

# **Providing Legal Information and Advice to Older People: as much a question of accessibility as affordability**

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## **Abstract**

No continent has as high a proportion of older people as Europe. [\[3\]](#) In this paper, we report the findings of an empirical project examining the legal advice needs of older people. An important element of the project also sought information about the capacity of the internet for meeting the legal advice needs of older people. Overall our findings broadly indicate considerable failings in legal information provision for older people from more traditional advice sources. Whilst we have uncovered some examples of individualised good practice, our research in the main revealed an alarming sense of fear, mistrust, uncertainty and ambivalence among older people towards accessing legal advice. The research was funded by the Changing Ageing Partnership (CAP). [\[4\]](#) We believe our findings have broad implications and applicability across Europe.

## **1. Introduction**

This paper examines the issue of accessibility to legal information and advice for older people and is based on research to gain understanding of attitudes about older people's legal advice needs. The necessity for improved legal information and advice services has been acknowledged in government policy documents, alongside an increasing emphasis on the importance of service providers working in partnership with older people. Whilst there has been little research or specific attention given to legal issues and old age, the importance of addressing the legal needs of older people is underscored by the fact that they are identified as a group who are socially and economically marginalised. Furthermore, whilst older people share many of the same information, advice and advocacy needs of people of other ages in the population, they are not a homogeneous group. Regrettably however, the combination of negative and stereotypical attitudes about ageing has the effect of leaving older people excluded, causing many to endure unacceptable limitations in their lives. [\[5\]](#)

It is now well established that Europe's populations are "ageing"; rapidly. In 1950, the proportion of persons aged 65 and more was 8.2%; by 2000 the proportion had risen to 14.7%, and by 2050 it is expected to be as high as 28%. [6] At the same time, the European Commission (EC) expects employment rates for older workers to "increase massively from 40% in 2004 for the EU-25 to 47% by 2010 and 59% in 2025"; [7] a growth that will "need to be supported by ensuring lifelong access to suitable training";. [8] In order to address this situation, the European Union (EU) and the European Community (EC) have programmes in place to respond to the needs of older people. In particular, they have agreed to address the needs of older workers and older people by exploiting the full potential of the internal market of information and communications technology (ICT). [9] For its part, the United Kingdom (UK) government has been encouraging the adoption of e-services amongst its citizens by pioneering projects such as online centres, Learn Direct, and Wired up Communities. Additionally, it has created online portals such as Directgov ([www.direct.gov.uk](http://www.direct.gov.uk)), that allows citizens to access services offered by Government from a centralised location. [10] Nevertheless, surveys [11] and research project [12] findings show that digital exclusion is set to increase in the next five years. [13] Partly, this is due to the ever increasing use of digital technologies generally, but more specifically to the determination to cut transaction costs in government through the use of E-Gov strategies. Older people are particularly at risk of being most disadvantaged by such digital exclusion [14] and are difficult to reach even through innovative techniques. [15] Pinder [16] attributes this to both poor usability and accessibility of information, so system design must therefore take into account older people's information access needs in particular.

Against this background, our research project also investigated older people's perceptions and usage of the internet as one potential vehicle for balancing the demands imposed by their need for legal information and their ability to cope with the demands in accessing legal information.. The results from this study can therefore provide policy makers and lawyers with valuable information concerning the development of internet based legal information systems for older people in the future.

## **2. Literature Context**

Older people experience different legal needs across different ages. Whilst many of their legal needs are the same as those of younger people, some needs become more predominant in old age. There are also some groups of older people such as those from ethnic minority communities, rural areas, older gay men and lesbian women and those with disabilities who face the same issues as their peers but with more intensity. Such groups are consequently at greater risk of isolation and exclusion, can be harder to reach and more likely to face further exclusion in their later years. [17] Services providing legal information and advice are therefore crucially important for promoting the independence, rights, involvement and interests of older people.

In the literature on older people over the past decade, there is an extensive selection of descriptive articles on various technological applications and interventions primarily from the UK and Europe with a growing body of research on their effectiveness. Research conducted by the Joseph Rowntree Foundation [18] shows that many older people do use

the internet for information and there is considerable interest by older people around the world [19] in new technology [20]. [21] Since the early 1990s, the UK Government has increasingly recognised the significance of the dissemination of information, and advocacy services through the internet. Research findings also indicate that an increased number of older people are now using computers and the internet. [22] It is conceivable that in the near future the internet will be used as the main, if not only, route both for giving out and collecting information. [23] Without significant investment however the Government will have difficulty delivering on its own agenda of empowerment, [24] active citizenship and inclusion as there is a significant mismatch between the information available on the internet and the information requirements of older users. [25]

## **2.1 Legal Context**

The literature regarding the legal needs of older people is sparse. Our literature review reveals no previous survey of the legal needs of older adults in Northern Ireland. [26] However, with the changing demographics and increasing presence of older people in the legal system, there is a compelling need to address older people's legal issues on a much grander scale. Indeed, the need for a specific focus on older people in legal policy and practice arises from a number of life events that affect their information, advice and legal requirements. [27] Such events may include retirement, decline in physical and mental health, sensory impairment, and changes in their living arrangements. [28] The question is, do older people have any particular legal needs? Many of the legal needs of older people are in fact the same as those of younger people, e.g. relationship breakdown, housing, children, debt, and redundancy. Yet it is apparent that the effect of age, either through the physical and mental process of ageing or through the socially constructed expectations of the role of older people produces certain types of legal needs. These are the problems that stem from an older person's age and status in society. Such age-related legal problems include residential care issues, [29] signing over property to children and their implications on benefits and nursing care fees. Medical research also demonstrates [30] that as people age, increasingly they become physically and emotionally more vulnerable experiencing higher levels of dependency in turn impacting on how they deal with perceived threats.

For many older people, turning to the law as a means of protecting their fundamental rights to protection is hindered by a reluctance to make a formal complaint to a legal authority, for reasons including fear of reprisal, misplaced loyalty, dependency on the partner, confusion, and lack of cognitive capacity. [31] Legal issues also arise when competence to make decisions is in question, in particular, when people may need advice in relation to issues such as consent, testamentary capacity, powers of attorney, and "livingwills". In such cases, an increased awareness of mental health and capacity issues is needed. [32] The Mental Capacity Act 2005 provides a statutory framework for assessing an individual's capacity to make such decisions. It aims not only to provide clear guidelines for carers and professionals about who can take decisions but also specifies the situations in which these can occur. [33] The Act was partially implemented in April 2007 and fully implemented since 1 October 2007 in England and Wales. [34] Progressively, the Act also provides a statutory framework to empower and protect vulnerable people and specifies that a lack of capacity cannot be established merely by reference to a person's

age, appearance, or any condition or aspect of a person's behaviour. [35]

