

APPLICATION OF THE PUBLIC SECTOR EQUALITY DUTY:

CONSIDERATION OF EQUALITY ISSUES IN BBC DECISION-MAKING IN RELATION TO AGE-RELATED CONCESSIONS FOR TV LICENCES

1. General

Today, all households with someone aged over 75 are entitled to receive TV licences funded by the UK Government. That current scheme is coming to an end. Any new scheme from June 2020 to provide concessions relating to TV licences for older age groups will be for the BBC to consult on, decide and then fund.¹

The question that faces the BBC is what, if any, concession should be in place for older people from June 2020.

The decision is the responsibility of the BBC's Board. The Board also has the responsibility to ensure the BBC delivers its mission and public purposes for everyone.

The Public Sector Equality Duty and the BBC

The Public Sector Equality Duty applies to the BBC when it is making decisions about age-related TV licence concessions, because it is considered a public authority for that purpose. The duty is contained in section 149 of the Equality Act 2010; subsection (1) requires that—

“A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;² and

¹ Responsibility for making the decision about whether to have a concessionary older-age TV licence was transferred to the BBC by an Act of Parliament: the Digital Economy Act 2017, which amended Part 4 of the Communications Act 2003, the main source of statute law about the licence fee. Specifically, section 89(7) of the Digital Economy Act 2017 amended the Communications Act 2003 to add a new section 365A

² Section 149(3) and (4) give more detail on what is meant by giving due regard to the need to advance equality of opportunity. In summary, the BBC must identify particular adverse effects a measure may have on needs of particular protected groups and consider what steps it could take to remove or mitigate these

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation; and in relation to (a), marriage and civil partnership too.³

The purpose of this EIA

The BBC Board has given careful consideration to equality issues throughout the process of identifying options. This updated Equality Impact Assessment (“EIA”) is a summary of how equality issues have fed into the BBC’s thinking on the policy option which the Board is minded to adopt in the light of earlier discussions, the likely equality impacts of the BBC Board’s decision if it does so, and how the BBC Board could mitigate adverse equality effects. It sets out the relevant information that will enable the Board to take a properly informed decision on the equality issues relevant to its decision.

The BBC ran a process of consultation and wider engagement starting with the publication of its consultation document on 20 November 2018. The details of this process are set out in the decision document and in four published reports setting out the consultation feedback which can be found here:

<https://www.bbc.com/aboutthebbc/reports/consultation/age-related-tv-licence-policy>

The BBC published an initial EIA and sought comments on it as part of the consultation and wider engagement process. The initial EIA drew out some important equality issues as we saw them then, e.g. the impact of removing the existing concession, since older people could lose out financially if they had to pay, and socially if they could not access TV as an important source of information and companionship; and the fact that effects could be more significantly felt by women, those from a Black and Minority Ethnic (BAME) background, disabled people and those with long-term illnesses. The points raised in the four reports are not summarised here, nor is every point covered, but equality-related issues they identified include:

- Losing access to TV services is likely to have a greater effect on older people as they watch more television, and also are at higher risk of social isolation;
- The role of TV in providing companionship and combatting isolation and loneliness was confirmed;
- People with disabilities are likely to be worse affected because they are more likely to be housebound, and are at greater risk of loneliness and social isolation;
- Any decision other than copying the existing concession would affect more women than men, more of those from a BAME background, and more disabled people and people with long-term health issues like dementia;

³ As a matter of law, the duty applies only in England, Wales and Scotland, but as a matter of policy we have looked at potential equality impacts in Northern Ireland in the same way

- Consultees also commented that:
 - disabled people and those with dementia often face higher costs e.g. for care and help with daily tasks, and higher energy bills because they are at home more;
 - older women, people with BAME backgrounds and disabled people and those with long-term illness are likely to have lower incomes;
 - people living alone must fund the cost of the licence from a single income;
 - financial pressures on local authority budgets have led to cuts to services for the elderly; and
 - some pensioners would be able to pay for a TV licence in full; and some pensioners also said they felt it was only right to give up their concession to ensure those on lower incomes received it.⁴
- Some consultees⁵ questioned the rationale of free TV licences for over 75s as against poorer, younger generations who could ill afford the cost of a licence, and were mainly lighter users of BBC content;
- In terms of fairness to all licence fee payers, the scale of reductions needed to copy the existing concession would have an unfair impact on all BBC audiences;
- Concern was expressed that the availability of BBC accessibility services (e.g. subtitling) could be reduced by cuts;
- A more complex means of applying for any reformed concession, or proving eligibility, would be likely to disadvantage those who have a disability, especially a learning or cognitive disability;
- Some older people might not be able to understand how to pay for a licence, causing stress and anxiety; and
- Some consultees raised concerns about the BBC's consultation process including length of documents, complexity, accessibility for older people who were not online and accessibility for disabled people and those with health conditions including dementia.

