



speaking from experience .

**A Commissioner for Older People in  
Northern Ireland**

***A strong independent voice for older  
people***

**Consultation Response**

**January 2010**

## **1 Introduction**

Age Sector Platform (ASP) welcomes the opportunity to respond to the consultation on the establishment of an Office of a Commissioner for Older People in Northern Ireland.

Age Sector Platform was established in 2008 as an organisation to support older people to campaign on the issues that matter to them. Age Sector Platform has a membership base of 29 older people's organisations and networks which represent approximately 200,000 older people across Northern Ireland.

The establishment of an effective and influential Independent Commissioner for Older People in Northern Ireland has been one of the top priorities of our membership for a number of years. ASP believes that if the role is established correctly, taking into consideration the views of older people and wider society, it should represent a major step forward in promoting and safeguarding the rights of older people in Northern Ireland.

ASP has worked in partnership with Age Concern Help the Aged NI over the past number of months as part of the 'We Agree' campaign which aims to raise awareness of the role and remit of the Commissioner and encourage older people to participate in the consultation process.

Age Sector Platform welcomes the approach taken by the Office of the First and Deputy First Minister in involving the age sector throughout the process of developing the draft legislation. In particular, we welcome the approach taken in holding public consultation events on the legislation at a number of events across Northern Ireland. The turnout at these events illustrates the importance that older people place on getting the remit and powers of the Commissioner correct.

From the outset, ASP members have been insistent that they want a Commissioner with the necessary powers to be an effective and strong advocate for older people and an agent for change so that older people's lives can be improved as a result of the office's work. Therefore, the decisions made on the powers and remit of the Commissioner in the coming weeks will be vital and have a major effect on how effective and successful the Commissioner will be in the future.

The voice of older people has been involved throughout the process and it is important that their views are heard and acted upon so they get the Commissioner that they and future generations of older people deserve. It is also vital that the voice of older people continues to be heard both during the establishment of the Commissioner's office and when it is up and running, so that the Commissioner remains in touch with the issues older people are facing on a daily basis.

We have provided our comments under the headings provided in the consultation document on the following pages and we hope that the Department finds them useful and informative. Age Sector Platform is committed to continuing to work with all those involved in the creation of this office in the coming weeks and months ahead to ensure that Older People get the strong Commissioner they have long campaigned for.

## **Executive Summary**

Age Sector Platform believes that Older People must be at the heart of the work carried out by the office of the Older People's Commissioner and believes that in order to be effective the Commissioner must:

- Be empowered to act independently from all other government and public authorities
- Be endowed with the capacity to undertake casework and take cases that will force a point in law for the good of many
- Have the power to mediate on issues of contention between service providers and older people
- Have an arbitration function exercisable where time is a critical factor (this could be facilitated by a third party to maintain the Commissioner's obligation to act in older people's interests)
- Be empowered to conduct formal investigations, issue directives, conduct audits of compliance and reviews of performance in the interests of improving practice
- Have strong powers of sanction to promote compliance among providers of goods and services.
- Be endowed with 'victim' status to enable cases to be taken without the requirement to name an individual
- Have the power to commission and publish research on issues affecting older people, provide information and stimulate debate on issues and models of good practice
- Have a duty to communicate widely, seek the opinions of older people and take their views into account.

## Questionnaire Responses

### **1. Do you agree with the need for a Commissioner for Older People? (See Chapter 1, Paragraph 1.4 and Chapter 2)**

ASP agrees that there should be a Commissioner for Older People. The Commissioner should have the fullest range of duties and powers. Given that in 30 years a significant percentage of the population will be over 50 (42%) with ¼ over pensionable age and Northern Ireland will have the largest percentage of older people in any jurisdiction within these islands, action is needed now.

We need a commissioner because...

- Having an Older People's Commissioner with effective powers will prioritise older people's issues helping ensure that their rights are respected and fulfilled in our society
- Improving the position of older people in our society will deliver better outcomes for our society as a whole
- Promoting and safeguarding the rights and dignity of older people; advancing equality for and challenging discrimination against older people; and empowering and enabling the voice of older people in NI requires a specific focal point
- Only a Commissioner with full powers to investigate, working across the public, private and voluntary sectors to demand speedy responses, immediate compliance and rapid improvement will make the impact needed.
- There is a particular need for an expert to assist older people specifically, in taking legal action over alleged breaches of rights
- Whilst there are other Commissions, no one body has a specific strategic and holistic overview. We believe that there remains a need to prioritise older people's issues and act with urgency in cases of need.
- A powerful Older People's Commissioner would have the capacity to make the best use of available resources by contributing to the improvement of practice in services for older people over time, to ensure best value for money