Although considerable dialogue has taken place in regard to medical-ethical-legal issues in the last few years, somewhat paradoxically, we have found that there is a gap between lawyers and the medical profession in advice that is given to dementia sufferers at the time of and closely following their diagnosis. [36] Having said this, the aforementioned Mental Capacity Act 2005 places a duty on local authorities and the National Health Service (NHS) to refer people who may lack capacity to make decisions about medical treatment and other important life issues to an independent mental capacity advocate (IMCA) service. [37] There is also evidence of disparity in dementia care particularly across Europe. [38] and at the same time, it is becoming increasingly evident that capable and healthy older people are also at risk. According to Atkin, older people are subject to the law of contract just like any other adult. The chances of their being duped are real and the safeguards against exploitation are similar to what would apply to the law on undue influence and unconscionable bargains. [39] However the law should recognise people's differing capacities for different purposes and must examine the substantive impact of an agreement on the particular older person. Recent statistics from the Financial Services Authority(FSA) suggest that older people are particularly vulnerable to targeting by fraudsters. [40] As Moskowitz noted in the Canadian context, older people generally find it difficult to replace money or assets lost, which may represent a lifetime of work and savings. [41] In this context, loss of the family home, in particular may be especially traumatic. [42]

The literature also suggests that the area of law which most people will associate with older peoples' legal needs includes different aspects of estate management, such as Wills, Enduring Power of Attorney, disposal of assets, inheritance tax and probate. [43] Watson also reports evidence of older people having their specific needs ignored due to ageist assumptions resulting in unequal, undignified and disrespectful treatment. [44] These intricate and convoluted systems in some ways mirror the exclusion of older people in other areas of society and life, where enforcing rights or having specialist knowledge of the law is deemed beyond the capability or interest of an older person. Perhaps recognising older people as diverse individuals with unique and varied life choices [45] and avoiding stereotypical assumptions presenting them as a homogeneous group typified by uselessness, frailty and lowered intelligence [46] may go some way towards preventing ageist legal practice.

## **2.2 Social and Policy Context**

Negative notions of "being old" continue to dominate across Europe, despite the ever increasing demographic changes we have reported already. [47] The language in social policy literature also problematises older people's longevity by using words such as "fear" and "anxiety" about the cost of supporting a growing population of senior citizens. [48] Notwithstanding such negativity, older people function within normal levels of cognition and are actively involved in society. [49] The role of the family in supporting older people is also worth note. A number of studies report that while the changing structure of families in ageing societies has been well documented [50] , this does not mean that the role of families in supporting older people is decreasing in importance [51] . At the same time,

the burden of care placed on family members and care-givers is also well documented [52] in addition to work noting the circumstances of and motivations around caring for ageing parents. [53]

In post-modern western Europe, however, a professionalized healthcare system has also propagated the notion of the "authority of the expert" with the older person expected to be passive. This however has had an unintended consequence of diminishing older peoples' self-determination, human dignity and often human rights. [54]

There is limited literature particularly in UK and Europe relating to what older people seek in terms of advice and how and where such advice is sought. [55] Traditionally, there may already be a relationship with a professional such as a bank manager, solicitor or accountant and this may be the person to whom an older person might turn to for advice in the first instance. [56] There are also increasing numbers of community and voluntary networks such as Age Concern and Citizens' Advice Bureaux which are often trusted points of contact for older people. Accessibility issues such as these have been given considerable attention in policy and literature. [57]

### **2.3 Technology Context**

There is no evidence to suggest that older people are particularly averse to using new technologies, [58] if these are appropriately designed and introduced. Internet technology is a tool that meets the specific functional goals of providing a medium of communication and is a source for providing information. However as with any other technology, in order for the Internet to be used successfully and thus realize its instrumental goals, the user must have the necessary knowledge as to how the technology can be utilized, have the ability to cope with the technological demands, and actually use the technology to meet specific functional needs. [59]

The attitudes towards internet access are complex and varied. Users of the internet can be segmented into "absorbers", "self-starters" and "non-users" classified as "rejecters" and "disengaged". [60] However, not all non-users are voluntary "rejecters" as originally hypothesised, instead the majority of non-users, as the research finding of OfCom suggests, intend to become involved given the right set of circumstances. [61] While the internet is optimistically viewed by many as a potential for technologically skilled people to overcome the "digital divide", there are still a number of factors such as education and socio-economic status that impact on many older peoples ability to go online. [62] Furthermore, research suggests that older people can experience more computer anxiety, [63] and be more negative about the amount of effort required to learn to use computers, often fuelled by the assumption that they have no use for them. [64] There is also a cultural and experiential gap between development of the content and usefulness of that content for older people. Hence, the challenge we face is to ensure that older people who want to use the internet are able to do so, and that those who are unsure about going "online" are shown the benefits which are relevant in the personal and social aspects of their lives.

The motivation of an older person to adopt internet technology can be discussed in terms of three theoretical dimensions: instrumental/expressive; passive/active; and task



oriented/ pleasure-oriented. Available evidence from different research studies [65] report that the online activities of older people are no different from other age groups. They use the internet for communication and information searches as well as using online services. [66] In this regard, Weinschenk argued against stereotyping older people as non-computer, non-internet users. [67] Chong and Theng [68] also reported in a study of web-based information needs of senior citizens in Singapore that there was considerable interest by older people wanting to learn about and use this new technology but the study also identified the mismatch between the information available from the internet and the information requirements of the older users. Dinet et al. also investigated the impact of a specific cognitive ability, i.e., metamemory [69] abilities, on the information search activities performed by older end-users. Their findings have shown that the internet has emerged as a major information resource for older people. [70] Morris et al in their UK based study, found that their information searches were often related to hobbies and interests (68%), travel and holidays (50%) and health or medical matters (28%). [71]

As mentioned earlier, the European Commission has been addressing the technological needs of older people for some time; however under the 6th Framework Programme (FP6) of research under the Information Society and Technology (IST) programme, several calls have focused on the particular needs of older people in the information society. [72] Researchers in the EU-funded PERSONA ('Perceptive spaces promoting independent aging') project are drawing on a range of advanced technologies to empower older people and support them."; [73] The concept of Ambient Assisted Living (AAL) refers to the range of technologies and services designed to maintain both older people's independence and their participation in community life. Despite the recent dramatic trends in the diffusion of information technology, the significance of these developments is still not clear. There is also a lack both of critical understanding of these developments and a sound theoretical and empirical base from which to observe and analyze them.

### **3. Research Findings**

This research was an exploratory study in an area of little prior investigation. Given the multi-faceted nature of the aims and the target sample group involved, we decided that a mixed methods approach to data collection should be used involving semi-structured interviews, focus groups and observational experiment. [74] We began the data collection with focus groups and then moved on to interviews and observations once a theory had emerged from the data and had been verified through theoretical sampling. The interview questions were designed to evoke subjective reflections. As the data collection and analysis occurred simultaneously, these questions were altered, discarded, and replaced on an ongoing basis to meet the analytical requirements. Our thinking about sampling at the beginning was guided by theoretical sensitivity and prior knowledge of older people's groups across Northern Ireland. We were always conscious about the need to have a large pool of potential participants as our research required a sample that was diverse in terms of race, ethnicity, gender, culture, education, and familial and socio-economic condition. In order to meet these objectives, we ensured that the actual participants themselves, as a group, represented various social locations, who lie at different points on the axes from disadvantaged to privileged, based on their "race", ethnicity, class, and gender. [75]

We also explored the current attitudes among older people towards the use of the Internet, how new opportunities are being exploited and whether there are opportunities to improve usability and support for tasks such as legal information seeking. The final method of data collection involved an observational session designed to assess the ability of a small group of "internet confident" older people in accessing legal information/advice using the internet. We hoped that the observation session would provide additional information and also would allow us to understand whether in reality older people are capable of using the internet in a meaningful and purposive way.

