

**Ministry of Justice**  
**Consultation on the upper age limit for jury service in England and Wales**  
**Response submitted on behalf of Independent Age**

**About Independent Age**

Independent Age works to keep older people independent and out of poverty by providing them with practical support, financial help and lifelong friendship.

We focus on supporting those who:

- Are over 70
- Are in financial need
- Are lonely or isolated

The charity has around 6000 current service users across the UK and Ireland. It is developing its services in order to better meet the needs of older people in today's society. Our aim is to make sure that all those we help are receiving their entitlements from statutory and other providers and then to provide additional support tailored to the individual's particular needs. This support is likely to be a combination of:

- Regular befriending and support from an Independent Age volunteer visitor
- Financial help in emergencies
- Additional practical support, such as providing household items and toiletry packs for hospital visits
- Membership of the Independent Age community, including regular correspondence, magazines and cards on birthdays and at Christmas
- Increasingly, the opportunity to meet and correspond with other members of the Independent Age community

## Our Research

At Independent Age our experience is specifically in the context of older people. Our response is therefore based on anecdotal evidence from frontline staff, beneficiaries and volunteers combined with the following research:

- I. Our **Annual Survey 2008** and our **Annual Survey 2009**, in which a series of topical questions on life, society, and our services were posed to 6,500 and 3000 of our beneficiaries respectively, to which 3,315 and 2,424 responded.
- II. A series of **focus groups and interviews** conducted by a research agency on behalf of Independent Age in **2008**. Seven focus groups were held comprising between three and seven beneficiaries, and each lasted between one and a half to two hours. Eighteen in-depth interviews were conducted involving one interviewer and one respondent, and in some cases respondents were paired, involving some couples. These interviews lasted between 45 minutes and an hour and a half. In total, 69 respondents were interviewed across three regions in England, including the North East, the Midlands and the South West.
- III. A series of **focus groups and interviews** conducted by Independent Age in **2009**. Nine focus groups were held comprising between four and nine beneficiaries, and each lasted between one and a half to two hours. Four in-depth interviews were conducted involving one interviewer and one respondent, and in one case a married couple. These lasted between forty five minutes and an hour and a half. Groups took place in London, Newcastle, Cardiff, Eastbourne and Lincoln, and 61 respondents were interviewed in total.

**Should the principles of inclusiveness, competence and practicality be the key considerations governing policy on the upper age limit for jury service? Are there any other equally important principles to which we should have regard?**

At Independent Age we are, in theory, satisfied with the use of the three broad principles: inclusiveness, competence and practicality. We are very concerned, however, at the lack of detailed guidance on their appropriate application, and would like to stress the importance of operating such principles within a framework of fairness and non-discrimination.

While public confidence is obviously vital in the effectiveness of the jury system, this does not mean that the principle of competence should be governed by discriminatory assumptions about what ageing means and how it affects people. Nearly a third of Independent Age beneficiaries (30%) say they have been treated differently because of their age, and 9% believe they have been denied goods and services (Independent Age Annual Survey 2009). The role of older people in jury service must necessarily be based on sound research and evidence (as discussed further in question two), and not serve to reinforce common falsehoods that already permeate British society, subjecting many older people to discrimination and ageist attitudes.

The principle of competence is particularly vague and is therefore liable to discriminatory interpretation. In order to operate fairly, it must be applied equally across all age groups. As cited in the consultation document, there will always be individuals either above or below the upper age limit whose inclusion in the jury process may be seen as “undesirable”, with features of poor performance specified as including poor recall of case facts and judge’s instructions. Allowing an element of risk in the selection of people under a certain age, but maintaining greater safeguards for those above it, unfairly prevents a massive proportion of older people from bringing valuable knowledge and expertise to bear on the jury process. The existence of a basic competency test would allay concern about competency across the board, and prevent discrimination against any one group of people.

**Does the possible impact on the competence of juries of admitting older age groups to the national jury pool justify retaining an upper age limit? If so, at what level should it be set so as to include the maximum number of capable potential jurors from older age groups while keeping the number of incapable potential jurors at an acceptable level?**

The first point of concern here is the assumption that a serious risk could be posed to the competency of juries by admitting older people. While evidence does suggest that the risk of health problems is higher in later life, the consultation document only refers to one study specifically on the issue of older people's performance on juries, and it was conducted nearly thirty years ago. With reference to this study, we would like to raise the question of how "poorer performance" is defined and ask whether the poorer performance detected in this case had a negative impact on the case overall. For example, was the poorer recall of case facts referred to in this study shown to have a negative impact on the individual juror's ability to make a valid judgement? What proportion of the jurors were older people and did this have an impact on the outcome of the case? It is important to recognise here that the ability of people of all ages to recall case facts varies dramatically, due to factors such as higher or lower IQ. A basic competency test across the board, as discussed in question one, would eradicate such concerns, instead of penalising one group of people in a discriminatory manner. Any assertion about the general competency of older people must be based on sound evidence obtained in an objective and comprehensive manner.

More clarification is needed on what is regarded as a performance-reducing factor, and the real impact these factors have on the level of older people's competency. The range of health problems that older people may suffer is extremely varied, as they are for the general population, and can have different impacts. The lifelong commitment we make to those we support at Independent Age means we know from experience that older people are individuals with different experiences of growing older, different needs and different aspirations. Simply because a large number of older people suffer from health problems, does not necessarily mean that all of these people would be unable to effectively take part in jury service. While some health problems, specifically those relating to lucidity or mental health, would undoubtedly mar an individual's ability to make sound judgements, many physical disabilities can, and should be, reasonably be accommodated for, as in the case of those under the upper age limit.

There is a disproportionate level of discussion in the consultation document questioning the competence of older jurors, as compared with recognising the benefits that older people could bring to bear on the jury process. At Independent Age we are very aware of the benefits of involving older people. Over 80% of our volunteers are, in fact, over the age of 60 and provide a broad range of support, from practical help and information to friendship and emotional support. Their support is invaluable to the organisation. Older people have enormous amounts of knowledge and wisdom to share, gained from a vast range of life experience, gained both inside and outside the workplace. Nearly 90% of beneficiaries interviewed in our Annual Survey 2008 believe older people have valuable experiences to share.

We fully support the research in the consultation document which suggests that as citizens age, they actually support the jury system more and may be more inclined to respond positively to a summons. Qualitative research conducted by Independent Age in 2008 and 2009 suggests that many older people derive a sense of worth and value from staying active and being involved in their community and society, and jury service would be welcome by a large number of older

people on these grounds. To set aside the potential contribution older people could make to the jury system is extremely short-sighted.

**If the upper age limit were to be raised or abolished, should that be accompanied by a right of self-excusal for those over 70?**

**Which of the options do you prefer and why? Do you have an additional proposal?**

Independent Age supports abolishing the upper age limit, thereby reducing discrimination and increasing flexibility in the jury system, and bringing the benefits of including older people to bear on the system. While we recognise that a higher proportion of older people are at risk of suffering from health problems, we also believe that the right of self excusal would mitigate the effect of this on the administrative process, while addressing the belief of some older people that they have already made sufficient contribution to society. While older people's inclusion, in the absence of any comprehensive evidence to suggest otherwise, is warranted on grounds of anti-discrimination, it is also desirable given the benefits they may bring to the system, as discussed above. In addition, Independent Age fully supports the view endorsed in the consultation document that the financial benefits of raising or abolishing the limit substantially outweigh the financial costs.