United Kingdom of Great Britain & Northern Ireland Submission

Guiding Questions for the 14th Session of the Open Ended Working Group on Ageing (OEWGA)

Identification of gaps

For each of the topics that have been considered by the Open-ended Working Group since its eighth session, please state possible gaps your Government/organization has identified in the normative framework and practical implementation for the protection of the human rights of older persons.

a) Equality and non-discrimination

- We know that older persons experience direct and indirect age discrimination in the workplace, impacting on their enjoyment of the right to work, the right to an adequate standard of living, and other rights. There is a potential gap in the protection against such discrimination, and a need to ensure that remedies for other forms of employment discrimination also apply to age discrimination, as appropriate.
- Default and fixed retirement ages can disadvantage older persons. There is a need to remove compulsory age-based retirement and to ensure that employers can only treat applicants or employees differently on age grounds where this can be objectively justified.

b) Violence, neglect and abuse

- The UK considers there may be potential gaps, in the provision of protection for older people from violence, abuse and neglect related to financial abuse, including with respect to benefits such as a state pension. In particular, we need to ensure that when an older person is no longer capable of managing - or fully managing unaided - their affairs, that someone can be appointed to manage or help to manage their financial affairs, such as their social security and pension.

- Protective systems need to be designed around the individual, to ensure the older person's wishes and interests are suitably taken into account at all stages of the process.

Experience in the UK
- The UK has put in place a protective system designed around the individual. One example is the appointee process managed by the Department for Work and Pensions which allows a family member, a friend or an organisation to be appointed to act for the customer in the day to day management of their benefits e.g. State Pension. This allows flexibility for family members or friends to be appointed where appropriate, rather than a state official or agency. The person can be an individual e.g. a friend or relative, or an organisation. The appointee can make a claim for benefit, collect and receive benefit and report any change of circumstances.

c) Long-term care and palliative care

- As the proportion of people living longer continues to increase, this may expose gaps in the provision of care. Older persons may need access to end of life and palliative care that helps them to live as well as possible until their death, to die with dignity, to be consulted about their wishes and preferences and for these to be taken into account in their care, on the same basis as other people with life limiting conditions.
- There may also be a gap in support provided for unpaid carers. For the vast majority of people, care begins at home. Many people wish to play a role in caring for their friends and family, and for some this can be a significant commitment.

Experience in the UK
- In the UK, the Care Act 2014 makes clear that local authorities must provide or arrange services that help prevent people developing needs for care and support, or delay people deteriorating such that they would need ongoing care and support.
- Support for unpaid carers is delivered through the Better Care Fund, with £327m earmarked for this year to provide short breaks and respites services for carers. This also funds additional advice and support to unpaid carers and a small number of additional local authority duties unrelated to unpaid care.

d) Autonomy and independence

- There is a potential gap in obligations for older people to be supported in maintaining their autonomy and independence. Taking appropriate steps so far as practicable and within available resources when designing, contracting and providing services.

Experience in the UK
- In England, this is addressed through providing social protection in both pensions and income-related benefits, as well as routes into employment.
- Local Authorities in England have a responsibility to support autonomy and independence for older people by assessing individuals' care and support needs and, where eligible, for meeting those needs. Where individuals do not meet the eligibility threshold, they can receive support from Local Authorities in making their own arrangements for care services, as set out in the Care Act 2014.
- Eligible needs include maintaining personal hygiene and nutrition, and maintaining and developing relationships which significantly impact on wellbeing.
- While many people maintain high levels of mobility and health into old age, disability has a higher prevalence as people age. In England and Wales in 2016/17, 45% of State Pension age adults reported being disabled; as compared to only 19% of working-age adults. Conditions arising from ageing can take many forms, but will often result in a combination of symptoms, including some loss of vision and hearing, stiffness of joints, and reduction in the ability to walk long distances. These conditions can have a dramatic effect on a person's ability to travel and to access public services.

e)   Protection of Social Security (minimum social protection)

- There is a potential for gaps in the delivery of social security, including pensions, if systems are not well understood by older persons, or they are not sufficiently informed on or have other challenges to claiming their rights and entitlements. Improving support for engagement in pensions involves ensuring consumers have access to information and are encouraged to take pensions guidance at various points in their life.

Experience in the UK
- In the UK, free and impartial pension guidance is provided through the Money and Pensions Service to ensure that older people are aware of their rights and entitlements. The Government provides forecasts of

people's State Pension entitlement through the 'Check your State Pension' forecast service, supported by information on gov.uk and works with a wide range of stakeholders and communications campaigns.

- The new State Pension, introduced in 2016, provided a simple flat-rate amount, intended to provide clarity and support saving for retirement. This single-tier pension significantly simplified the pension system, helping all people to understand what they will get from the State when they retire.