In this article, the authors present statements by individual older adults, as well as statements by legal service providers and social service providers. The quotations from older adults were selected and included in this article because we found them to be highly representative of the views of a large number of our older adult research participants. Focus group statements and individual interviews were systematically analyzed and reviewed in an effort to determine whether they were corroborated by the views expressed by other participants. Our aim was to present representative voices from older adults and service providers, because we recognized the power of the actual words of the participants. These voices are indicated in italicized type.

### **3.1 Older People: Isolated and Unknowing**

People generally do not actively seek out legal information until they, or someone close to them have a problem. The following interview respondent highlights this reluctance:

"people don't complain often enough.... older people tend not to force issues of their rights and most do not want the hassle".

Historically, older people are more likely to accept a situation without complaining and at times they may be unaware that they can challenge an action. This lack of capacity or willingness among older people to engage with their legal problems or the legal system became evident to us at an early stage. Although the participants did not refuse to answer questions on this topic, it was an area in which they were not as forthcoming. Many older people presented as not feeling sufficiently assertive about taking on a problem and exercising their rights and were instead more inclined to try reaching a reasonable settlement rather than go to the court. They found the formal structures of the legal system as intimidating or confusing and over three-quarters of focus group participants expressed a general sense of apathy towards the legal system and scepticism about its capacity to help. The following interview quote from a service provider reflects the latter point:

"most people regardless of age see legal channels as a last resort, often relatives of older people will find out about legal advice".

This perspective of seeing the legal system as unable to adequately address a problem seems to explain why some older people do not engage with it. There was also a sense of fear expressed by older people about the consequences of complaining which included the fear of alienating family members. Clearly, the emotional and behavioural reactions to this fear seriously affected the quality of an older person's life and the ability to properly

exercise their legal rights [76] .

Our research also uncovered important information about older peoples" need for legal advice particularly at the point of potential cognitive decline brought on by dementia:

"I understand that there is not really a good time ever for this to be suggested by the medical profession but I wonder what contact there is with newly diagnosed dementia sufferers in the first six months following diagnosis. It would seem to me that this is the ideal time for those with diminishing capacity to make legal arrangements for the rest of their life. Medical teams and social workers do not seem to realise what a difference good legal advice at this time would make to the patient."; (legal service provider)

As a result of this latter point, we have recommended that legal advice for older people should be made available as early as possible following the diagnosis of dementia.. This will necessarily involve a multi-agency approach between the medical profession, social services and relevant legal professionals.

### **3.2 Findings: Access to Legal Information**

The purpose of this section is to examine the ways in which older people conceptualize their legal problems. Over the last decade, awareness has been growing of the social relevance that law, legislation and the courts have to the lives of older people. [77] It plays an important active role constructing the meaning of old age, and changing the social reality of older people by providing empowerment and rights. Unfortunately, similar to other disadvantaged groups, older people also come up against many barriers when it comes to accessing legal information. [78] The reasons for this are not specifically clear, but we found it includes existing physical, financial, informational, cultural, and behavioural challenges. What we have described earlier as a reluctance to discuss legal problems can also be seen as a lack of insight about legal issues on the part of older adults. It is not what people want to know that is most important, but what they need to know. [79] One of the primary aims of our research was to find out whether older people are actually able to identify a legal problem. The fact that only one third of the population in UK and in Northern Ireland has made wills is some indication of the extent of the problem. [80] The resistance to discuss legal problems is exemplified by the following quote from a solicitor:

"People don't understand that an oral agreement with, for example, their daughter to pay bills and sort out money issues is not acceptable."

This perception of reluctance by older people was expressed by other respondents as well, as shown in the following excerpt from an interview

"People don't complain often enough. Older people tend not to force issues of their rights and most do not want the hassle"

In the course of this research it became apparent to us that if a diverse group of older people is sought out and asked for their opinions about access to legal information, a very



different image of the experience emerges. Indeed, we cannot say there is one experience; rather there are a multitude of experiences that reflect the gender, ethnic, and socio-economic backgrounds of the participants. But one thing is certain the general experience had been overwhelmingly negative. On the one hand, a majority of the attendees of the focus groups expressed the view that at times "too much information" is provided in the advertisements by some law firms which they found rather unhelpful and at the same time they also commented on their frustration at not knowing or being aware of where or who to turn to for legal information. The focus group participants routinely gave the following kind of accounts in this regard:

"There is also a lack of information available on legal issues. I would like to see more information available at local points such as credit unions, leisure centres etc. Solicitors are reluctant to give talks. We tried to get someone to speak to our groups last year and it took a long time to get someone. The one stop shop idea may be a possibility.";

Social or geographical isolation also reduces a person's ability to access information. A recent "Help the Aged" research found that 16 per cent of older people in Northern Ireland do not get out of their home more than once a week, while 21 per cent of older people often or always felt lonely. [81] We also took into consideration the particular barriers faced by those older people living in rural communities. More than half of Europe's population live outside its cities and major towns [82] which have a higher proportion of older people who are aged 65 plus than there is in Europe's urban areas. Many such older people rely for sources of legal advice on recommendations from friends or trusted third parties, such as the Bank Manager, for example, as we were told in one rural focus group. [83] However, isolation from friends or extended family is likely to further reduce the likelihood of such an older person seeking legal advice. At such times, lack of information, when information is required, can have severely detrimental effects on some older people. Some service providers however saw "signposting" as an effective way of initially giving out legal information:

"We are not legally qualified so we give advice to the point of contact for the CAB and should we feel people need more professional advice we would signpost them on to a local solicitor that would specialise in their field of interest."; (Interview respondent)

The worrying fact remains that many older people tend not to go directly to a legal service provider or other intermediary when they have a legal problem. According to our findings across all of the focus groups and affirmed by the service providers, there is little knowledge of where to find adequate information and advice for specific issues that have great relevance for older people.

"Many older people are not aware where and when advice is available. Furthermore they may be unaware that advice is needed. Social or geographical isolation reduces a person's ability to access information.";

(Interview respondent)

This raises the questions; who does provide information? And crucially, who should provide information and how? Some service providers also drew a sharp distinction between information and advice, and were careful not to be drawn into offering advice. There was a fear of litigation in case they got it wrong, and a feeling that they did not have the necessary expertise to offer appropriate advice. [84] Even those who saw more fluid boundaries between information, advice and advocacy were likely to offer advice only within what they perceived as their area of expertise:

"There is a fear of liability and an attitude that it is not my job for example as a podiatrist to provide welfare or legal information."; (Interview Respondent)

Other service providers had a wider view of information provision, perhaps because sharing of information was not only part of their role, [85] but also part of helping people determine what it was that they wanted:

"Non-advice services are increasing such as Good Morning Schemes by phone. Although these types of schemes are aimed at ensuring the older person is alive and well they also play a reassuring part to older people as they can discuss anything that might be worrying them and the caller can then signpost them onto advice providers such as CAB, or other options for accessing legal advice if that is appropriate. Funders such as charitable organisations and Age Concern are attempting to extend these types of services to reduce isolation and social exclusion of older people."; (Interview Respondent)

### **3.3 Findings: Older People's engagement with the Legal Service Providers**

In this section we have analysed older people's engagement with legal service providers. Although such providers can play an important role in protecting the interests of older people, little is known about their experiences of working with older people. In the focus groups we found that the experience of interaction with legal service providers typically appeared as stories told about actions, events or conditions in response to the following questions: Have you ever faced any legal problem? And what type of legal advice/information provision would you most value?