This updated EIA is also informed by the work the BBC commissioned from Frontier Economics, an external economics consultancy, who published their reports last year,⁶ and the responses to the BBC's consultation and wider engagement process.

At previous meetings, the BBC Board has carefully considered equality issues raised by respondents in relation to the initial EIA and more widely, sought more information, and refined its thinking on equality impacts in light of them. The Board's view has also been

⁴ Traverse, *Age-Related TV Licence Policy: Consultation Analysis Report*, 2019, p.99

⁵ For example, Populus reported that intergenerational stakeholders and many of the media industry stakeholders found the arguments made about intergenerational fairness in the Frontier Economics discussion paper and report to be compelling and accurate. In their view, these younger generations endured far more hardship than their elder counterparts

⁶ Frontier Economics, *Discussion Paper and Review of over75s funding* (both 2018)

informed by updated research and analysis. This version of the EIA contains the latest analysis on the current preferred policy option in the light of that earlier analysis.

Principal policy options consulted on

The consultation document set out the BBC's initial thinking.⁷ The overall options discussed there were to:

- copy the existing concession; or
- restore a universal licence fee, and not have any age-targeted concession; or
- reform the concession.

With the help of Frontier Economics, the BBC identified three particular ways of designing a new concession for the older age group. These were:

1. **Discounting the cost of a licence fee** – We could require those in an older age group to pay a licence fee, but at a reduced rate of 50%;
2. **Raising the age threshold for the concession** – We could raise the age threshold to 80;
3. **Means-testing the concession for older people** – We could provide the concession only to those in greater financial need, for instance by linking free licences to one of the Government's measures of pensioner income, for example Pension Credit.

Which people are likely to be affected?

As the BBC is allowed to grant only concessions which are primarily age-based, for some or all people over the age of 65,⁸ age is the protected characteristic on the basis of which individuals will be most directly affected by the BBC's decision. So we primarily consider the age-related equality impacts to which various policy options may give rise.

We also consider the potential equality impacts of these options on groups sharing other protected characteristics. In particular, an option may indirectly have a disproportionate impact on groups who share characteristics such as gender or disability, because of the composition of the age groups primarily affected.

The current concession is available only to pensioners aged 75 or over. Since the BBC is allowed to create concessions based on any age from 65 years, we also consider whether the BBC could justify continuing to focus any future concession only on some or all persons aged 65 or over, in the light of the need to justify any difference of treatment between those persons, e.g. between those aged 65-75 and those aged 75 and over.

⁷ BBC, *Age-Related TV Licence Policy: Public Consultation*, 2018

⁸ Communications Act 2003, section 365A

How are people likely to be affected?

At the moment, an over 75's household does not have to pay for their TV licence as it is funded by the UK Government. From June 2020, if the BBC decided to pay for the current concession to continue for all over 75s then they would not be affected financially but they would experience a worse and fundamentally reduced BBC, losing many of the valuable services that they both enjoy and (as respondents told us) rely on e.g. for providing companionship, information and entertainment, and combatting isolation and loneliness.

However, any option other than copying the current concession would impose costs on some over 75 households which had previously received a free TV licence. If the BBC decided to restore the universal licence fee or reform the concession, and such a household wanted to carry on using a TV, they may need to pay for a TV licence in full or in part.

People may also experience some complexity in applying for a concessionary licence, e.g. in proving entitlement if the concession were subject to further criteria, including linking any new scheme to receipt of Pension Credit.

Retaining any form of concession from June 2020 will have a financial impact on the BBC, so all actual or potential users of BBC services, of any age, may experience a reduction in services, while paying the same licence fee. The BBC would have less money for programmes and services than if the current concession were reformed or not replaced at all.

Copying the current concession would have a substantial financial impact on the BBC, and any option which involved extending the current concession to some or all over 65 households would cost the BBC even more,⁹ leaving even less money for programmes and services.

2. Consultation Process

The steps the BBC took to make the consultation accessible are set out in the BBC's consultation document, and the initial EIA. There were positive and negative comments about the process in response to the consultation and wider engagement process.¹⁰

⁹ Frontier Economics found no compelling case for extending the existing concession to over 65s and so did not look at that option in detail, but noted that the cost to the BBC would be more than double that of the current concession. Source: Frontier Economics, *Review of over75s funding*, 2018, p.22

¹⁰ For example, some had concerns that its length and complexity may have deterred many people (Later Life Ambitions, the National Pensioners Convention, Age Sector Platform, stakeholders interviewed by Populus); others were concerned about the ability of older people who were not online to engage with the consultation process (Age UK and Independent Age); and comments were made about the needs of people with dementia (Age UK, Alzheimer's Society).

In order to engage the public, the BBC ran a public information campaign using TV and online to raise awareness of the consultation and ways of responding to it.

The BBC asked the public to respond using the online questionnaire (in English and Welsh) if possible, to assist the analysis of the large number of individual responses as part of this consultation.