### **2. The United Nations Principles for Older Persons are set out in full at Annex 1 of this document. They are: Independence, Participation, Care, Self-fulfilment, and Dignity. (See Chapter 3, Paragraph 3.2)**

**Do you think the Commissioner should take account of the UN Principles for Older Persons whenever he or she is deciding?**

- a. How to act?**
- b. What constitutes the interests of older people?**

YES. The Commissioner should take account of the United Nations Principles for Older Persons in her/his actions. Moreover the Commissioner should be

empowered to ensure that relevant authorities take account of the UN Principles. We recommend that a Preamble to the legislation is included that refers to the significant principles and legal frameworks that the Commissioner and relevant authorities should bear in mind when acting in relation to older people.

The Preamble would set the equality and human rights framework by referring to the UN Principles for Older People, the UN Paris Principles, the EU Employment Framework Directive, Article 25 of the European Charter of Fundamental Rights; and national and regional requirements such as the Human Rights Act 1998, Section 75 of the Northern Ireland Act 1998 and the Employment Equality (Age) Regulations (Northern Ireland) 2006. This list is intended to be indicative and should not be considered as an exhaustive list, the Commissioner should also be required to take into consideration any existing (and future) legislation or policy relevant to their work.

If in place at the passage of legislation, the Preamble should also include reference to the EU goods, facilities and services directive, the UK Bill of Rights and the Northern Ireland Bill of Rights.

The benefit of this approach is that it would draw together the relevant legal architecture and principles applying to older people. This would provide a comprehensive framework for the remit of the Commissioner. Clear communication of the collective principles will also reduce the potential of burdening Relevant Authorities and will raise awareness of the role of the Commissioner among the general public.

In terms of establishing what constitutes the interests of older people we recommend that an advisory panel of older people is created to provide a mechanism for the user community to advise as to what older people's interests are and to influence the focus of the Commissioners work. Age Sector Platform is happy to work with the Department and the Commissioners' office to assist in the development of such a panel or forum if this was useful.

### **3. What age range do you think the Commissioner should mainly cover?**

While Age Sector Platform believes that there are 'ageing issues' that affect people under sixty years of age we accept that 60+ is the appropriate age for the main focus of the Commissioner's work given the projected population demographics. We acknowledge that some people within this age range do not identify themselves as 'older' however, in the interests of providing for those of this age who are in need. Therefore, generally we agree with this proposal but see answer below also.

**4. Do you think that the Commissioner should be able to provide his or her services to people aged 50 years and over in certain circumstances? (see Chapter 6, Paragraph 6.6)**

We agree that the Commissioner should have discretion to act in the interests of older people age 50+ in certain circumstances. For example in the case of members of the traveller community and people with a learning disability as the life expectancy for these groups are lower than average.

It is important however that, discretion to act should include, but not be limited to, exceptional circumstances and questions of principle. There should be a provision for representatives of older people to approach the Commissioner on behalf of an older person.

Furthermore, where the Commissioner is pursuing a case on behalf of an older person and the older person dies before the conclusion of the proceedings, a personal representative of the older person should be allowed the opportunity to see the case through to its conclusion.

**5. Do you think that the age range of the people that the Commissioner caters for should be able to be changed? (see Chapter 6, Paragraph 6.8)**

We agree that the age range should be kept under review with this proviso: the age range for the Commissioner's oversight may be lowered to 50+ but should not be increased beyond 60+.

**6. Do you think that the Commissioner should have a Principal Aim to safeguard and promote the interests of older people? (see Chapter 7, Paragraph 7.1)**

We believe the legislation should encompass a Principal Aim but we would recommend that the Principal Aim encompasses a more extensive interlocking set of principles which would together provide both vision and bedrock for the Commissioner's office.

The Principal Aim should be: *To promote the interests of older people, safeguard their rights, advance equality and challenge discrimination against older people; and to enable and empower the voice of older people.*

We believe this adds strength and depth to the legislation and the Commissioner's role. Moreover we recommend that the legislation begins with a Preamble and refer to the comments in response to Question 2.