In general, people's perceptions of the law and how it can work for them are very diverse but for older people not only the perception of law but also the expectation from the legal service providers is quite diverse. [86] In a way most older people, when seeking legal advice, demonstrate higher level of expectations [87] from the legal service providers as the following solicitor comments:

"I know a family where the advice of a solicitor was sought in a large family where the father had left all the assets to one sibling and the house to his wife. They felt the solicitor had not given good advice as there was no provision made for the other siblings.";

One of the service providers we consulted expressed the view that legal processes are unfamiliar to most people and involve unfamiliar language which can make accessibility even more complicated. On the whole, most of the focus-group participants found "legal

jargon and language can be difficult to understand"; and "certainly felt that they do not really understand how the legal processes work";. This is particularly significant given that one of the service providers stated that many older people assume that the word "legal" pertains to court and therefore might have deterring and negative associations. Furthermore, during consultations, it also emerged that some of them did not have faith in the legal system to provide the redress they sought. They raised concerns about systematic neglect and a breakdown in trust between older people and service providers in general. The following comment made in response to a scenario presented to the focus groups about an older person contracting an infection when in hospital highlights the extent of mistrust:

"You would have to prove that you picked up the infection in the hospital and that you didn't have it already. Most people would just accept it. Maybe they could not be bothered as proving it is so difficult.";

Our analysis further revealed that a large number of older people refrain from taking legal advice because of lack of trust and suspicion about costs. The prohibitive nature of legal costs was a significant issue for many focus group contributors, the following quote is typical of what we heard:

"legal aid solicitors encourage clients to take unnecessary actions. They just get you to sign the form and then they claim back the money. I think this is wrong. They need to give you time to read and understand what actions are possible and what is most appropriate but they don't give you time to understand you just sign their form and they get the money."; (Focus group respondent).

Besides this, we also found evidence of good practice:

"We have comprehensive guidance notes that are sent out before a client comes in for them to read at their leisure. This enables the client to have some background knowledge before they even come in so that they can think about what they actually want advice about. The notes are very basic and written without legal jargon so to be as clear as possible and easily understood."; (Service provider interview respondent)

Whilst it is reassuring to hear of such sensitised practices in meeting the specific needs of older people, we also detected some negative experiences about older people's encounters with public services:

"There are also difficulties at a more strategic level involving the attitudes of the police to older people when they are making enquiries, officers need to be patient and listen to the older person."; (Interview Respondent)

Our argument is that legal service providers need to be sensitive to an older person's context (family, structural arrangements and individual characteristics), be able to ensure their participation in the decision making process, and take an empowerment approach in their interaction with older clients. The complexity of issues results in many older people needing to establish a relationship of trust with their legal service provider before they are

willing to proceed with a matter.

### **3.3.1 Findings: Lack of Specialized Service Providers**

There is lack of a singular, specialised service for older people. Older people in our study valued the expertise of those service providers who could personalise the available information. The authors have found that many solicitors in Northern Ireland do not have a clear understanding about the pertinent issues such as controllership, EPA's, and Office of Care and Protection procedures. One legal service provider highlighted the importance of providing accurate advice and information about areas where there is a lot of misinformation, e.g. gifting and nursing home fees:

"Clarification on time limits between gifting and entering care is required as each Health Board has different rules and time limits";. An interviewee commented that in Northern Ireland, there is a "tendency among some solicitors to take on all work regardless of knowledge in the field";.

In contrast to the latter sense of "generic specialism", it would seem more effective for solicitors to highlight more relevant issues for consideration and increase their specific awareness of issues commonly affecting older clients, as the following interviewee suggests:

"Elderly client practice should be a recognised specialism with increased training available.";

This notion of specialism is further developed by the following respondent:

"I feel that an advocacy service would be very helpful. Volunteers would be trained in advocacy for older people and then could support them by attending solicitors meetings and have expenses paid so they have a depth of knowledge and specialism coupled with enthusiasm and passion for the contribution which they are making, that is often not the case with paid posts. Disillusionment is a problem when a service becomes "just a job". They could help the older person understand any complicated jargon and could help to maintain an objective view.";

The key to effective social work advocacy is however to provide training in major public entitlement laws and regulations, administrative appeals procedures, and community resources to staff and volunteers in different older people's networks. It is felt that a directory of Legal Services would be very useful and would enable others to signpost to a specialist firm. A number of service providers also expressed the need for specialist training in older people's services and awareness. The Alzheimer's Society, for example, does run training courses but they feel that this training should be a formalised part of solicitors' training for general practice. There are nonetheless interesting initiatives in both medical and social work training currently in Northern Ireland where students do have the opportunity to learn directly from both patients, service users and carers throughout the course of their education. [88]

Being aware of the particular issues and challenges facing some marginalised groups was

also felt to be important by some focus group participants:

"I would like to see a list of solicitors who are specialists in LGBT issues and who are accepting of homosexuals and therefore sympathetic to our specific legal needs.";

It is also important to point out that older people, while experiencing many of the same legal problems as other age groups, do have some special needs that differentiate them from others. What is useful therefore is information that is tailored to their particular situation as the following interview respondent comments:

"There is no one size fits all for any of an older person's needs. Every case is an individual and everyone needs individual advice.";

### **3.3.2 Findings: Cost Issues**

Older people often live on fixed incomes and thus are less resilient to financial loss, and they often face proportionately higher fixed costs for health care, housing, transportation and other essentials. As a result, many older people operate under the belief that access to quality legal services are not affordable for them as there are plentiful stories abound of expensive lawyers and huge legal bills! Uncertainty about costs, lack of awareness of legal aid entitlements are both contributory factors, as the following service provider suggests:

"Entitlement to legal aid is confusing even where they may have a good chance of winning the case they cannot afford to take the case forward.";

According to another service provider, wealthier clients are actually easier to advise because of Inheritance Tax issues. It is those older people on a middle income that have more difficult choices to make as Social Services have the right to demand payment for fees if they feel there has been a "deliberate disposal" of the family home to avoid paying fees. Hence it is the middle income groups who would be least likely to be able to afford legal redress. We also found although there are many solicitors who will take on pro bono work but there are still major worries about costs for older clients as the following focus group contributor comments:

"If you can't afford to go to a solicitor then you have to do it yourself".

One participant reported that solicitor's fees were misrepresented to him and that the amount was severely underestimated in the initial advice he received. One of the key recommendations of our research is therefore the introduction of a generalized basic pricelist to ease cost worries and concerns about older people being overcharged for legal advice.