The BBC also provided a hotline for people to request paper copies of the consultation documents and questionnaire with a freepost envelope to take part. Paper copies were also available in different formats, including in Braille, Welsh, and in an audio version.

There was also an address for people to write to if they were unable to use a questionnaire.

And responses could be given in a range of ways, including Welsh.

The BBC designed the consultation process to be accessible to all sections of the community. Initial analysis of Office for National Statistics and Joseph Rowntree Foundation data¹¹ led us to the view that, when designing the consultation process, to make the consultation process accessible we should have regard to the following things in particular:

- Internet usage – older adults (in particular women) are less likely to use/ have access to the internet. *There was a hotline allowing people to request paper copies of the consultation documents and questionnaire. We accepted responses in any reasonable formats;*
- Disability – older adults are more likely to have a disability, particularly sight loss. *There were Braille and audio versions of the consultation documents and questionnaire available on request. The online questionnaire was fully accessible, according to the BBC's accessibility standards. We accepted responses in any reasonable formats;*
- Socio-economics – some pensioners have relatively low incomes. *The phone lines were therefore free and post was free of charge to respondents to receive documents and send back the questionnaire; and*
- Dementia - the BBC put measures in place to help people respond as listed above. Some people with dementia may have submitted responses with help. However we also thought it was important to specifically seek the views of the Alzheimer's Society on the potential impact on people with dementia, so that we could take this factor in to account.

Similar themes emerged in the public consultation, however, Traverse also reported that a few respondents commented positively on the documentation (see Chapter 12)

¹¹ JRF report: *UK Poverty 2017* (December 2017) <https://www.jrf.org.uk/report/uk-poverty-2017>

The BBC engaged directly with the public and a range of organisations and stakeholders (including older people's groups, charities, academics and industry representatives).

3. Potential Equality Impacts of Policy Options

Potential impacts related to age

Background

Both the current concession and the BBC's powers to grant a concession in future are age-related. By definition, any age-related concession treats people of different ages differently. When the Government introduced the concession, it focused on a rationale of alleviating pensioner poverty, and only granted a concession for older pensioners, i.e. those in households with a member aged 75 or above. The current concession and the BBC's powers in relation to a future concession are economic in nature. While socio-economic status is not itself a protected characteristic under the 2010 Act, the relative financial impact of any changes to the current licence fee concession on people in different age groups and their opportunity to watch television without severe financial hardship is an important equality impact consideration.

A decision not to replace the current concession would mean that some or all older people would have to pay all or part of the licence fee (depending on the nature of the reform). That would be an extra cost for over 75 households. The risk that some over 75s may not feel able to hold a licence and use television services in future would be reduced substantially by linking eligibility to receipt of Pension Credit, and improving visibility of Pension Credit could also help.

Losing access to TV services due to being unable to afford a TV licence is likely to have a greater qualitative effect on older people than on younger age groups. This is because they watch more television, and Frontier Economics found some evidence that, on average, older age groups are at higher risk of social isolation, and that television can be a form of companionship.¹²

However, Frontier Economics said that studies offer no "rigorous evidence that television viewing is associated with improved health outcomes through improved social inclusion or otherwise". Frontier concluded:

"...while it is credible that television can be a form of companionship and help reduce feelings of isolation, as reflected by the comments made by a number of stakeholders, there is as yet little compelling evidence that there are significant external benefits which would support a case for a universal concession for over

¹² Frontier Economics, *Review of over-75s funding*, 2018, p.21 – 22

75s. This does not mean that television does not help promote improved quality of life or well-being for those who rely on it, and being older (over 75 or particularly over 80) appears to be an imperfect proxy for relying on television. Of course, other groups vulnerable to social isolation, such as younger people with disabilities, do not benefit from a concessionary licence.”

In addition, Frontier found that losses would be spread equally across over 75s, but would represent a larger proportion of the income of poorer households than richer ones. For example, today, the full cost of a television licence would represent on average 2.3% of income for the poorest 10% of over 75s, but only 0.3% for the richest 10%. Frontier concluded that withdrawing the concession would be regressive but, for individuals, losses would be “relatively small on average”.¹³

No option is likely to have significant adverse financial effects on many people under the age of 75. The current concession is available in relation to the primary residence of a person aged over 75. While the current concession is defined by age, where a household contains anyone of the relevant age, the whole household benefits regardless of age.

Any concession created by the BBC must be age-related, and necessarily, an age threshold for such a benefit is a ‘bright-line’ rule: those who fall short of the age threshold simply get no concession at all. The BBC is allowed to create a concession for any age group from 65 years upwards. People aged 65-74 do not currently receive a free TV licence. The BBC explained in its consultation document why extending free licences to over-65s was not considered affordable.¹⁴

Only 26% of households entitled to the existing concession also contain someone under the age of 75. Of those, the youngest household member is aged 65-74 around half the time, and aged 0-34 in only 1 in 10 occasions.¹⁵ Thus, a relatively small number of intergenerational households benefit from the current concession. The analysis focused primarily on the impact on *individuals* who are currently or may in future be entitled to receive the concession.

