



CPS

**Policy for Prosecuting
Crimes against
Older People**

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What do we mean by “older people” and why do we have a policy about them?

“Older people” means people aged over 60. Having a policy helps us to take into account the impact of the crime on the individual and the impact on them of any court proceedings.

Although many older people are not, and do not consider themselves to be, frail, vulnerable or in need of support in any way, some older people do have problems with their physical or mental health and some may need to rely on others for help.

In relevant cases therefore we will work closely with social services, social care and health inspection regulatory bodies, GPs, hospitals and advocacy /other specialist services for older people, or families, as well as with the individual concerned.

What kind of ill-treatment might be a crime?

The table at the end of this leaflet gives examples of behaviour that might, depending on the circumstances, amount to a criminal offence.

If I have problems with speech and memory, will my case just be dropped?

No. Some older people with dementia or other age-related illnesses may have fluctuating mental capacity or communication difficulties. We do not make assumptions about their reliability or credibility. We will consult with them, their relatives, carers or medical experts to consider what can be done to help that person to give their evidence.

If someone is not able to take part in the criminal proceedings, for example even with appropriate support they cannot understand information given to them or remember that information, we will work with the police to see what other evidence might be available to prove the case in court.

What does the CPS do?

The CPS is the main public prosecution service for England and Wales, headed by the Director of Public Prosecutions. Although we work closely with the police, we are independent of them. The police are responsible for investigating criminal offences and for gathering the evidence. We have the responsibility for deciding (in all but the most minor cases) whether a suspect should be charged with a criminal offence and, if so, what the charge(s) should be.

How does the CPS decide whether to charge someone?

We apply the Code for Crown Prosecutors. In order to bring a prosecution there must first be sufficient evidence to provide a realistic prospect

of conviction. If the case does not pass this evidential stage it must not proceed, no matter how serious or sensitive it may be.

If the case does pass the evidential stage, we must then decide if a prosecution is needed in the public interest (the public interest stage). We regard any offence based on hostility, because of perceived or actual disability, as being more serious. As a result, it will usually be in the public interest in disability hate crime cases to bring a prosecution.

What if I don't want to go to court?

Your views as the victim of a crime are important when deciding whether a case should proceed or not, but they are not the only factor. We prosecute cases on behalf of the public at large and not just in the interests of any particular individual.

If a victim has withdrawn support for a prosecution, we have to find out why. We will explore all options fully and offer whatever support we can through our Witness Care Units before we decide whether or not to proceed with a prosecution. Generally speaking, the more serious the case, the more it will be in the public interest to proceed with a prosecution, even if the victim says they do not wish us to.

What do Witness Care Units do?

We have Witness Care Units in all CPS Areas, run jointly by the police and CPS. Witness Care Officers provide a single point of contact and individually tailored support for each witness to help them give their best evidence. A victim of

crime will have a Witness Care Officer to manage their care from the point of charge until the conclusion of the case.

What support will I receive at court?

Support could include, for example, transport to and from court; giving evidence through a live link rather than in the court room; ensuring time is given for taking medication; asking questions in a way you can best understand or having an intermediary to explain questions being asked and answers being given.

The CPS prosecutor presenting the case will introduce themselves to you and answer any general queries that you may have. If witnesses are kept waiting, we will make sure they are told the reasons for the delay and the estimated time when they will be required to give evidence.

Wherever possible, we will try to make sure that separate waiting facilities are made available for prosecution witnesses so that witnesses do not have to mix with the defendant or his or her friends or family.

The following publications provide further information on how prosecution decisions are reached and what victims and witnesses can expect from the criminal justice system –

- Crimes against older people – CPS Prosecution Policy
- The Code for Crown Prosecutors
- The Prosecutors’ Pledge
- The Code of Practice for Victims of Crime (Victim’s Code)

These publications are public documents and are available on the CPS website: www.cps.gov.uk

Or copies can be obtained from:

CPS Communications Branch, 50 Ludgate Hill,
London EC4M 7EX

Tel: 020 7796 8442

Fax: 020 77968351

Email: publicity.branch@cps.gsi.gov.uk

Translations into other languages, and audio copies are available.

Help or advice can be obtained from:

Action on Elder Abuse

www.elderabuse.org.uk

Helpline 0808 808 8141

Action on Elder abuse is a charity working to protect and prevent the abuse of vulnerable older people. It provides the UK’s only helpline for anyone concerned about the abuse of an older person. Trained operators are able to offer callers support, information and indicate what action may be taken to tackle abuse.

Victim Support

www.victimsupport.org.uk

Support line 0845 303 0900

Victim Support is the national charity which helps people affected by crime. The organisation provides free and confidential support to help victims deal with their experience, whether or not they report a crime.

Age Concern England

www.ageconcern.org.uk

Age Concern Wales

www.accymru.org.uk

Age Concern supports all people over 50 in the UK. Details of local branches can be found on its website.

Equality and Human Rights Commission

www.equalityhumanrights.com

Head Office England – Switchboard 0845 604 6610

Text line 0845 604 6620

Wales – Switchboard 0292 0663710

Help and Advice line 0845 604 8810

Text and bi-lingual line 0845 604 8820

Scotland – Main Switchboard 0845 604 5510

Text line 0845 604 5520

United Kingdom's Disabled People's Council (UKDPC)

www.bcodp.org.uk

Tel 01332 29555

Fax 01332 295580

UKDPC is an umbrella organisation that represents some 80 organisations run and controlled by disabled people to promote full equality and participation within society.

MIND

www.mind.org.uk

Tel 020 8519 2122 Fax 020 8522 1725

MIND works to create a better life for everyone with experience of mental distress by advancing the views, needs and ambitions of people with mental health problems.