### **3.4 Finding: Minorities and Marginalised Groups**

As previously mentioned, we should not generalise the legal needs of older people. Different people have different needs and various levels of engagement with the legal system; this is particularly true for people coming from minority and marginalised

backgrounds. We have found that older people from culturally diverse backgrounds suffer particularly as a result of differing cultural expectations about the position of older people in society and families, and from a lack of cultural diversity in services. We have found specific problems for the Lesbian Gay Bisexual and Transgendered (LGBT) community around accessing legal information particularly for such older people who may already be isolated by their sexuality or geographical location where they may fear identification. The following focus group respondent articulates the extent of these problems:

"Individuals need to be very confident to make complaints of any sort and in particular in the LGBT community. There is a fear of reprisals which prevents complaining or even to giving information.";

There are however very specific legal issues pertaining to LGBT individuals and their partners. Some problems are general and some can be very specific, for example issues about children, fertilization and adoption. There are also issues pertaining to civil partnerships, property ownership, estate management and treatment in hospital etc. There was also concern expressed that churches were not considered sympathetic or cognisant of legal equality requirements in, for example, instances where an LGBT individual wanted to leave instruction for a Christian funeral, cremation or burial.

A further barrier faced by minority ethnic communities is presented by the complex nature of legal jargon for those older people whose English is not good. A successful assessment of the decision-making capacity and the application of the Mental Capacity Act 2005 are contingent upon the assessor's fluency in the subject's language, the subject's fluency in English, the accuracy of interpretation services and the availability of appropriate vocabulary in the subject's language for concepts discussed during the assessment. [89] There may also be cultural and awareness issues in relation to legal aid and prejudice to moving outside of communities to seek advice. From the focus group which we did with the Over 50's club of the Indian Community Centre and the interview with the representative of Chinese Welfare Association, we found that the lack of response to questions about legal needs was not due to the members having no legal needs or problems but was more of a cultural and privacy issue:

"You need to speak to the men about legal things, it is not something that Indian women usually deal with.";

In this particular focus group, few members felt comfortable talking freely in the vicinity of the group, as the issues we were discussing were very private for people coming from that cultural background and the individual would normally only be discussing such an issue within the family or with a solicitor. In some cases such issues would not even be discussed with the family. One of the members of the focus group felt that Indian people have many different problems but often they do not want to think about them or publicly acknowledge them.

Even within the European Union there are considerable variations with regard to the ability to speak the language of the country. For example, in the UK 36% of South Asians and 82% of Chinese/Vietnamese do not speak English. [90] The older Chinese community in Northern Ireland does not speak a great amount of English. Issues around privacy also



take on particular resonance for some older members of such minority ethnic groups as the following respondent indicates:

"There is a tendency within the Chinese community not to discuss personal issues outside the family.";

We also found instances of discrimination against minorities and other marginalised groups, people being treated less favourably for their ethnic background or sexual orientation and examples where unreasonable conditions were imposed. There was also concern expressed about discrimination, lower standards and derogatory comments in public services such as hospital care when a medical professional was aware of an individual's sexual orientation. This was borne out by one member with mental health problems who was admitted to hospital for treatment. She reported comments such as:

"I bet you fancy that nurse" and was known to other patients as "Lesbo".

Another focus group respondent also reported overt direct discriminatory behaviour on the part of a health care professional:

"...during treatment for depression he was asked if he was depressed because he was gay and was directly asked by the doctor if he fancied him.....";

### **3.5 Findings: Use of Technology**

The Internet has tremendous potential to broaden the lives and increase the independence and inclusion of older people in particular. On a broader note, the internet has been increasingly relied upon by legal service providers, government departments, complaint handling bodies and interest groups to convey legal information to consumers. It seems to us therefore that the internet may be the natural way for more people to avail of low-cost legal advice and services. Our focus was on five key themes related to the information society – accessibility, independence, involvement, strategy and standards.

We found out that older people are using computers and the internet more than they used to. Some participants affirmed this increase in computer usage because of the availability of training programs and computer classes such as "Everybody Online". We were also made aware of similar courses being organised through different platforms such as Age Concern [\[91\]](#) in association with local libraries showing older people how to surf the net.

Nevertheless, despite such availability of internet courses, we have found that one of the major problems is keeping people internet active after the courses were completed. Some of the participants commented during the focus groups that they have computers at their homes "which just sit there and are never turned on";. Many older people expressed the view that it was not just about access to the equipment but also the availability of one to one training at home to both inspire and maintain confidence:

"We did have a programme to put computer equipment into older person's homes but this has fallen back as resources become scarcer.";

The legal service providers consulted during this study provided mixed opinions about the

potential of using the internet in order to provide legal advice. Most respondents thought that basic information and signposting on the web is very useful but also expressed the view that the internet will not resolve complicated or complex legal issues and may even cause misunderstanding and provide misinformation. In this regard, there is still a strong opinion in favour of face to face interaction. Having said this, the internet is certainly seen as a part of the broader picture and is believed to be very useful. For example, one of the service providers is actively promoting use of internet for providing basic legal advice for groups such as, hearing impaired clients who find using the phone difficult. Furthermore, the internet is regarded as a good source of communication and information, particularly for people who are socially isolated, as the following interview respondent suggests:

"We find the use of the internet by older people very good and many of our clients are computer literate and actually contact us initially via email, this also reduces assumptions made about physical decline. I find clients use the notes on the internet in the same way as hard copy, as a preamble to an appointment to empower themselves with information prior to meeting face to face. This in turn enables the older person to have less face to face meetings which in turn reduces their costs.";

When we asked focus group participants if they would use the internet for legal advice, we received a varied set of responses. Some participants affirmed their confidence in computer usage and using the internet in advance of seeing a solicitor:

"You would Google for legal advice...I would use the information for preparing before I see a solicitor which would reduce costs as the interview would take ;less time....I found the advice on the internet very good and gave me a broad picture of the facts..... "I like to be informed and then my understanding is increased";

The latter are a sample of comments expressed by older people indicating that the internet does have a positive contribution to make in the process of accessing legal advice.

Some other older people however expressed concerns about using the internet in this way. Concerns, for example, were voiced about safety and security issues on the web together with the concern about the accuracy of the legal advice provided. One participant articulated these concerns from personal experience:

"I often find that the information on nursing (which used to be my profession) is inaccurate and I would worry that legal information may be inaccurate as well. Who controls the content of the Internet?";

Furthermore, concerns were also expressed about costs as the following focus group comment suggests:

"A site relating to tax credit claims was acting as an agency for passing along claims to the tax credit office. The site then charged those who filled in the form online and sent it in. There was no informing that there would be a charge and it was not discovered until later. The people using it thought it was the Inland Revenue" own site but it wasn't so care is required to prevent

unnecessary costs arising.";

However, there are also age related functional limitations such as vision decline, motor skill diminishment and cognition effects which should be taken into consideration. This was also highlighted by Brennan, Horowitz and Ya-ping in their report that twenty percent of America's older adults (over 70 years) reported dual sensory impairment and that such high levels of dual impairment were shown to increase the risk of difficulty with the "instrumental activities of daily living" (including using a telephone, and hence probably computer and internet usage). [92]

### **3.6 Findings: An Experiment to assess older people's ability in using the internet as a source of Legal advice**

The European Design for All e-Accessibility Network [93] stresses the need for a methodology which includes older people and disabled people in all areas of research and design. We therefore worked to include and support older people as "user researchers" and collaborators in key aspects of design, data collection and eventual evaluation of this project in terms of its product. We examined the attitudes of older people to accessing legal information/advice- e.g. what individuals consider important in obtaining such information, and the relative effectiveness for achieving an individual's aims of using the internet over other information sources.