Finally, a concession would mean younger age groups who use the BBC significantly less would be helping to pay for programmes and services enjoyed by older age groups, who receive much more from the BBC, so both young and old could lose out:

¹³ Frontier Economics, *Review of over-75s funding*, 2018, p.40

¹⁴ Citing Frontier’s work (Frontier Economics, *Review of over-75s funding*, 2018, p.22) the BBC concluded that such an extension “would more than double the cost of the concession and we think there is an even stronger argument against it than copying the current concession”: BBC, *Age-Related TV Licence Policy: Public Consultation*, November, 2018, p.45

¹⁵ Frontier Economics, *Review of Over-75s Funding*, 2018, p. 30 (see Figure 12 analysis of Family Resource Survey)

- Given how much older audiences use the BBC, and how much copying the current concession would cost, it would not be possible to avoid cutting current programmes and services in a way that would severely affect those audiences, reducing the value the BBC provides to them; and
- Targeting a concession for the poorest pensioners over 75, whilst retaining funding for the BBC to deliver its programmes and services, may have a positive impact on perceptions of intergenerational fairness given everyone would receive a high quality BBC rather than a worse one if the existing concession was retained or if the concession were extended to some or all households containing pensioners over 65.

Link the concession to Pension Credit at age 75

This EIA focuses on the likely equality impacts of the current preferred policy option, which is to give a TV licence paid for by the BBC for the main residence of any individual over 75 who is in receipt of Pension Credit.

Before treating this as a preferred option for further detailed consideration, the BBC Board gave consideration to the initial EIA and points raised about this and other possible options, and about age-related impacts more broadly, in the consultation.

If adopted, the option to give a free TV licence for the main residence of any individual aged over 75 who is in receipt of Pension Credit could have a number of age-related impacts, including:

1. Any decision other than copying the existing concession could financially disadvantage a group defined by age (i.e. individuals aged 75 or over who lose the current concession). Around 3.75 million households would be required to pay although this number could be reduced if more people claimed Pension Credit.
2. Frontier Economics explained pensioner poverty rates have fallen since 2000, and older households report higher well-being on a range of metrics.¹⁶ One in six pensioners lives in poverty, which is a lower rate than for children and working-age adults.¹⁷ However pensioner poverty remains an issue with around 2 million pensioners in poverty. Over time, while pensioner poverty fell from 28% in 2000 to 13% in 2012, by 2015 it had risen back to 16% - and has stayed at that level in the most recent data.¹⁸

¹⁶ Frontier Economics, *Review of over-75s funding*, 2018, p1719 and Frontier Economics, *Discussion Paper*, 2018 p4-5

¹⁷ Joseph Rowntree Foundation, <https://www.jrf.org.uk/data/poverty-rate-person-type-over-time-after-housing-costs-ahc>

¹⁸ The likelihood that a person will be in poverty increases with age. The proportion of all pensioners living in poverty is 16%. The figure for those aged 65-74 is 15%, and for those aged 75 or over it is 18%: DWP: Households below average income: 1994/95 to 2017/18, March 2019

3. Some over 75s may not feel able to hold a licence and use television services in future. This may include people who are eligible for Pension Credit but do not receive it (see below), and people who are just above the threshold for Pension Credit but have less discretionary income due to (for example) the costs of care. This would be reduced substantially by linking eligibility to receipt of Pension Credit, and improving visibility of Pension Credit could also help.
4. Many consultees strongly confirmed the role of TV in providing companionship, information and entertainment, and combatting isolation and loneliness which older people (and particularly over 75s) may be more likely to suffer, and to which some, e.g. people with disabilities or dementia, are especially vulnerable due to their health or other circumstances.
5. These effects would be most marked if the decision is to restore the universal licence fee with no concession, and entirely avoided if the decision is to copy the existing concession; and the effects would be reduced if the decision is to reform by linking eligibility to receipt of Pension Credit, because that would be likely to ensure that those most in financial need would continue to receive the concession, and be able to continue to watch TV.
6. However, part of the UK Government's rationale for the current concession was to address pensioner poverty (for over 75s). In general, basing an entitlement to a BBC-funded TV licence on receipt of Pension Credit, the Government's own measure of pensioner poverty, would ensure that the concession continues to support those over 75 who are most in financial need. This is likely to reduce the adverse age-related equality impact compared, for example, with restoring a universal fee or asking all over 75s to pay something towards their licence. It would also reduce the impact on women, those from a BAME background and on disabled people, because it would be likely to ensure that those in most financial need would continue to receive the concession, and be able to continue to watch TV.
7. Concerns were raised¹⁹ about the take-up of Pension Credit, and the resulting risk that some of the poorest over 75s will not be eligible for a concession unless and until they apply for Pension Credit. It is important that the BBC works with organisations representing older age groups and charities to help raise the visibility of Pension Credit as a way of claiming a free TV licence.