**7. When dealing with the case of a particular older person, do you think that the Commissioner should have as a paramount consideration the interests of that older person? (see Chapter 7, Paragraph 7.1)**

The Commissioner's paramount consideration must be older people and their needs and interests. Every older person must be accorded their rights, dignity and respect. There is a need for consistency between the Principal Aim and the Commissioner's 'paramount consideration'.

If the Commissioner's powers are limited, we would be concerned that the Commissioner's ability to challenge and overthrow statutory provisions that do not adhere to the principal aim and paramount consideration would be seriously limited.

**8. Do you have any other suggestions about what the Principal Aim and Paramount Consideration should be?**

Please refer to answers under Questions 2 and 6 where we speak about a Preamble and a more comprehensive interlocking Principal Aim.

**9. Do you think the Commissioner's role and functions should be based on the interests of older people? (Chapter 7, Paragraph 7.4)**

Please refer to answers under Questions 2, 6 and 7 these recommendations would provide a stronger framework in which 'interests' would be interpreted. We do agree that the term should be interpreted widely and should include 'needs' and 'rights'.

**10. Do you agree that the duties proposed (listed in Chapter 8, Paragraph 8.5) are suitable for a Commissioner for Older People?**

We agree that the duties listed are suitable for a Commissioner for Older People. We appreciate the outreach elements of the duties concerning access, communication and fostering participation. Relationship building will be essential in terms of gathering information and evidence reflective of older people's needs and interests to inform policy inputs. We also agree that the Commissioner has an important role in advising Ministers and MLAs.

The consultation document comments that the duties '*help to ensure that the Commissioner acts at all times with the interests of older people at the forefront of his/her decision making processes and that those decisions bring about a positive outcome for older people*'. We approve of ensuring that older people are at the centre of thinking all the time in carrying out the duties. The degree of positive outcome achieved is likely to depend not just on the Commissioner's decisions, promotion and encouragement, but also upon the Commissioner's authority to act and to call to account.

The point is made in the consultation document that the proposed Northern Ireland model imposes a stronger set of duties than elsewhere. However, Northern Ireland will also have the largest population of older people. Furthermore, there currently exists a danger of falling behind on our equality

legislation given that the Equality Bill currently before Parliament extends only to England, Scotland and Wales. These facts should provide us with the incentive to break new ground.

**11. Are there any other duties not included that you believe it would be essential for the Commissioner to carry out?**

The Commissioner should have a duty to liaise regularly with the age sector.

There should also be a duty to cooperate with other Commissions as appropriate through Memoranda of Understanding.

**12. Do you think the Commissioner should have memoranda of understanding or working protocols with other organisations? (see Chapter 9, Paragraph 9.4 – 9.6)**

We agree that there must be synergy between the variety of bodies operating in the equality, rights, protection and oversight field; but we do not agree with restricting the Commissioner's role to one of ensuring that other Commissions understand and co-ordinate their functions and identify gaps (9.4).

Setting as a criterion that the last body into the field should be the one with least power just to avoid handling complexity, even though in time that body will become the leading expert in its field, is not a tenable position.

We agree that the Commissioner must have the power to cooperate with other bodies. There should be a statutory requirement on bodies with common interests to collaborate. This should be outlined in Memoranda of Understanding between agencies to strengthen strategic collaboration. We believe that an independent legal duty would serve better than intervention and control by the sponsor department through the Management Statement.

**13. Do you agree with the general powers proposed for the Commissioner? (see Chapter 10, Paragraph 10.2) If not, please explain.**

We support the Commissioner having powers of information, research and publication; and to offer advice and guidance; as well as representation and recommendation. We do however have concerns about the strength of the Commissioner's authority and consequently the status of her/his recommendations. Persuasion is an important tool, but the Commissioner needs to be able to issue guidance that must be adhered to.

We are pleased that the Commissioner has general powers of investigation that can be applied across any of her/his functions, and that this power carries with it a requirement that the investigated authority must respond to any recommendations within a specified time. 'Informal' investigation, as the general power of investigation is referred to in the consultation document, can

be swifter and less costly than other routes, but should not be used as an alternative to, formal investigation. The Commissioner should be expected to review the balance between formal and informal investigation and the purposes for which each has been deployed as part of her/his duty to keep the effectiveness of the legislation under review.

**14. Are there any other general powers that you think the Commissioner would need? That is, do you think that there is anything else the Commissioner would need to be able to do?**

As is envisaged, the Commissioner should have the power to conduct general reviews of advocacy, complaint, inspection and whistle-blowing arrangements generally and in individual cases. Our concerns refer more to the extent of, and limitations to, the proposed powers rather than to the powers themselves.