VOICE UK

www.voiceuk.org.uk

Tel 01332 295775 Fax 01332 295670

Voice UK supports people with learning disabilities and other vulnerable groups who have experienced crime or abuse and offers support to families, carers and professional workers.

Criminal behaviour

The table below gives examples of behaviour that may, depending on the circumstances, amount to criminal offences.

EXAMPLES OF BEHAVIOURS	EXAMPLES OF POSSIBLE OFFENCES / RELEVANT LEGISLATION
Hitting, slapping, pushing, kicking	Common assault s.39 Criminal Justice Act 1988; actual bodily harm s.47 Offences Against the Person Act 1861; grievous bodily harm / with intent s.20 and 18, OAPA 1861
Misuse of medication to manage behaviour	Assault; false imprisonment; applies stupefying / overpowering drugs/matter or thing with intent to commit indictable offence s.22 OAPA; poisoning with intent to injure, aggrieve or annoy, s23/24 OAPA; unlawfully administering medication s.58 Medicines Act 1968; injuriously affecting the composition of medicinal products, s63 Medicines Act 1968; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000
Inappropriate restraint	False imprisonment; common assault; ABH; GBH; choking s.21 OAPA; kidnap; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000

EXAMPLES OF BEHAVIOURS	EXAMPLES OF POSSIBLE OFFENCES / RELEVANT LEGISLATION
Inappropriate sanctions	False imprisonment; assault; ill-treatment/wilful neglect s.44 Mental Capacity Act 2005; ill-treatment/ wilful neglect of a patient s127 Mental Health Act 1983; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000
Sexual assaults, sexual acts to which the victim has not consented or could not consent or was pressured into consenting	<p>Offences committed post May 2004)</p> <p>Rape, penetration, assault, causing sexual activity without consent s1-4 Sexual Offences Act 2003; sexual activity with a person with a mental disorder impeding choice or causing, inciting, engaging in the presence of/causing to watch, inducing by deception, threat or inducement s.30-37 SOA 2003; sexual offences by care workers against a person with a mental disorder impeding choice, causing, inciting, engaging in the presence of/causing to watch s.38-41 SOA 2003; administering a substance with intent s61; exposure s.66; voyeurism s.67; sexual activity in a public lavatory s.71 SOA 2003</p> <p>Pre May 2004 Sexual Offences Act 1956 offences and unlawful sexual intercourse with patients/residents suffering mental disorder s.128 Mental Health Act 1959</p>

EXAMPLES OF BEHAVIOURS	EXAMPLES OF POSSIBLE OFFENCES / RELEVANT LEGISLATION
Threats of harm or abandonment	Threats to kill s.16 OAPA; blackmail s.21 Theft Act 1968; common assault; ill-treatment/wilful neglect s.44 Mental Capacity Act 2005; ill-treatment/ wilful neglect of a patient s127 Mental Health Act 1983
Deprivation of contact, isolation or withdrawal from services or supportive networks	False imprisonment; ill-treatment/ wilful neglect s.44 Mental Capacity Act 2005; ill-treatment/ wilful neglect of a patient s127 Mental Health Act 1983; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000
Humiliation, intimidation, emotional blackmail, verbal abuse, being shouted or sworn at	Fear of violence s.4 Public Order Act 1986; intentional harassment, alarm or distress s.4A POA; harassment, alarm or distress s.5 POA; course of conduct amounting to harassment / causing another to fear s.1 and 4 Protection from Harassment Act 1997; harassment of a person in his home s.42A Criminal Justice and Police Act 2001; blackmail s21 Theft Act 1968; common assault

EXAMPLES OF BEHAVIOURS	EXAMPLES OF POSSIBLE OFFENCES / RELEVANT LEGISLATION
Theft, fraud, exploitation, pressure in connection with wills, powers of attorney, financial transactions, or the misuse or misappropriation of property, benefits or possessions	Theft/robbery s. 1 and 8 Theft Act 1968. Blackmail s.21 Theft Act; Fraud by false representation, by failure to disclose information, by abuse of position s.2, 3 and 4 Fraud Act 2007; forgery s.25 Identity Cards Act 2006 and Forgery and Counterfeiting Act 1981
Ignoring medical or physical care needs, failure to provide access to appropriate health services, withholding medication, adequate nutrition or heating, unmet physical needs such as bedding or clothing soaked in urine or faeces, decaying teeth, overgrown nails.	False imprisonment; Wilful neglect or ill treatment of a person lacking mental capacity s. 44 MCA 2005; ill treatment or wilful neglect of mentally disordered patients within hospital or nursing homes or otherwise in a person's custody or care s.127(1) and (2) Mental Health Act 1983; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000

EXAMPLES OF BEHAVIOURS	EXAMPLES OF POSSIBLE OFFENCES / RELEVANT LEGISLATION
<p>The impairment of, or an avoidable deterioration in physical or mental health; the impairment of physical, intellectual, emotional, social or behavioural development.</p>	<p>Wilful neglect or ill treatment of a person lacking mental capacity s. 44 MCA 2005 or of a patient s.127 MHA 1983 failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000</p>
<p>Actions resulting in death</p>	<p>Murder; manslaughter; Corporate Manslaughter; causing or allowing death of a vulnerable person in a domestic setting s.5 Domestic Violence, Victims and Crime Act 2004; aiding or abetting suicide s.2 Suicide Act 1961; failure to comply with conditions / contravention of regulations s.24, 25 Care Standards Act 2000</p>

Further copies of this leaflet may be obtained from:

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