¹⁹ Traverse, *Age-Related TV Licence Policy: Consultation Analysis Report*, p104-105; and BBC, *Age-Related TV Licence Policy. Summary of stakeholder responses*, 2019, p.38-39

8. Finally, this option does not extend the concession to pensioners aged 65 to 74 who are in receipt of Pension Credit. While this group is already required to pay for a licence under the current system, and so will be no worse off, this results in a difference in treatment between those receiving Pension Credit based on an age threshold of 75. That difference may be thought justified in light of the particular characteristics of the over 75 age group, and the additional costs of extending the concession.

Potential impacts related to other protected characteristics

Background

As noted above, age is the protected characteristic on the basis of which individuals will be most directly affected by the BBC's decision. The relevant age group(s) comprise over 65s, over 75s, or those between 75 and 79, depending on which proposal is under consideration. The initial EIA explained:

- if these have a different demographic makeup to the rest of the population, there could be a disproportionate indirect effect on individuals sharing other protected characteristics; and
- to the extent that some of the options under consideration would result in some age groups being required to begin to pay (in full or part) for a television licence, the impact of this may be greater for individuals within that group who share other protected characteristics.

The effects could be quantitative (greater numbers of people affected, as they fall in those particular groups) or qualitative (greater impact on enjoyment of the benefit of BBC services or TV services generally, and quality of life), or both.

Equality impacts relevant to gender, disability and race

Data suggested that, as compared with the rest of the population, individuals over 75 are more likely to be (amongst other characteristics) female²⁰ and/ or disabled.²¹

²⁰ Women represent 58% of over 75s because they have a greater life expectancy (of around 3.6 years: The King's Fund, 2018), which also means they are likely to benefit from the concession for longer. ONS: *Population Estimates for UK, England and Wales, Scotland and Northern Ireland: Mid-2017*

²¹ There is a 45% reported rate among those of pensionable age, contrasted with 19% at working age, and 8% for children: Family Resources Survey 16/17 datasheet: <https://www.gov.uk/government/statistics/family-resources-survey-financial-year-201617> Half of over-75s and almost two-thirds of over-80s have a disability: Age UK/ Centre for Policy on Ageing Rapid review (2016), citing FRS data for 2013/14 https://www.ageuk.org.uk/globalassets/age-uk/documents/reports-and-publications/reports-and-briefings/equality-and-human-rights/rb_may16_cpa_rapid_review_diversity_in_older_age_disability.pdf

So any decision other than copying the existing concession will also adversely affect:

- (a) more women than men (as women tend to live longer); and
- (b) more disabled people or those with cognitive illnesses such as dementia.²²

A decision which would limit ability to watch TV would also be likely to:

- (a) have a more significant qualitative effect on women than men because women, especially older women, are more likely to be single,²³ and so be reliant on TV for information and companionship; and
- (b) have a more significant qualitative effect on disabled people or dementia because they are more reliant on TV for information and companionship.²⁴

Finally, the financial impact of abolishing the concession would be more significant for women, disabled people and people with BAME backgrounds in the relevant age group because they are more likely to be poorer:

- (a) single female pensioners are likely to be on a lower income than single male pensioners,²⁵
- (b) some groups of people with BAME backgrounds²⁶ are more likely to have lower incomes; and
- (c) disabled people are likely to have lower incomes, or higher living costs, or both.²⁷

Frontier explained the distributional effects of the various reform options, and their impact on household income in the poorer deciles.²⁸

²² One in six over-80s have dementia (Alzheimer's Society)

²³ Frontier Economics, *Review of over-75s funding*, 2018, p.29-30. The National Pensioners' Convention told us there are around three times as many single, older women as men. People living alone must find the cost of the licence from a single income. Source: National Pensioners' Convention, *BBC Consultation on Free TV Licences for over 75s*, 2019

²⁴ Alzheimer's Society, *Response to the BBC's Age-Related TV License Policy Consultation*, 2019

²⁵ In 2017/18 the net median income of a single female aged over 75 was £206 a week after housing costs (AHC); a single male over 75's was £231 AHC. Source: Pensioners' Income Series (DWP, March 2019)

²⁶ *Households Below Average Income: an analysis of the income distribution 1994/95 to 2016/18*, DWP, 2019 (both for before and for after housing costs). Table 6.5db. See <https://www.gov.uk/government/statistics/households-below-average-income-199495-to-201718>; and Joseph Rowntree Foundation, *Pensioner Poverty*, <https://www.jrf.org.uk/data/pensioner-poverty>

²⁷ E.g. Age UK, *Consultation Response*, 2019 and Alzheimer's Society, *Response to the BBC's Age-Related TV License Policy Consultation*, 2019

²⁸ Frontier Economics, *Review of over-75s funding*, 2018, p.40

To the extent that this impact is numerical, it is a necessary corollary of the fact that the existing concession is age-based and that the BBC's power to grant any future concession is similarly restricted.