The duty to cooperate with other Commissions could be strengthened further if it were accompanied by a power to collaborate.

**15. Due to the potential for a conflict of interest (see Chapter 10, Paragraph 10.7) we are not currently proposing that the Commissioner should have powers of mediation or arbitration, however we are interested in your views on the following potential options:**

- a) **If it is possible, should the Commissioner be able to provide financial assistance towards the cost of mediation in a dispute involving an older person?**
- b) **Should the Commissioner hold a register of mediation/arbitration services and be able to direct older people to these services?**
- c) **Do you think the Commissioner should have the power to "make arrangements" with any other person to provide mediation/arbitration services in relation to disputes involving older people?**

**Finally, in what circumstances do you think that mediation or arbitration would be appropriate?**

We agree that the Commissioner's obligation to act in the interests of older people would not be conducive with the neutral position required to act in a formal mediation or arbitration role. However, we propose that the Commissioner should have the power to support such functions as those listed under a, b and c. In reality, budgetary constraints will limit the number of individual cases receiving support therefore a provision for the Commissioner to support mediation and arbitration (M&A) functions could provide a cost effective alternative.

We are aware that Commissions must decide which cases they will support/pursue on the basis of the strategic importance of the case i.e. the contribution the case will make in terms of testing points of law. The Commission should have a "strategic litigation policy" to ensure that all

presenting cases are considered on equal grounds before a decision is made as to whether or not to take a case through the Courts.

The Commissioner's decision on which pathway to follow will be informed by the importance of a particular case to the Commission's strategic priorities, the circumstances and the preference of the individual concerned. We would anticipate that the presence of powers of mediation and arbitration would enable greater choice of action for the Commissioner and would offer the potential to provide speedier resolutions. For older people time is a very often a critical factor.

We support the proposal that the Commissioner for Older People should have the power to make arrangements for M&A services to be made available to older people. Mediation and Arbitration is appropriate when a case does not meet the criteria of the strategic litigation policy and the older person agrees to M&A; or where an older person prefers to pursue M&A rather than a legal case; or where speed is of the essence and the Commissioner agrees to refer the case to M&A.

**16. Do you agree that the Commissioner should have the specific powers to review in general and individual cases, the advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities? (See Chapter 11, Paragraph 11.5)**

We agree that the Commissioner should have specific powers to review the advocacy, complaint, inspection and whistle-blowing arrangements in general and individual cases. However, we are opposed to the proposed limitations to the Commissioner's powers to circumstances where no-one else has the legal power to review the arrangements.

The Commissioner's focus is on older people when deciding to act, while strategic decisions of other bodies may be informed by other priorities. We believe that similar powers held by existing bodies need not mean duplication if there are effective Memoranda of Understanding in place and a duty to cooperate between relevant bodies. We believe that placing such a limitation on the Commissioner's powers would potentially lead to unnecessary delays whilst assistance is sought elsewhere, thus the Commissioner's powers should not be limited in this respect.

**17. Do you agree that the Commissioner should be able to provide assistance (e.g. offer support, guidance and/or funds) to an older person with their complaint against a relevant authority? (See Chapter 11, Paragraph 11.8)**

We agree that the Commissioner should be able to provide assistance – support, guidance and/or funds – to an older person with a complaint against a relevant authority. We disagree with the proviso contained in the draft Bill; that these powers are exercisable only where it appears that no other person or body is likely to assist or act.

**18. In relation to relevant authorities, do you think there are any other formal or specific powers (in addition to those outlined in Chapter 11, Paragraphs 11.5 – 11.14) that the Commissioner would need?**

As indicated in Paragraphs 11.4 and 11.14 the Commissioner should have strong powers of formal investigation, including powers equivalent to those of a High Court to call for documents and witnesses and the power to enter premises, seize documents and interview in private.

The section of the consultation document covering formal investigation, and referring to formal and informal investigations in Para 11.12, is confusing. We suggest that the difficulties really lie with what is proposed in the legislation. There are distinctions between different investigation powers and limitations to many of the Commissioner's powers (in the areas of reviews, complaints, casework e.g. where the Commissioner is only able to operate where there is a point of principle or where there is no other route of review, complaint or assistance). We contend that the bill as currently drafted does not meet the standard of the Paris Principles given the range of limitations on the Commissioner's powers and we urge that these constraints be lifted in the interests of providing best value and the best outcomes for older people.

