

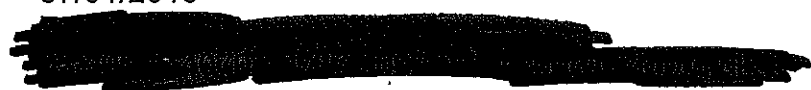


A2B Access to Benefits

Response to:
A Commissioner for Older People
in Northern Ireland

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A2B: Access to Benefits for Older People is a not for profit company limited by guarantee, number NI61324, registered in Northern Ireland.

1.0 Introduction

1.1 A2B is a not-for-profit organisation with a four year, fixed term life-span. Its vision is to empower and enable the older people of Northern Ireland to maximise their take-up of benefit entitlements.

1.2 A2B has developed online resources available to older people, their carers and Voluntary Sector and Governmental advisers to screen older people for benefit eligibility, prepare their claims applications and submit their data for claims processing. Additionally, it provides its all-age-group partners with the online resources required to provide identical screening mechanisms to other age groups.

1.3 A2B welcomes the opportunity to respond to this consultation. A2B has been involved in the ongoing work across the age sector including the drafting of position papers and the wider We Agree campaign. A2B fully agrees with all the points made in the Consultation Briefing Paper prepared by Age Concern Help the Aged NI and Age Sector Platform. The response below goes in to further detail on some key issues for our own organisation and we hope it will strengthen the points already being made by other organisations.

1.4 A2B's main area of interest is benefit uptake among older people in Northern Ireland so we are keen to see the Commissioner having real influence on issues such as maladministration within the benefits system. Many of the points below refer to just such an example to illustrate how we believe the Commissioner could most effectively use his or her powers – see section 3 of this response for more detail.

2.0 Consultation questions

2.1 **Questions 1-11, 29-34, 42-44 and 45-46:** We agree with all the questions raised in these sections – they are mostly matters of practicalities and we have already contributed to the age sector position on all of these issues.

2.2 **Question 12: Memoranda of understanding or working protocols.** It will be vital that there is a good and strong working relationship between all the relevant commissions. At this time of cuts in public spending, all bodies will have to be conscious of their expenditure and should be encouraged not to duplicate services – by having a clear understanding and a well-defined relationship, this will be easier to achieve.

2.3 **Questions 13 & 14: General powers.** We would support the broadest range of powers possible for the Commissioner. They must be widely viewed as having

'teeth' or 'clout' in order to prove effective and any combination of the powers should be able to be used on the one case. The guidance that they issue must be taken seriously and sanctions will also have an important role, going hand in hand with powers. For example, in a case of maladministration in the Social Security Agency (detailed in section 3), any number of a range of powers could be used at the same time in order to resolve the issue, from mediation (see below) to the requirement to take action to the production of recommendations or guidance to ensure that the issue does not reoccur.

2.4 Question 15: Mediation and arbitration. We agree that the Commissioner should not themselves have a mediation and arbitration role but would highlight the need for them to be able to direct people to mediation and arbitration where appropriate. In many cases neither the older person nor the relevant authority will want to take legal action and an alternative route will resolve the issue. We believe that older people themselves should be as involved as possible in the work of the Commissioner and therefore would be keen to see any interested older people being encouraged by their organisations to become trained mediators (through the likes of Mediation NI) and actively participating in this process. Mediation and arbitration should be a consideration in every case but particularly when something might be resolved quickly.

2.5 Question 16: Reviewing arrangements. We agree that the Commissioner should have these powers – too often, discrimination or poor service provision happens to older people and can be seen by employees yet they may feel unable to act. Everything possible should be done to encourage them to come forward.

2.6 Question 17: Provision of assistance. We agree that the Commissioner should be able to provide assistance and recommend that adequate funding and staffing be put in place to facilitate this as part of the creation of the office. Support and guidance in particular should be available to older people when they contact the office and where it is not within the Commissioners remit, this should include signposting.

2.7 Question 18: Relevant authorities – powers. This is an important issue in our area of interest as benefits and their administration is a cross-jurisdictional matter, extending not only to Westminster but in some instances to Brussels. We agree with the age sector briefing paper in that we would like to see further clarification on the conflict between the range of powers and proposed limitations on them. Imposing limitations will lead to confusion and cases 'falling through the net' which will be to the detriment of older people in the long term.