However, by linking the concession to receipt of Pension Credit, the worst risks of over 75s being unable to continue to watch TV and avoid social isolation would be mitigated, because this option targets the poorest people in this group, who are also disproportionately likely to be female, from BAME backgrounds, or disabled. Other options, apart from copy, would have a more significant impact on those who have more limited financial means – and since poorer members of the directly affected groups appear more likely to be female, from BAME backgrounds, or disabled, these options would have more serious adverse effects on equal opportunities to watch TV without unacceptable financial hardship.

More women claim Pension Credit than men.²⁹ Take-up is also higher for single people than couples.³⁰ Research suggests that membership of certain ethnic groups is associated with a lower likelihood of receiving occupational or private pensions, but a greater chance of receiving Pension Credit.³¹ Men and women of Bangladeshi origin are the most likely to be in receipt of Pension Credit (20%), while Caribbean men and Pakistani women are the least likely to be receiving this benefit (7% and 6%).

Some raised the UK Government's recent policy change whereby couples will only be eligible for Pension Credit if both people have reached state pension age or one has reached state pension age and is claiming Housing Benefit.³² This does not apply for couples already claiming before the rules changed.

If the Board focuses the new concession on over 75 households in receipt of Pension Credit then the number of households affected by this change to Pension Credit eligibility will be small given that: the age threshold we have set is 75; around 80% of the total Pension Credit caseload is composed of single people; and the majority of those in couples contain two individuals above the state pension age.³³ As Frontier

²⁹ DWP Table PC3: Take-up (caseload) of Pension Credit by family type, 2009/10 and 2012/13 to 2016/17, Great Britain only. 57% of Pension Credit claimants were single women, 23% were single men and 20% were couples

³⁰ DWP Table PC3: Take-up (caseload) of Pension Credit by family type, 2009/10 and 2012/13 to 2016/17, Great Britain only

³¹ Vlachantoni, A, Feng, Z, Evandrou, M & Falkingham, J, 2017, 'Ethnic elders and pension protection in the United Kingdom', *Ageing & Society*, vol. 37, 1025-1049. Available at: https://eprints.soton.ac.uk/388747/1/ethnic_elders_and_pension_protection_in_the_united_kin_gdom.pdf (last accessed 05/06/2019)

³² <https://www.gov.uk/pension-credit/eligibility>

³³ Frontier Economics, *Review of over-75s funding*, 2018, p.63-64

Economics note: “where an age threshold of 75 is used... almost all eligible couples will be over state pension age.”³⁴ Pension Credit policy remains a matter for Government.

Some respondents pointed out that disabled people have greater living expenses than others.³⁵ There is an extra amount of Pension Credit available to those who qualify as severely disabled.³⁶ There are also other disability benefits available to this group, even for those who do not qualify for Pension Credit, so the greater costs for that group are already recognised by the Government to some extent.

There is also an extra amount of Pension Credit available for those who are over 75 who receive, or have an underlying entitlement to, Carer’s Allowance,³⁷ so again the greater costs for that group are also recognised by the Government to some extent.

In addition, some over 75s are likely to be in care homes and will benefit from a substantially reduced licence fee.³⁸

Some consultees pointed out that, as Frontier Economics had previously noted,³⁹ not everyone eligible for Pension Credit takes it up. Again, and despite the higher overall take-up by women, there is a risk that a group of over 75s who would otherwise be eligible for the concession will therefore miss out; and that people sharing protected characteristics such as sex, BAME background or disability will be disproportionately represented in this group. However, it is intended that if this option is adopted, the BBC will work with older people’s groups and charities to raise awareness of the benefit and mitigate this concern. If receipt of Pension Credit becomes a passport for a BBC-funded TV licence, visibility and take-up may actually be improved.

Concern was expressed at the possible complexity of a system which required a person to prove eligibility for a licence fee concession other than by reference to age, especially for those with dementia and other disabilities having effects on cognition. If this option

³⁴ Frontier Economics, *Review of over-75s funding*, 2018, p.64

³⁵ E.g. Age UK, *Consultation Response*, 2019 and Alzheimer’s Society, *Response to the BBC’s Age-Related TV Licence Policy Consultation*, 2019. See also Joseph Rowntree Foundation, *Disability and Poverty in Later Life*, August 2016

³⁶ An additional amount for severe disability can be included in an appropriate minimum guarantee if the person: gets Attendance Allowance, the Disability Living Allowance middle or high rate care component or the Personal Independence Payment daily living component; and, no one is paid Carer’s Allowance to look after them; and, they live alone, or are treated as living alone

³⁷ The additional amount for a carer can be included in an appropriate minimum guarantee if a person or their partner: receives Carer’s Allowance, or have claimed Carer’s Allowance and fulfil the conditions for it but cannot be paid it as they get State Pension or another benefit instead. In this case, there is an ‘underlying entitlement’ to Carer’s Allowance

³⁸ Under the Accommodation for Residential Care licence scheme, under Schedule 4 to the Communications (Television Licensing) Regulations 2004 (S.I. 2004/692)

³⁹ Frontier Economics, *Review of over-75s funding*, 2018, p.55

is adopted, to mitigate these possible equality effects, TV Licensing (TVL) will design a simple and accessible scheme. There would be two groups directly affected – over 75s who are in receipt of Pension Credit and will be able to get a TV Licence funded by the BBC, and over 75s who will now need to pay for a TV licence. TVL will support this older group to transition to the new scheme, and to help those who need it to obtain their entitlements.

TVL's initial plans are informed by the following principles:

- Ensuring accessibility. TVL recognises that many older people prefer direct contact – face to face or by phone – to using the internet; all communications will be fully accessible which we expect will help those who are disabled or have long-term health conditions;
- Simple payment schemes: many older people prefer paying for things in small, regular, instalments;
- TVL will work with older people's groups, charities and voluntary organisations to support this group, designing a bespoke system for this age group which helps support them through this transition, aiming to make it as easy as possible for carers and family members to act as representatives;
- TVL will run outreach events and a public information campaign so people know what is changing and what they need to do next and how they can get help to apply for the concession; and
- People are only prosecuted as a last resort. Public support for the universal licence fee means that the UK has a lower evasion rate than in other countries with a similar approach to collecting licence fees.⁴⁰

4. Assessment of preferred option for decision against statutory equality needs to which the BBC must have due regard

Eliminate discrimination

The BBC must have due regard to the need to eliminate discrimination (harassment and victimisation not being relevant to this decision).

The BBC has to consider its decision in light of the impact on all licence fee payers including the elderly. As set out above, if the decision is to link the concession to Pension Credit, that would have a financial impact on some people over 75 who will no longer be entitled to a concession, and will require people over 75 to apply for a free TV licence based on receipt of Pension Credit for the first time. Those that could be affected are

⁴⁰ National Audit Office, *TV Licence collection*, 2017, p.22

disproportionately likely to be women, to have BAME backgrounds and/or to have a disability.

We consider this impact to be justified by the need for the BBC to continue to fund its programmes and services through the licence fee to benefit all licence fee payers. Indeed, as they rely more on television, people over 75 could suffer disproportionately from cuts to BBC services if the existing concession were not reformed. Adverse impacts will also be mitigated to the greatest extent possible by the measures identified above.

In addition, as noted above, the current preferred policy option does not extend the concession to all those in receipt of Pension Credit (from age 65 up), and this would create a difference in treatment between those in receipt of Pension Credit aged 65-74 and those aged 75 and over. Any such difference would be justified because, in summary:

- (a) As noted elsewhere, over 75s are likely to be particularly reliant on television for companionship, information and entertainment; are particularly vulnerable to loneliness and isolation; and are particularly likely to suffer from a disability (see further below). The case for a concession therefore remains strongest for this group. This case is further strengthened by the fact that the current concession is limited to over 75s – meaning that, unlike those aged 65-74 (whose position will remain unchanged), over 75s in receipt of Pension Credit would otherwise face losing an existing entitlement on which they may well rely;
- (b) Linking the concession to Pension Credit, but simultaneously lowering the threshold to age 65, would cost the BBC around £100 million more than a reform limited to over 75s.⁴¹ This would result in a worse service for all, including older people who are more likely to rely on television. Concerns were also raised about the impact of recent changes to the age rules for Pension Credit (see further below) and whether the age threshold would then need to change again in future in response to any changes in State pension age; and
- (c) Retaining the age threshold at 75 is justified in light of the stronger case for a concession in respect of over 75s, and the additional costs of lowering the current age threshold.

Any decision will inevitably treat people of different ages differently because both the current concession and the BBC's powers are age-related. While this is not unlawful

⁴¹ Frontier Economics, *Review of over-75s funding*, 2018, p.61

discrimination (because it is provided for by statute), the adverse impact on some of the older group of limiting concession is reduced by this option. A decision to link the concession to Pension Credit would be fairest for all licence fee payers because it would ensure the continuation of a high-quality BBC for everyone, avoiding substantial cuts to BBC programmes and services up to 2021/22, and would support the poorest over 75s.

It was suggested that specific provision should be made for retaining the concession for disabled over 75s even if they are not eligible for Pension Credit as an adjustment for the greater costs of living with a disability. However, these additional costs are addressed by specific benefits elsewhere in the system.

Some raised concerns about whether accessibility services (e.g. subtitling) could be reduced by cuts in BBC income. The BBC has no plans to reduce accessibility.

Advance equality of opportunity

The BBC must have due regard to the need to advance equality of opportunity between members of different protected equality groups, especially – in this context – on grounds of age.