We propose that the Commissioner should be given full powers, not just residual powers, in the operation of her/his critical functions. As mentioned in our answers to questions 16 and 17, we propose that overlap in powers between the Commissioner and other bodies could be effectively managed by way of appropriate statutory Memoranda of Understanding between appropriate bodies.

**19. What do you think the Commissioner should be able to do if a relevant authority (see Annex 6) does not follow the Commissioner's recommendations? (See Chapter 11, Paragraphs 11.16 – 11.21)**

We are concerned about the powers proposed for the Commissioner where a relevant authority does not follow her/his recommendations, and take issue with the suggestion that these 'are quite considerable'.

We welcome the proposal that authorities will be required to respond in a timely fashion to the Commissioner's investigations and that responses to recommendations may be made public. However, we do not think that relying on the practice of 'naming and shaming' through publicising the fact that an organisation is not following best practice, or even sending the report to the Assembly or the Secretary of State, is a sufficient sanction.

We believe that stronger powers of sanction are needed in order to force change when services do not meet an acceptable standard. For example, in serious cases the Commissioner should have the power to issue notices of requirement to comply with their recommendations. This might include requiring a body to take certain steps to improve practice or following the

Commissioner's Guidance (e.g. on procedures for closing, moving or amalgamating services) within a specific timeframe. Penalties should be applied for non-compliance or regular breaches of good practice, such as financial penalties or exclusion from tender lists. Stronger powers of sanction for the Commissioner must be included in the Bill to create the required incentive to improve poor practice. The powers of compliance that the Commissioner has at their disposal should be no less than those of the Equality Commission.

**20. In Chapter 11, Paragraph 11.23 we set out the reasons why the Commissioner should not act in any case where an existing organisation already has the power to act. What do you think about this?**

We have concerns with the proposed limitations to the Commissioner's powers and have made a number of points already under Q18. We are opposed to restricting the Commissioner's operations to circumstances where no-one else has the legal power to act. The Commissioner will not have the authority to press other bodies to take action in relation to older people's issues when the priorities of the other body dictate something different. For example, the situation may arise where an available power is not applied for the benefit of older people and its non-application is justified by reference to other competing demands or an alternative strategy adopted by the particular body. To prevent this from happening, similar powers can be held by a number of bodies with attention to avoiding duplication in day to day operations through clear and effective Memoranda of Understanding.

**21. Do you think that the list of organisations at Annex 6 should be included as relevant authorities?**

We agree with the list of organisations included in Annex 6 and note that the Victim's Commission will be added. We assume that all new bodies resulting from the Review of Public Administration (health, education, local government and respective changes in public bodies) will be included. We suggest that the Northern Ireland Human Rights Commission is added.

The legislation should also cover all public, private and voluntary organisations responsible in any way for the health and social care of older people. We do not think the proposals go far enough in extending the legislation to independent bodies if the Commissioner's powers will cover only older people whose care costs are being met out of the public purse. All bodies providing residential care for older people on a public, private or voluntary basis should fall under the same obligations and these obligations should be applicable to all residents.

We also propose that the list should be subject to regular review to ensure that any emerging structure deemed to be a relevant authority is included.

**22. Are there any other organisations that you believe should be included in Annex 6 as relevant authorities?**

Other relevant authorities that should be included are: Translink; community transport providers; Healthy Living Centres; housing associations; organisations running relevant community services; utility providers; and the Post Office.

Furthermore, NICE and the UK departments and their arms-length bodies responsible for pensions, tax and benefits should be included. We appreciate that these are not bodies under the authority of the Assembly – however, we note the proposal to include the Northern Ireland Office and the Pensions Ombudsman.

The Commissioner's general powers should include investigating unfair rules on insurance as refusal of insurance cover can prevent older people from accessing opportunities.

**23. If you answer yes to question 22, can you explain why they should be included?**

We are not in favour of a two-tier system of safeguarding the interests of older people especially with respect to residential care. Older people and their families often struggle to meet the costs of care; families can find it difficult to manage their working life, family and childcare responsibilities as well as ensuring that their older relative is receiving proper care and attention. The Commissioner for Older People is a public service that should be available to all older people, especially to those who are in residential care. Since the legislation proposes to include independent bodies in any event, it is equally valid to propose that all residential, health and social care services for older people are a public or social service and therefore a public function and that no distinction should be made on the basis of the source of funding.

Other bodies are included because they offer services that we consider to be of an essential or social nature to older people.