Four older people subsequently agreed to take part in this experiment and all had expressed confidence in using the internet as it required both a high degree of abstract reasoning and executive function. One of the participants had suggested what were felt to be fairly straightforward legal scenarios that might typically confront older people, and these formed the questions, referred to in the methodology section already, that would be used in the experiment. We had also provided four Northern Ireland website addresses that could be used in the process.

The four participants completed a short questionnaire following the experiment. In response to the first question: What was it like trying to find answers to these questions? All respondents indicated that this was "difficult". Whilst some of the questions were able to be answered, for example, in relation to how to go about making a will, all of the participants experienced difficulty in accessing a precise answer to the specific questions, for example, in relation to transferring property over to a family member. Locating relevant information among information provided by the websites also emerged as a major problem for them. The most serious problem they faced however had to do with editing the text in the queries. There were also problems with understanding the structure of the web as the participants found difficulties in getting back to the website after navigating away from it.

The following are some responses we received to the question: Have you any suggestions to make about using the internet to help with legal problems?

"Perhaps a web-site that allows one to put in a question, "how do I go about?" questions and obtain the answer, also frequently asked questions";

"Maybe less complicated websites, with bigger writing";

The importance of information being accurate and up-to date was a strongly held view in our focus groups, wherever and however it is provided.

"Websites need to be constantly updated and maintained properly";

"It's not difficult using the web, but finding the answers is the difficult part";

"Google seemed more effective – but issues of trust arise";

"Information on a website has to be trustworthy and reliable";

In conclusion from our observations in this experiment, it did seem that the internet does have the capacity to potentially act as a source of useful legal advice for older people but there are a number of key aspects which need to be addressed. For example, there is a general concern about lack of defined quality assurance mechanisms and issues of trust in regard to the validity and reliability of advice on offer. If proactive design is an aim then ways needs to be found to support the use of existing search strategies and skills. This may mean supporting use of combinations of traditional information seeking approaches with web based ones. As well as this, internet legal advice needs to become a less cumbersome process for the older user, whereby practical answers to problems can be easier facilitated and processed.

## **4. Conclusion and Recommendations**

The critical evaluation presented in this article is restricted to three key issues: firstly how older people access legal information; secondly how do they engage with the legal service providers and thirdly their ability to use internet for retrieval of legal information. We have carefully evaluated the evidence in order to determine what improvements could occur in the design and implementation of policies for empowering older people through the use of internet.

Legal issues affecting older people are increasingly becoming complex and involve complicated and probabilistic information. This, in turn, demands the establishment of better communicative systems between legal service providers and older people and also the establishment of better methods of delivery. This study highlights that many older people require support and we have found that most of the older people we surveyed, who encounter legal problems, do not have the capacity or the confidence to engage with legal service providers. It should also be borne in mind that most research into why people do not seek legal advice approaches the question in the regulatory sense, so the real question that most research in this area answers is: "what stops people from taking legal advice?";. We have found that older people do not seek legal advice firstly because they are not aware that they need to and secondly, that even if they are aware of the need to get advice, they do not know where to get it. However, it is not just about providing legal information but also about providing accessible and affordable legal information.

The UN's Madrid International Plan for Ageing 2002 called for "changes in attitudes,

policies and practices at all levels in all sectors so that the enormous potential of ageing in the 21st century may be fulfilled"; [94] It is evident to us that the current system of delivering legal advice and empowering older people is definitely not working as well as it should be in Northern Ireland. Our findings therefore suggest the need for a new; more flexible and adaptable system for the protection of older people because most of the existing mechanisms are unsatisfactory and not comprehensive. . Yet one may also argue that the goal of legal decision-making is to ensure that the interests of the individual is protected.

Whilst we have uncovered some examples of individualised good practice on the part of some service providers, there are consistent themes emerging from the consultations with older people relating to accessibility to legal services, cost factors, fear and mistrust, unwillingness to complain and genuine feelings of uncertainty about many aspects of law significantly impacting on their lives. Hence it is appropriate that the legal machinery for supporting older people should be diverse and wide ranging. Our research strongly indicates that the current legal system must accept that older people are often not getting the service they should, at a price that they can afford.

The research therefore also made the recommendation that there is a need for improved communication between relevant health and social care professionals and the legal profession in terms of raising awareness of older people's needs for legal advice at critical periods, for example, at the point of early diagnosis of dementia. In addition, we concluded that the legal system needs to particularly recognise the acute pressures being felt by older carers. In order to improve accessibility, the research also recommends that legal information and signposting should be available in community centres and facilities attended by older people. Furthermore, the legal profession needs to use jargon free and accessible, understandable language in all levels of communication with older people. The production of a generic Legal Guide and Directory of Services for older people would therefore be appropriate. In our opinion there is also a need to provide specialist legal services for older people's issues generally and also to meet the particular needs of groups and individuals who are marginalised and socially excluded.

The Legal education at undergraduate level needs to include specialist curriculum content and contributions from older people as service users to sensitise law students to older people's particular legal needs. In addition to basic price lists being made available by legal service providers covering costs in direct and accessible formats, we have also recommended that legal advice also needs to be made available to older people living in residential care about important aspects affecting their lives. We believe, if properly utilized, internet services can also empower and enable older people to take control and enhance the quality of their own lives. But before that, the issue of accessibility needs to be addressed for which we are proposing the development of internationally agreed guidelines on the accessibility of websites for older people. Following our internet experiment, we strongly argue in favour of developing an adaptive system which is capable of providing individualised support.

Information and legal advice can also help to ensure that older people are aware of their rights, circumstances and options as well as the services and support they may require to to remain in control. It is evident from our research that online/Internet services should be

developed further as a way of providing an accessible resource in providing legal information and advice for older people; but it has its limitations. Those on the receiving end need to have a reasonable level of literacy to understand it and, for access to be effective, they also need to be self-motivated, and have a level of computing skill and access to such facilities. As with any legal information delivered outside an interactive advice setting, there will be problems engaging people who do not have a basic level of "legal literacy" on which they can build as we realized during the experiment. The internet could however have the potential to address many of the deficits which we found to exist for older people in accessing "live" legal advice and therefore could enhance the capacity, trust and confidence of older adults in approaching solicitors for legal advice..

The implication of the findings from this research indicates that the social policy goals of empowering older people will be increasingly difficult to realize without the improvement in access to legal services more generally. We believe that the recommendations we have made in our study have the potential to meaningfully challenge the experiences of social exclusion and marginalisation that currently characterise the lives of older people when it comes to accessing legal advice.