The relevant opportunity is to watch TV, without suffering disproportionate financial hardship as a result, and thereby to be socially connected, informed and entertained. Some over 75s will have to pay for a TV licence which is currently paid for by the Government. If this results in no licence being purchased, that could have implications for equality of opportunity given the general importance of access to good-quality TV services, and in particular the potential role television plays in connecting people in this group to the world around them. Frontier told us, however, that the losses to individuals even of withdrawing the concession altogether “would be relatively small on average.”⁴²

Through the BBC funding licences for the poorest pensioners aged over 75, i.e. those who are receiving Pension Credit, and designing a simple and accessible application system, the opportunity to watch TV will continue to be available for that group without disproportionate financial hardship. It would also provide a way for the group of poorest pensioners over 75 who are disproportionately female, BAME or disabled to continue to watch TV programmes for free.

Paying due regard to the factors identified above, the current preferred policy option would strike a fair balance between ensuring access to television services for the poorest over-75s and securing funding for the BBC to continue providing high-quality programmes and services for all audiences.

⁴² Frontier Economics, *Review of over-75s funding*, 2018, p.40 – 41

Fostering good relations between groups

The BBC must have due regard to the need to foster good relations between members of different protected equality groups, especially – in this context – on grounds of age.

The current preferred policy option could have a positive effect on perceptions of intergenerational fairness:

- (a) This was raised by Frontier⁴³ and endorsed by some consultees,⁴⁴ who questioned the rationale of free TV licences for over 75s as against poorer, younger generations;
- (b) Respondents said that some pensioners would be able to pay for a TV licence in full;⁴⁵ and some pensioners also said they felt it was only right to give up their concession to ensure those on lower incomes received it;⁴⁶
- (c) The existence of a concession even for richer pensioners might seem unfair to younger/ poorer people, and so risk impairing good relations between different age groups. Targeting the concession for poorer older pensioners might be judged by many to be fairer;
- (d) We believe the BBC is a unifying force in UK society because it provides services and programmes which bring everyone together across all ages and across the UK; and
- (e) There are potential positive impacts for everyone, including younger people, of reforming the licence fee concession for older people, as the BBC would be able to continue to deliver its mission and public purposes compared to copying the current concession.

The current preferred policy option, if adopted, should therefore foster good relations because, again, it seeks to strike a fair balance between ensuring access to television services for the poorest over 75s and securing funding for the BBC to continue providing high-quality programmes and services for all audiences.

⁴³ Frontier Economics, discussion paper, *Concessionary TV licences and the landscape of intergenerational fairness*, 2018; Frontier Economics, *Review of over-75s funding*, 2018, p.17 – 19

⁴⁴ For example, Populus reported that intergenerational stakeholders and many of the media industry stakeholders found the arguments made about intergenerational fairness in Frontier Economics' reports to be compelling and accurate. In their view, these younger generations endured more hardship than their elder counterparts

⁴⁵ Traverse, *Age-Related TV Licence Policy: Consultation Analysis Report*, 2019, p.99

⁴⁶ Traverse, *Age-Related TV Licence Policy: Consultation Analysis Report*, 2019, p.99

Data or other evidence on which our analysis is based

The BBC Board has already considered the likely equality effects of its current preferred policy option in the light of data it already had, further information and careful consideration of the consultation responses. These include the following sources.

The four reports that set out the feedback from the BBC's consultation and wider engagement published at

<https://www.bbc.com/aboutthebbc/reports/consultation/age-related-tv-licence-policy>.

BBC analysis of BARB (Broadcasters Audience Research Board) and Radio Joint Audience Research (RAJAR) data.

Frontier Economics analysis of Family Resources Survey data (an annual report from the DWP providing facts and figures about the incomes and living circumstances of households and families in the UK). This divided all households in the survey into ten equally sized deciles, according to equivalised household income from all sources net of direct tax and housing costs.

DWP Pensioner Income Series on real media annual income.

IFS (Hood & Waters 2017).

IFS (Cribb et al, 2018).

Living Costs and Food Survey (ONS, 2017).

Frontier Economics analysis of Family Resources Survey data (an annual report from the DWP providing facts and figures about the incomes and living circumstances of households and families in the UK). This divided all households in the survey into ten equally sized deciles, according to equivalised household income from all sources net of direct tax and housing costs.

IFS (Cribb and Johnson, 2019), *Free TV licences for whom?*

Joseph Rowntree Foundation, *UK Poverty 2018*

DWP, Households below average income (HBAI) statistics, May 2019

Full Fact, *Poverty in the UK: a guide to the facts and figures*, May 2019

DWP Tables: Take-up (caseload) of Pension Credit by family type, 2009/10 and 2012/13 to 2016/17, November 2018

Age UK, Factsheet 48, *Pension Credit*, April 2019

Social Metrics Commission, *A new measure of poverty for the UK*, September 2018