

Commission launches Inquiry into home care of older people

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Responses sought from older people, their relatives, care agencies and public authorities

The Commission today launches a major inquiry into the human rights of older people requiring or receiving home-based care. Older people receiving home-based care are acutely vulnerable to human rights violations, yet the duties and responsibilities of those providing, commissioning, funding or regulating the care and support system are far from clear.

Currently, over a million older people receive care and support in their own home, with a smaller proportion – an estimated 173,000 - in residential care. Today, 81 per cent of publicly funded home care is provided by the independent sector, up from two per cent in 1992. However, most independent providers are likely to be operating outside the direct reach of the Human Rights Act because they are not considered to be performing a ‘public function’.

Sally Greengross, Commissioner at the Equality and Human Rights Commission said:

'Against a backdrop of budget cuts and public sector reform, local authorities are playing an ever-decreasing role as direct providers or funders of care and support, with the majority of older people receiving care from private and voluntary sector organisations or individuals.

'The complex web of provision has left older people and their families unclear whether and how their human rights will be protected. Equally, we believe those providing, commissioning or regulating care are unclear of their legal responsibilities and how to discharge them.'

As the care model changes, older people and their families will increasingly be forced to fund care from their own resources. This could lead to care being provided at the margins of, or even outside of, current regulations and beyond the reach of human rights obligations. The numbers requiring home care looks set to dramatically increase as by 2051, there will be 15.8 million people aged 65 years or over, a rise of 91% compared with 2008,

The inquiry aims to provide clarity and confidence for all who have rights and responsibilities that human rights are being robustly and comprehensively protected. The

Commission's recent landmark report, 'How Fair is Britain?' identified the rising number of people with support needs as one of the emerging 21st century challenges and a major risk factor in the progress towards a fairer society.

The Commission will investigate whether the current legislative, regulatory and quality control systems offer enough human rights protection as well as people's experiences of and confidence in the system to protect their human rights. It will explore the legal obligations of different players, including care providers, local authorities, the Care Quality Commission and central government. The Inquiry will look at the case for reform to ensure that vulnerable older people are comprehensively and robustly protected.

Recommendations from the Inquiry will be used to inform the practices of local authorities, regulators and providers of home based care, as well as the Commission's own work. It will also influence the Independent Commission on social care reform and the independent Commission on a Bill of Rights.

Sally Greengross, Commissioner added: 'By highlighting deficiencies in the present system as well as learning from examples of good practice, the Commission's Inquiry will ensure that the legal and regulatory framework in which home care providers operate protects and promotes the human rights of older people, preventing abuses and transforming the way that social care is delivered in England.'

The Inquiry will publish its findings and recommendations in December 2011.