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## **Appendix: Research Methodology**

A mixed methods approach to data collection was used for this research involving semi-structured interviews, focus groups and observational experiment. This approach was appropriate given the multi-faceted nature of the aims and the target sample group involved. The definition of old age is inherently complex. For some groups such as the Irish Travelling Community, where mortality is much shorter than with other groups, [95] old age can be defined between 50 - 60. Within the classification of old age itself, there are additional sub-categories such as 'older' elderly people who are in the age bracket 80+. Our study reflected this diversity of age profile and necessarily included respondents across the range of people post statutory retirement age in Northern Ireland" . [96]

The research team held a series of interviews with a range of individuals and organisations with an interest in older people's issues. Qualitative information about legal advice provided to older people was therefore gathered through twenty-five (n=25) semi-structured interviews with a range of key stakeholders such as solicitors firms, NGOs representing older people, health and social care providers, minority ethnic groups. The interviews included the following key themes:

- Priority legal issues and common legal issues affecting older people?
- Experience of legal problems by older people from ethnically diverse backgrounds
- Experiences of older people from rural regions in regard to legal problems
- Older people with disabilities and legal problems
- Older people's experiences of access to legal advice and other legal services?
- Mechanisms through which older people solve legal problems.
- Suggestions for improving services to better meet older people's legal needs
- The capacity for the Internet to provide answers to straightforward legal questions?

Committed to the principles of user engagement, it was important for the research team to also access the views of older people as users of legal services. We therefore worked closely with an NGO representing older people's issues which played an important role in signposting the research team to established groups of older people across Northern Ireland. Seven focus group meetings (n = 7) were subsequently arranged with a total of eighty three participants (n=83) comprising sixty four females (n=64) and nineteen males (n=19). Furthermore, in selecting our focus group sample the following criteria were applied in order to ensure representativeness:

- Representation of older men and women
- Older people from urban and rural locations
- Minority ethnic older people's perspectives
- Views of older people from other minority groups such as the Lesbian Gay Bi-sexual and Transgendered (LGBT) community

The participants in these groups were diverse and could be taken as statistically

representative of the population of older people as a whole in Northern Ireland. Information from participants on demographic, financial or social factors was not however collected.

In terms of planning for the focus groups, a small number of general questions were also designed as a way of facilitating the focus group discussions following consultation with the NGO mentioned previously and its networks about the types of legal issues that older people would most likely experience and readily identify with. Participants in these focus groups were then firstly asked a general question about the types of legal problems or issues they had experienced. This was asked with the intention of identifying what legal areas would be of most significance. However, sometimes this general question was followed closely with a brief outline of some of the legal areas that might be pertinent.

The legal problems which we presented and discussed firstly were quite generic such as wills, conveyancing, power of attorney and financial issues. Participants were then asked about more sensitive issues where legal avenues were less likely to be used and these were presented in the form of hypothetical scenarios which did elicit interesting discussion points and triggers to other associated legal issues.

The final method of data collection involved an experiment designed to assess the ability of a small group of "internet confident" older people in accessing legal advice using the internet. The following three legal questions were then designed by a representative from an older people's advocacy group, which again reflected a commitment to working alongside service users as research collaborators.

- How can I transfer property over to my family?
- What is the average price of making a will?
- How do I make a will?

We then provided the four older people participating with four websites providing on-line legal advice. The experiment took place in a university computer suite with two research team members observing the participants as they set about trying to resolve these legal problems by using the internet. The participants were then asked to complete a short questionnaire at the end by way of evaluating the experience.

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[19] U3AOnline (U3AOL) began in 1998 as the first virtual U3A. The principal aim was to develop and deliver inexpensive, high quality, intellectually challenging courses over the Internet, for isolated older people regardless of which country they live in. Since then, the concept has broadened to include the general ageing population. See <http://www3.griffith.edu.au/03/u3a/u3aonline/>

[20] See Sourbati, M. (2004) Internet Use in Sheltered Housing: Older People's Access to New Media and Online Service Delivery. (York: Joseph Rowntree Foundation)

[21] See Chong, S.P. and Theng, Y.L. (2004) A Study of Web-Based Information Needs of Senior Citizens in Singapore, 8th ERCIM Workshop "User Interface for All", 28-29 June 2004, Vienna, Austria. See also Curzon P, Wilson J, Whitney G. (2005) "Successful strategies of older people for finding information", *Interacting with Computers* 17 pp 660–671

[22] "Older people feel motivated to use ICT as they see it as an important element for feeling part of contemporary society and fighting against the isolation that can increase with age," See Sayago, Sergio and Blat Josep (2010) Telling the story of older people e-mailing: An ethnographical study, *International Journal of Human-Computer Studies*, 2010; 68 (1-2) p 105 ; See also Margiotta, P, Raynes, N, Pagidas, D., Lawson, J and Temple, B (2003) Are you listening? Current practice in information, advice and advocacy services for older people (Joseph Rowntree Foundation, York) p 53

[23] Strategies for finding government information by older people, Paul Curzon, Suzette Keith, Gill Whitney, Judy Wilson Technical Report: IDC-TR-2004-009, February 2004, Interaction Design Centre. See Lupea D, Rizo CA, Anderson M, Baybourdy H, Closson T, Jadad A (2004) What services would patients like to have available through the Internet when hospitals are disabled by an epidemic? Lessons from the SARS outbreak at the University Health Network in Toronto. *Medinfo.*;(CD) p 1733 see also Learning Network for Active Aging, <http://www.epa.gov/aging/bhc/lnaa> and also SeniorJob, <http://www.seniorjob.fr>

[24] See Strengthening older people's rights : towards a UN Convention: a resource for promoting dialogue on creating a new UN Convention on the Rights of Older Persons; by INPEA; International Federation on Ageing - IFA; ILC-US; IAGG; IAHSA; HelpAge International; Global Action on Aging - GAA; Age UK; AARP (2010)

[25] See Raynes, Norma., Pagidas, Dimitri and Margiotta, Pat (2004) "Information for



Older People: The Contribution of Local Authority Websites", *Journal of Integrated Care*, Volume 12, Number 4, pp 35-41

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[27] See Dunning, A (1998) "Advocacy, empowerment and older people", in M. Bernard and J. Phillips (eds) *The Social Policy of Old Age: Moving into the 21st Century* (London: Centre for Policy on Ageing)

[28] See Dunning, A (1998) "Advocacy, empowerment and older people", in M. Bernard and J. Phillips (eds) *The Social Policy of Old Age: Moving into the 21st Century* (London: Centre for Policy on Ageing)

[29] For years, nursing homes in the US have been riddled with evidence of poor performance See Phillips, Charles D, Kimbell, Anne-Marie and Hawes, Catherine (2008) *It's a family affair: consumer advocacy for nursing-home residents in the United States*, (*Ageing and Society*) vol 28, part 1, January 2008, pp 67-84

[30] Miller, R. A. (1999) Kleemeier Award Lecture: Are there genes for aging?, *Journal of Gerontology*, 54A, B297–B307

[31] See Krug, E., Dahlberg, L. L., Mercy, J. A., Zwi, A. B., and Lozano, R. (2002) *World report on violence and health*, Geneva: World Health Organization