2.8 Question 19: Relevant authorities – sanctions. If the relevant authority does not follow the Commissioner's recommendations, either through direct involvement or mediation, then the Commissioner should have the power to enforce

sanctions or take action to ensure that the recommendations are met. This could include reporting to the Assembly (but not as a single action), financial penalties, penalties in kind (eg procurement), working with the authority to ensure that the changes take place or any other means appropriate to the case. For example, in our maladministration case, if the required action is not taken, the Commissioner should be able to raise the issue with the Assembly and the Committee for Social Development, fine the SSA if it continues to cause the same issues and potentially send a third party into the agency to ensure that the necessary changes are made. This is covered in the example below; a similar case could be the issue of training for staff employed by Translink and the Commissioner could ask that a representative from the age or disability sector work with Translink to deliver training on the transport needs of older people.

2.9 Question 20: Existing organisations. We agree with the age sector's concerns about limitations and restrictions. Another body may have the remit to act but will not have the best interests of older people as its prime purpose and may not have the financial or other resources available. The point above about MoUs will allow for a range of powers to be shared between bodies and decisions to be made on a case by case basis regarding who is best placed to intervene.

2.10 Questions 21 - 23: List of relevant authorities. We agree entirely the recommendation from the age sector that this should be future-proofed to include any new bodies being formed through the Review of Public Administration or the future devolution of Policing and Justice. We also agree with their list of suggestions to add to the remit of the Commissioner, including Translink and the Post Office. A2B believes that the relevant authorities should also include those which are based in Westminster but have responsibility for reserved or excepted matters, particularly the Department for Work and Pensions. Authorities such as this can have as much of an impact on older people's lives as those which are part of our devolved administration – the inclusion of the Northern Ireland Office already recognises this.

2.11 Questions 24 & 25: Relevant authorities – powers. We agree with the age sector position that Option Three is the best option. This would ensure that older people in private care arrangements would have the same right to recourse, for example. Again, this should be future-proofed to allow for the inclusion of any new bodies at a later date.

2.11 Question 26: Legal cases. We agree entirely that the Commissioner needs to be able to take legal cases – otherwise, they will not have enough power to truly change the lives of older people here. A legal case may not always be the best option (mediation, for example, may be better in some cases) but it should always be available to the Commissioner. Again, any duplication would be better served by clear MoUs rather than limiting the ability to take a case to circumstances where no other body can act. As stated above, this could lead to cases falling through the net.

2.12 **Question 27: Victim standing.** A2B believes that the Commissioner needs to have 'victim standing' (or 'appellant standing', which would remove any confusion over the word 'victim') in order to be most effective. While we appreciate that this cannot be carried out by Assembly legislation, steps should be taken as soon as possible to have this change made in Westminster.

2.13 **Question 28: Main issues.** The Commissioner should be able to speak out about any issue impacting on older people in Northern Ireland, whether it is a local, regional, national, European or global issue. A2B would in particular like the Commissioner to take action on issues of benefit uptake, administration and the continued focus on prevention of fraud. This ties in to issues of access to services, rurality, isolation, wellbeing, engagement and volunteering.

2.14 **Questions 35 & 36: Independence.** A2B believes that the Commissioner should be sponsored by OFMDFM but should be independent from it and accountable to the Assembly. This would prevent any conflict of interest when investigating issues for which OFMDFM has responsibility. That the Commissioner is seen as being independent is extremely important.

2.15 **Question 37: Accountability and older people.** Along with independence, accountability is vital to the relationship with older people themselves. The formation of a panel of older people, with a wide age and geographical range, should take place ideally before the Commissioner is appointed. This panel could then be involved in recruitment, the setting up of the office, helping to consult with the wider body of older people and advising the Commissioner on policy and practice. However, it should be noted that a panel will not be the only way in which the Commissioner should consult with older people – the Commissioner must be visible on the ground right across Northern Ireland, holding meetings in a variety of locations and visiting groups and organisations to promote their role.

2.16 **Questions 38 & 39: Stakeholder organisations.** We agree with the statement about the relationship with stakeholder organisations. There already exists a number of engagement methods, including the Older People's Policy Forum, the advisory group for Ageing in an Inclusive Society, various online forums, sub-regional forums and membership bodies. The Commissioner should engage on an ad-hoc basis on policy issues as they arise and attend key conferences, seminars etc. The Commissioner should have an accessible and informative website and web presence (including the use of social media such as Twitter) and should produce a regular newsletter as is currently done by the Advocate.

2.17 **Questions 40 & 41: Champions.** An infrastructure of champions would help to make age a more visible issue right across our public sector – something which is currently lacking. Government here is often disjointed and it is not easy for the

service user to know who is responsible for what. While it is important that a champion within a department or agency has the seniority to make key decisions and influence their colleagues, it is also vital that they have a commitment to age issues and therefore champions may be of different grades or in different functions, depending on the structure of their department or agency

3.0 Example

3.1 This example, as noted above, shows how many of the consultation issues can be answered in a practical way.

3.2 In Spring 2008, encouraged by a family intermediary, 79 year old Mr W phoned the SSA to pursue an enquiry about Pension Credit (PC). After cursory questioning on the phone about his circumstances, the SSA advisor told Mr W that in his opinion he wouldn't qualify for PC.

The family intermediary was familiar with the benefits system, and used the independent, anonymous online A2B Benefit Calculator to screen Mr W which indicated that, in addition to attendance allowance, Mr W had a PC entitlement of approx. £37 per week. After some persuasion a PC application was submitted in January 2009, with a request to backdate.

The SSA responded in writing with a series of questions, stipulating a one month deadline for reply. These questions were not straightforward, and without the intermediary Mr W would have been unable to proceed, but the answers were submitted within the timeframe requested.

Over the next few months, more detailed questions emerged from the SSA. These were dealt with, increasingly reluctantly with Mr W's cooperation, who by this time was of the view that this was a waste of time. Phone calls were made by the intermediary about the detail of some of the questions, and it was explained that, due to benefit fraud, SSA were being increasingly vigilant with all applications, resulting in delays.

During one of the follow up phone calls, it was mentioned by an SSA officer that 'carers allowance' – if applicable, might enhance Mr W's application for PC. In mid 2009 a claim for 'carers' was made, was quickly processed by SSA, and an underlying entitlement to carers allowance granted albeit with no direct financial benefit.

Further questions on the PC application emerged from SSA around June, and were answered. By this point Mr W was close to giving up on the matter. By August, there was still no sign of a result, and a phone call was made by the intermediary to query the length of time now being taken. It was explained by the SSA officer that each

response to questions received joined a queue, that SSA were currently working through early June applications, and since Mr W's response to questions had been received by them in late June, it would take several more weeks before being considered.

The next communication from SSA, in Sept 2009, was a further question concerning details in the application, first made in January. This was a repeat of a question that had been asked 8 months previously, and which had been answered in considerable detail without further query from SSA at the time.

A phone call was quickly made by the intermediary pointing this out. SSA apologised that the computer system just happened to be down that morning so the matter could not be investigated. Later that afternoon, an SSA officer phoned the intermediary to advise that Mr W's application had been approved just that very morning. Mr W's confirmed entitlement was just under £40 per week, back dated to autumn 2008. Payment was almost immediate.

3.3 With a Commissioner in place, this can be resolved much sooner, preventing such long delays. Mr W, or his intermediary, contacts the Commissioner's office to discuss the problems they are having. The staff member pulls together relevant information about benefits administration. The case has a wider impact on older people in Northern Ireland and the Commissioner decides to act on it. No other body would have the remit to take the case, however other bodies such as ECNI and NIHRC are informed as they have a close working relationship.

3.4 In the first instance, it is decided that mediation may be appropriate in order to get Mr W's case resolved, before looking at how to rectify the wider policy and practice issues. An outside agency is brought in to liaise between Mr W and the SSA to ensure that he suffers no more stress and that payment is made as soon as possible. If mediation does not work, the Commissioner looks at taking the agency to court due to the fact that Mr W has still not been paid their benefits. As this case can have wider repercussions beyond Mr W's circumstances, and because he is reluctant to take a case themselves because they are scared of losing their entitlement, it is decided that 'appellant standing' will be used to take the case.

3.5 After Mr W has received his full entitlement, the Commissioner then looks at the practices of the agency and the reasons why this case became so complicated and took so long to resolve. The Older People's Commissioner would be in a position to query the application forms and questions, where these are seen not to be designed to be fit for the purpose of their intended users. Additionally, the Commissioner could mandate the SSA to look at why the full set of information required by them is not collected at the first point of enquiry. Further, the practice of queuing new questions on existing applications, behind fresh applications could be

investigated. Lastly, the retention of answers given previously by the Agency is an area which the case highlights as an area for improvement.

3.6 The Commissioner issues a set of recommendations to the agency, and to the other organisations responsible for benefit delivery in Northern Ireland as well as to the DWP in England, which include recommendations on how to communicate better with older claimants, the importance of time when processing applications for claimants who would otherwise be in poverty and some general points on how to improve the speed and accuracy of the processing of forms.