**24. Of the three potential options, outlined in Chapter 11, Paragraph 11.39, regarding the extent of the Commissioner's powers in relation to relevant authorities, which do you consider to be the most appropriate and why?**

We believe that the most appropriate is Option Three – that all public sector organisations and appropriate private and voluntary organisations should be fully covered by the Commissioner's formal and specific powers. The reasons for this are given in our response to Q23. At present older people who pay for their own care are at a distinct disadvantage and should be afforded the same security as their publicly funded counterparts.

**25. Do you have any other suggestions in relation to question 24?**

The legislation should include the power to add further bodies at a later date, in order to cover new bodies or existing bodies that were missed at the outset.

**26. Do you agree that the Commissioner should be able to take or support legal cases? (support includes providing financial support) (See Chapter 12, Paragraph 12.1)**

We agree that the Commissioner should be able to take or support legal cases, including providing financial support. The Commissioner should have full powers to bring, assist in or intervene in a court case, act as an expert witness or 'friend of court'.

However we are not satisfied with the proposal to limit the Commissioner's right to grant assistance where another body also has a remit. We stress once again that the method for managing overlap in powers is through the effective operation of clear Memoranda of Understanding.

**27. As explained in Chapter 12, Paragraph 12.4, it is very unlikely that the Assembly will be able to give the Commissioner "victim standing" for Human Rights cases. What is your view of the Commissioner having "victim standing", that is being able to take Human Rights cases in his or her own name?**

We hold the view strongly that the Commissioner should have 'victim standing' to be able to take cases in her/his own name. We believe that victim standing is a particularly pertinent power for an older people's Commissioner given that older people are among the least likely to be willing or able to enter into a legal process even when necessary. We also recognise the potential efficacy of victim standing in terms of providing a framework to address cases where many are affected by an issue. In effect, we believe that furnishing the Commissioner with victim standing would potentially deliver a cost effective approach to pursuing cases.

Furthermore we believe that the question of Assembly competence to enable this should not be a determining factor. We advocate that steps are taken to include the power in appropriate Westminster legislation.

**28. Regarding Chapter 13, what are the main issues that you think the Commissioner should be able to speak out about?**

We believe that the Commissioner should be empowered to speak out about any issues affecting older people and should actively seek out the opinions of older people to inform the issues that they will speak out about. ASP is willing to work with the Commissioner's office to assist with this work and avoid any unnecessary duplication of work.

In terms of relevant bodies and including bodies governed by Westminster, the Commissioner should be able to speak out about their policies and their impact on older people in Northern Ireland.

**29. Do you agree that the Commissioner should be a full-time paid post?**

The Commissioner should be a full-time paid post.

**30. Who should be responsible for appointing a Commissioner for Older People? (See Chapter 14, Paragraph 14.6)**

The Commissioner should be appointed jointly by the First Minister and deputy First Minister. It would be desirable for the Assembly as a whole to approve the appointment – as is the case for the Scottish Human Rights Commissioner as regards the Scottish Parliament.

**31. Should older people have a role in the recruitment/selection process for a Commissioner? (See Chapter 14, Paragraph 14.7 – 14.8)**

Older people should be involved in the recruitment and selection process for the Commissioner as in the case of the Older People's Commissioner in Wales. We advocate older people's involvement in all stages of the selection process. Recruitment training should be provided to the older people involved to enable them to fully participate in an informed manner.

**32. If you answered yes to question 31, how should it be done? (see Chapter 14, Paragraph 14.7 – 14.11)**

We advocate the Welsh approach of including a legal requirement that older people should be involved in the appointment. As mentioned above, it is important that older people are involved at all stages of the recruitment including; the development of the job specification and selection criteria, the scrutiny of applications and as members of the interview panel.

Training and guidance in all stages of the recruitment process will be essential. The Age Sector might be asked to act as a channel for involving older people in the recruitment process, either nominating representatives (as a Northern Ireland-wide representative body) or facilitating a mechanism to recruit older people to the selection process.

A shortlist and recommendation should be presented to the First and deputy First Minister for approval before the appointment is made.

**33. How long should the term of appointment for the Commissioner be? (See Chapter 14, Paragraph 14.15)**

The Commissioner should serve a term of four years, renewable once.

**34. Should the Commissioner be eligible for reappointment? (See Chapter 14, Paragraph 14.15)**

The Commissioner should be eligible for reappointment for one further term of four years. The maximum period of service would be eight years.

**35. