<sup>3</sup> <https://www.gov.wales/more-equal-wales-socio-economic-duty>

The statutory guidance on Socio-economic Duty provides the following helpful definitions.<sup>4</sup>

**Socio-economic disadvantage:** is when someone “lives in less favourable social and economic circumstances than others in the same society”.

**Inequalities of outcome:** this relates to any measurable difference in outcome between those who have experienced socio-economic disadvantage and the rest of the population.

## **Social Services and Well-being Wales Act 2014**

The Social Services and Well-being (Wales) Act 2014 sets out the legal framework for social care in Wales, with a focus on promoting well-being, person-centred care, and early intervention.<sup>5</sup>

The Act aims to give individuals more control over the support they receive, strengthen the rights of carers, and requires local authorities and health services to work together to provide integrated, sustainable care and support.

The Code of Practice and guidance relating to the Act include the following principles that relate to engagement:

- Ensure that people have greater voice and control over the care and support they receive by actively involving individuals in decisions about their lives, including when assessing and meeting need.
- Ensure that providers from whom they commission or procure services encourage and enable the involvement of all people in designing the shape of services and how they will operate to deliver well-being outcomes, and that providers involve people in the evaluation and review.
- The Code defines co-production as: a way of working whereby practitioners and people work together as equal partners to plan and deliver care and support.

## **Older People’s Commissioner for Wales**

The Commissioner for Older People (Wales) Act 2006<sup>6</sup> provides the Commissioner with a range of powers to promote and safeguard the interests of older people, challenge age discrimination, promote best practice in the treatment of older people and review the law as it affects older people.

Under the Act, the Commissioner may issue Guidance on best practice in connection with any matter relating to the interests of older people in Wales, which public bodies must have regard for when discharging their functions.

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4 <https://www.gov.wales/sites/default/files/publications/2021-03/a-more-equal-wales.pdf>

5 <https://www.legislation.gov.uk/anaw/2014/4/contents>

6 <https://www.legislation.gov.uk/ukpga/2006/30/contents>

## Well-being of Future Generations Act (2015)

The Well-being of Future Generations (Wales) Act 2015<sup>7</sup> is a law designed to improve social, economic, environmental, and cultural well-being in Wales. It requires public bodies to work sustainably and collaboratively to meet the needs of the present without compromising the ability of future generations to meet their own needs.

In addition to setting out seven well-being goals, the Act also includes five ways of working, which provide a framework for decision-making:

- Long-term
- Integration
- Involvement
- Collaboration
- Prevention

While Collaboration fits with the PSED, which requires engagement with **representatives**, Involvement goes further and includes engagement with **people** (including co-design and co-production).

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<sup>7</sup> <https://www.legislation.gov.uk/anaw/2015/2/contents>



# Engagement with older people

Involving citizens through engagement is an ongoing, two-way process that should be focused on active listening and demonstrating a willingness to learn and respond to the information and experiences shared.

## Engagement in practice

- There should be ongoing engagement with older people from a wide range of backgrounds and communities. This can be achieved, in part, through working with older people's forums/formal networks and organisations representing their interests, but efforts should also be made to reach out to and engage with individuals who may not have contact with these.
- It is important to consider the places where older people go in the course of their daily lives, and what opportunities there might be to utilise these to help ensure a more diverse range of older people's voices are heard during engagement activities. This could include places such as supermarkets, post offices, community centres, libraries and places of worship.
- Equally, it is important to consider older people who may be less visible in everyday life and identify ways of reaching out to them so they are not excluded from engagement opportunities.
- There should be recognition that many older people remain active through continued working, caring commitments, childcare or volunteering and often have little time to voice their concerns and priorities; older people have constraints on their time in the same way that younger people do.
- A variety of engagement methods should be used, including non-digital options such as public gatherings and face-to-face meetings, written correspondence and telephone conversations. Engagement activities and any related materials should never be 'digital only'.
- When planning engagement activities, it is important to consider barriers that may prevent older people from participating – such as accessibility, transport, or digital exclusion – and how these might be eliminated. Venues used for engagement activities should be fully accessible to older people, with appropriate facilities and equipment provided to enable engagement, such as English/Welsh/BSL translation, hearing loops, lighting, accessible seating, wheelchair access, disabled parking, and accessible toilet facilities.
- It is also important to work with intermediaries or advocates where necessary to enable older people to participate and ensure they have a voice. In these circumstances, it is crucial that the older person's voice is heard, and not the voice of the individual supporting them.

- Consideration should also be given to how local forums and individuals that represent older people, such as Older People's Champions, could support the development of engagement activities, in addition to participating in them.
- Engagement should take place at a point when older people will be given a genuine opportunity to contribute their thoughts, voice their concerns and influence decision-makers.
- It is important to be honest and realistic about the challenges being faced and decisions that need to be made. Part of this includes managing people's expectations in terms of possible options and what is achievable.
- Engagement activities should ensure that a wide range of older people's voices are heard and that one particular voice (or group of voices) does not monopolise or dictate the conversation.
- It is important to invest time to build relationships and trust with different groups and individuals, creating the foundations for open, honest and meaningful engagement.
- Feedback should be provided that clearly demonstrates how older people's voices and experiences have been used and the ways they have influenced proposals, policy and practice.

# Consultation with older people

Consultation is often a more formal process usually focused on addressing a specific issue or seeking views on proposed changes to services or policies. Like engagement, consultation is a two-way process, that should provide meaningful opportunities for older people to share their views, ideas and any concerns they might have.

## Consultation in practice

- Consultations must be undertaken at a time when any proposals are still at a formative stage, and there should be a commitment to openness and accountability, as well as a willingness to change course as a result of learning through consultation.
- Consultation documentation should be accessible to the widest possible range of older people, including those who are digitally excluded.
- Sufficient information should be provided to allow people to understand what is being proposed and the reasons behind it.
- Plain language should be used and the document should be set out in a logical fashion.
- Any asserted statement of fact in a consultation document should be supported by evidence and that evidence should be accessible to older people.
- Questions asked in consultation documents should be open questions that have a firm basis in the consultation document and any supporting evidence and not lead the respondent in any way.
- Adequate time should be given for older people to consider the information and respond.
- Every response to the consultation by an older person should be given due consideration, regardless of how that response has been submitted.
- It is important to demonstrate to older people how their responses have been conscientiously taken into account when finalising decisions.

# Assessing impact

A listed body in Wales must assess the likely impact of proposed policies and practices on its ability to comply with the general duty and assess the impact of any policy which is being reviewed and of any proposed revision.

Bodies must publish reports of the assessments where they show a substantial impact (or likely impact) on an authority's ability to meet the general duty and monitor the impact of policies and practices on its ability to meet that duty.

Reports on assessments must set out in particular the purpose of the policy or practice (or revision) that has been assessed and include a summary of the steps the authority has taken to carry out the assessment (including relevant engagement).

A summary of the information the authority has taken into account in the assessment and the results of the assessment must also be published along with any decisions taken in relation to those results.

In addition, when assessing for impact on protected groups, listed authorities must comply with the engagement provisions and have due regard to the relevant information the authority holds.

## The role of equality impact assessment in engagement and consultation

### Equality impact assessment

Assessing impact is a process that should ensure that policies or practices do not unlawfully discriminate against, or have an adverse impact on, groups protected by the Equality Act 2010.

In assessing impact, Local Authorities should also consider how the policy or practice could better advance equality of opportunity and how it will affect relations between groups.

Impact assessment is a continuing duty and not a 'tick box' exercise. Due regard must be given to the result of assessments.

## Assessing impact in practice

- There should be recognition that successful engagement and consultation is dependent on robust impact assessment, including equality impact assessment. This scrutiny is crucial to determine the impact of any proposal and whether this might have a disproportionate impact on any individuals with protected characteristics, such as older people.
- Having ‘due regard’ to the equality duty means that it is a duty of substance that should be exercised with rigour and an open mind. It is not a matter of ‘ticking boxes’.
- Adequate records of equality impact assessments should be kept to demonstrate appropriate consideration of equality duties and honest discussion around the relevant questions.
- When assessing impact, the fact that discrimination may be direct or indirect should be taken into account. Direct discrimination would occur where an older person is treated less favourably because of a protected characteristic. Indirect discrimination occurs where a provision, criterion or practice is applied to everyone but only disadvantages those with a protected characteristic in a way that cannot be justified.
- When potential issues are identified, the Equality Impact Assessment (EIA) process does not automatically prevent action but ensures that such issues are justified, explained, or mitigated where necessary, with a clear record of considerations and responses.

Further guidance on equality impact assessment is available from the Equality and Human Rights Commission: <https://www.equalityhumanrights.com/guidance/public-sector-equality-duty/assessing-impact-and-public-sector-equality-duty-wales>

# Moving forward

This Guidance aims to support local authorities to plan and deliver engagement and consultation activities that listen and respond to older people's voices in a meaningful way, uphold people's rights and meet statutory duties.

Through my own conversations and engagement with local authority colleagues across Wales, I know that there is much good practice already being delivered and that many of the principles set out above are already being used to engage with older people in innovative and effective ways.

It's crucial we build on this so that all older people have opportunities to make their voices heard if they choose to and that there is a consistent approach across Wales.

Together, we can help to ensure older people feel valued, heard and empowered to shape the decisions that impact upon their lives.

**Many thanks to the Welsh Local Government Association (WLGA) for their support in reviewing this Guidance.**



# Useful resources

## **Engagement and Influencing: National Principles for Public Engagement in Wales**

<https://knowledgehub.cymru/resources/national-principles-for-public-engagement-in-wales/>

## **Manual for Public Engagement**

<https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=3864>

## **The Law of Consultation**

<https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=3832>

## **Equality and Human Rights Commission Wales: Engagement and the Equality Duty**

[https://www.equalityhumanrights.com/sites/default/files/engagement\\_and\\_the\\_equality\\_duty\\_wales\\_2.pdf](https://www.equalityhumanrights.com/sites/default/files/engagement_and_the_equality_duty_wales_2.pdf)

## **Older People's Commissioner for Wales: Ensuring access to information and services in a digital age - Guidance for Local Authorities and Health Boards**

<https://olderpeople.wales/guidance-ensuring-access-to-information-and-services-in-a-digital-age-html-version/>





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