[32] The misuse of enduring powers of attorney has been identified in a number of jurisdictions as being one of the main contributors to financial abuse and as exposing older people to particular risk of an attorney abusing the authority vested in them under an enduring power. Statistical evidence have proved that financial abuse occurs in 10-20% of cases where Enduring Powers of Attorney (EPAs) are made. Comprehensive reforms in this area resulted in creation of; New Lasting Powers of Attorney (LPAs) replaced EPAs on 1 October 2007 and reducing financial abuse amongst the older people. The person making a LPA (the donor) will now need to find someone who will sign a certifying statement. For the first time, donors can appoint attorneys to act for them in making decisions about their personal welfare. Issues such as deciding about a donor's living arrangements and medical treatment are key examples of the powers an attorney would have under a Personal Welfare LPA. See The Alberta Law Reform Institute (ALRI) (2003) *Enduring Powers of Attorney: Safeguards Against Abuse*, (Final Report, Canada) pp 88 see also Carney, T,(1999) "Abuse of Enduring Powers of Attorney – Lessons from the Australian Tribunal Experiment?" 18 NZULR 481. In the US, considerable attention has focused on the debate over whether to modify practices to make POAs more difficult to abuse. See Stiegel, Lori A and Klem, Ellen VanCleave (2008) *Power Of Attorney Abuse: What States Can Do About It: A Comparison of Current State Laws with the New Uniform Power of Attorney Act*. (AARP Public Policy Institute Research Report)

[33] See <http://www.scie.org.uk/publications/atag glance/atag glance05.asp>

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[35] Capacity is not a fixed concept, but relates to a particular decision at a particular time. Different decisions and activities require different levels of capacity. See Department

of Health (2007) Best Interests: Guidance on determining the best interests of adults who lack the capacity to make a decision (or decisions) for themselves: England and Wales, Report published by the Professional Practice Board of the British Psychological Society.

[36] A recent survey showed that the delays from symptoms to diagnosis varied considerably between European countries ranging from 10 months in Germany to 32 months in the United Kingdom. See David Wilkinson et al (2005), Inequalities in dementia care across Europe : an agenda for change, *International Journal of Clinical Practice*, March 2005, Vol. 59, Suppl. p146

[37] Gorczynska, Teresa (2007) "The first legal right to advocacy", *Working with Older People*, March 2007, Vol 11, Issue 1, pp 17-20. See also Margiotta, Pat et. al. (2003) "Are you listening?", *Current practice in information, advice and advocacy services for older people*, York: Joseph Rowntree Foundation.

[38] See David Wilkinson et. al. (2005), "Inequalities in dementia care across Europe : an agenda for change", *International Journal of Clinical Practice*, March 2005, Vol. 59, Suppl.p 146

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[40] See FSA Press Release (2009) Over 65s most likely to be targeted by share fraudsters, warns FSA, <http://www.fsa.gov.uk/pages/Library/Communication/PR/2009/055.shtml>, April 2009

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[53] See for example Dellmann-Jenkins, M., and Brittain, L. (2003) "Young adults' attitudes toward filial responsibility and actual assistance to elderly family members", *The Journal of Applied Gerontology*, 22, pp 214-229. See Stein, C. H., Wemmerus, V. A., Ward, M., Gaines, M. E., Freeberg, A. L., and Jewell, T. C. (1998) "Because they're my parents: An intergenerational study of felt obligation and parental care giving", *Journal of Marriage and the Family*, 60, 6 pp 11-622 and also Caputo, R. K. (2002). "Adult daughters as parental caregivers: Rational actors versus rational agents", *Journal of Family Economic Issues*, 23, pp 27-50

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- [67] Weinschenk, S. (2006) Selling Older User Short, *UI Design Newsletter, Human Factors International* January 2006 [www.humanfactors.com/downloads/jan06.asp](http://www.humanfactors.com/downloads/jan06.asp)
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- [70] Dinet, Jérôme; Brangier, Eric; Michel, Gabriel; Vivian, Robin; Battisti, Sophie; and Doller, Rémi (2007) "Older People as Information Seekers: Exploratory Studies about Their Needs and Strategies", C. Stephanidis (Ed.): *Universal Access in HCI*, (Springer-Verlag Berlin Heidelberg) Part I, HCII 2007, LNCS 4554, pp 877–886
- [71] Morris, A. , Goodman J. and Brading, H. (2007) Internet use and non-use: views of older users. *Universal Access in the Information Society* 6(1), pp. 43-57. Similar findings were also reported in US and France. See Fox, S. (2004) Older Americans and the Internet, Pew Internet Project: March 24, 2004, presented at presentation at "Older Adults and the Web"; event for usability.gov, July 19&20, 2004. See also Dinet, J., Brangier, E., Michel, G., Vivien, R., Battisti, S. and Doller, R. (2007) Older People as Information Seekers: Exploratory Studies about their Needs and Actions. In Stephanidis, C. (Ed.) *Human Computer Interaction Pt 1* pp 877-886, (Springer-Verlag)

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[73] See EU project empowers elderly to live independently, May 19 2009 [www.eubusiness.com/Social/persona.01/](http://www.eubusiness.com/Social/persona.01/)

[74] See Appendix for more detail on the Methodology

[75] It was impossible to define at the outset the characteristics and size of the sample. However, in order to anticipate the logistical requirements of research, such as time and cost, we agreed for a certain sample size, with the understanding that this number might be higher or lower than the final figure. See appendix for details.

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[79] Similar findings were reported by Kerr and Kerr (2003) that older people do not always know what questions to ask organisations in order to elicit the required information. See Kerr, L., and Kerr, V (2003) *Older people doing it for themselves* (Joseph Rowntree Foundation, York) see also Quinn, A., Snowling, A. and Denicolo, P (2003) *Older People's Perspectives* (Joseph Rowntree Foundation, York)

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[82] See Countryside Agency (2004), *The State of the Countryside*, Countryside Agency: Cheltenham, see also EUROSTAT (2000), *Europe in Figures*, Office for Official Publications of the European Communities: Luxembourg.

[83] Our findings are similar to the findings of Strickland, et al (2008, 56) "Over two-fifths of respondents (43%) said that they would contact a family member, friend or neighbour while just under a third (32%) would contact an external organisation offering advocacy. Twelve respondents specifically mentioned that they would contact Age Concern and only six said that they would contact a solicitor."; See Strickland, Melanie, Vicente, Fiona, Pearson, Mark and Wood, Michaela (2008) "Scoping Study: Information and Advocacy Provision for Older People in Torbay";, (Socio-economic Research and Intelligence Observatory, Age Concern Torbay on behalf of Torbay Care Trust) p163

[84] Studies show that older people often unable to distinguish between information and advice See Quinn, A., Snowling, A. and Denicolo, P ( 2003) *Older People's Perspectives*.



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[85] The Senior Help Line in Ireland provides a confidential telephone listening service for socially excluded older people and is operated by older volunteers. See O'Shea, Eamon (2006) "An economic and social evaluation of the Senior Help Line in Ireland", *Ageing and Society*, Vol 26, Part 2, March 2006, pp 267-284.

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[95] See *All-Ireland Traveller Health Study: Our Geels* (2010) Department of Health and Children, Ireland and Department of Health, Social Services and Public Safety in Northern Ireland

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