- The new State Pension improved outcomes for many women, carers and self-employed people, who often did less well in the past. Over three million women stand to gain as a result of the reforms. In addition, State Pension outcomes equalise for men and women by the early 2040s, over a decade earlier than they would have done under the old system.

f) Education, training, lifelong learning and capacity-building

- The right to education enshrined in ICESCR sets out that everyone has the right to education, that education shall be directed to the full development of the human personality and that it shall enable all persons to participate effectively in a free society, and promote tolerance and understanding. However, ICESCR makes specific provision only with regard to primary, secondary and higher education, rather than lifelong learning. This represents a potential gap for older persons, insofar as it does not cover access to training and learning that is flexible throughout their lives, particularly with relation to career support and reskilling.

Experience in the UK

- In the UK, as a way of eliminating gaps in provision for older people, a range of programmes for adult learners are supported through the Adult Education Budget (AEB), worth £1.34bn in academic year 2023/24. Its principle purpose is to engage adults and provide the skills and learning they need to equip them for work, an apprenticeship or further learning. The AEB also funds various legal entitlements for eligible adult learners, two of which apply to anyone over the age of 19 with no upper age limit.

g) Right to Work and Access to the Labour Market

- As set out above, protection from direct and indirect age discrimination, and ensuring that employment remedies apply to such discrimination, may represent possible gaps. The promotion of age-inclusive working practices is another possible gap. Many older persons will also face other forms of challenges or discrimination, particularly older women and older disabled persons. As women approach and experience the menopause, they may face challenges to staying in work, or in accessing appropriate healthcare.

Experience in the UK
- In the UK we are committed to delivering a comprehensive package of support to help older workers to remain and return to work and to build their future financial resilience and wellbeing. A digital Midlife MOT went live in July 2023 that helps older workers take stock of their finances, skills and health, and get access to the best possible financial, health and career guidance.

h) Access to justice

- Older persons can be reluctant to access the justice system and seek a remedy. Often this is caused by concerns that the process may be stressful, or entail financial commitments. As justice systems modernise and digitise, older persons can face issues of accessibility, and may need support to use digital services or be provided with other channels of assistance.
- Older persons may also face challenges in accessing judicial and non-judicial dispute settlement mechanisms. Gaps relevant to these challenges could include guidance for the judiciary and others to tackle the risk of discrimination, and in ensuring that appropriate support is available and signposted in ways that will reach all sectors of society including older persons.

i) Contribution of Older Persons to Sustainable Development

- Human rights are essential to achieving sustainable development that leaves no one behind and are central to all its three dimensions – social, environmental, and economic. This is reflected in the ambition of the 2030 Agenda for Sustainable Development, which seeks "to realize the human rights of all".

- Agenda 2030 calls for leaving no one behind and for ensuring that the SDGs are met for all segments of society, at all ages, with a particular focus on the most vulnerable including older persons. Addressing potential gaps in employment and lifelong learning may help facilitate the contribution of older persons to sustainable development.

j) Economic security

- Older persons can face challenges in maintaining their financial security and accessing the labour market. They can experience issues such as age discrimination, with their experience and knowledge overlooked by potential employers, as well as negative impacts of adult caring responsibilities, with older women particularly affected.
- Public services should take into account the needs of customers in protected groups and who require extra support, including the needs of older persons. Digital services provide can deliver quicker and easier online self-service, but there is a potential gap in supporting older persons who may require digital assistance.

k) Right to Health and Access to Health Services

- Everyone has the right to the highest attainable standard of physical and mental health. Older persons are more likely to be or to become disabled, to develop dementia, and other long-term conditions related to ageing, at the same time as maintaining employment and financial security. Ensuring that gaps do not exist in equitable access to universal healthcare is therefore particularly important.

Experience in the UK
- In the UK, legislation and the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (the National Framework) are designed to ensure that everyone who is eligible, regardless of age, condition or financial means, receives the most appropriate care for them.

l) Social Inclusion

- Older people are often subject to loneliness and isolation. This is not addressed directly in international frameworks, including recognition of the importance of personalised approaches and local solutions.

Experience in the UK
- The UK launched the world's first government strategy on loneliness in October 2018 to tackle loneliness and support older people's social connections. Given the complex and subjective nature of loneliness and social inclusion, this encourages the voluntary sector, businesses and other stakeholders beyond government to play a role and develop personalised approaches and local solutions.

m) Accessibility, infrastructure and habitat (transport, housing and access)

- There may be gaps in the framework around access to transportation, many older people with reduced mobility use public transport. It is important to promote and implement safe and barrier-free access in the transportation sector based on a concept of universal design.
- Consideration of the rights and needs of older persons should be central to the provision of more sustainable and accessible means of mobility including through technological advancements, the provision of new mobility services and automated and connected transport systems. These should all be designed and developed with accessibility considerations embedded, in collaboration with representative bodies of older persons, as transport policy is something that is developed with, rather than just for, individuals including older persons.

Experience in the UK
- The legislative framework for the accessibility of transport infrastructure and services is complex and multi-layered. General anti-discrimination duties apply to aspects of transport services and are supplemented with both domestic and retained EU legislation and agreements relating to specific modes of transport. Responsibility for the policy underpinning them rests with the UK and devolved administration governments, as well as, in the case of aviation and maritime services, with international organisations.
- This approach could be used in other ways to address potential gaps and support the development of frameworks.

n)   Participation in the public life and in decision-making processes

- There may be gaps around the increasing levels of loneliness and potential isolation of older people. Enabling all persons to take part in forms of social action, including volunteering, and by making this as easy and compelling as possible, may have a positive impact on their wellbeing. Evidence suggests that volunteering leads to increased life satisfaction, improved mental and physical health and wellbeing, and a reduction in social isolation for some who take part.

Experience in the UK
- In the UK, the involvement by older people in all aspects of life is supported by virtue of the fact that 'age' is one of the protected characteristics under the Equality Act 2010. This provides protection against direct and indirect age discrimination in employment.

<u>**Options on how best to address the gaps**</u>

Please state how your Government/organization has engaged with international and regional human rights mechanisms (for example: universal periodic review (UPR) treaty bodies, special procedures, regional mechanisms), specifically with regard to older persons.

1. The UK is part of the core group of the OEWGA and has recently joined the Group of Friends on the human rights of older persons in Geneva. These are two key strong commitments in the multilateral space. We have also consistently cosponsored the Human Rights Council resolution on the human rights of older persons.
2. The rights of older persons were addressed in the UK's latest reports to the CESCR, CEDAW and CERD. The CESCR report has a section on social care for older persons, the CEDAW report covers pensions and older workers and the CERD report has a reference to discrimination based on age.
3. The UK received a Special Procedures allegation letter in 2020 on the high number of deaths of older persons in care homes to which a detailed response was sent.
4. At its UPR the UK highlighted our strong welfare system – in 2022–23 the UK Government spent over £254 billion through the welfare system (UK) including £108 billion on people of working age (across England, Scotland and Wales) and £134 billion on Pensioners.

Have those engagements resulted in positive impact in strengthening the protection of the human rights of older persons? Please elaborate.

1. The UK is committed to the promotion and protection of human rights, and to implementing its human rights obligations. Engagement with human rights

mechanisms is a continuous process which helps to inform UK implementation on an ongoing basis, so it is not possible to draw direct lines between that engagement and specific impacts. The Public Sector Equality Duty ensures that in all policy decision we have due regard to the need to eliminate discrimination, harassment, victimisation of individuals with protected characteristics, including older age. The UK has strengthened its protection of the human rights of older people through changes to legislation and recent improvements in the delivery of services.

2. The UK will also continue to work closely with academia, civil society and national human rights institutions, to draw on their expertise and ensure that our approach takes account of their views.

What other options can be considered to strengthen the protection of older persons? Please elaborate.

1. International instruments could be used to strengthen the rights of older people regarding the gaps identified. Areas that represent foundations for the rights of older people include:
    o   The right to employment and the right to social protection as given effect to through pension systems, including through access to private pension systems.
    o   The right to participate in society through accessing information, such as through support in accessing digital platforms or providing alternative arrangements.
    o   The rights of carers as part of the right to care to ensure that the carers of older people are also accounted for in international frameworks.
    o   The definition of older people would need to have a judgement on the age range for older people. This will need to take account of the differing needs of older people at different ages, including those who are no longer able to work because of, for example, health reasons.
2. The UK welcomes consideration of existing gaps in human rights of older persons. The UK is open to further standard setting, including the possibility of a legally-binding instrument. In addition, it might be helpful to give consideration to a non-binding instrument, such as a declaration. This may better represent the dynamic development of international legal norms and reflect the commitment of states to abide by relevant principles.
3. A non-binding agreement would contain moral commitments but not legal rights and obligations. The UK would welcome a discussion on the approach. We will be actively engaging in the work of the intersessional group to identify these gaps, define solutions and possible next steps.

If applicable, what is your assessment on the protection of the human rights of older persons according to regional and international instruments?

1. ICCPR, ICESCR, CERD, CEDAW and CRPD already all apply to older persons, and older persons have the protection of a full panoply of human rights. As set out in this response, however, there may be gaps in provision that may not be fully covered, and aspects that are not yet implemented due to various factors.

2. We welcome OEGWA's work to help deepen our understanding of the important issues, before we consider what might be appropriate solutions. We also must consider how the work of the Working Group can advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not share it. In this way, the human rights of older persons are emphasised and protected throughout the Group's work and decision-making processes.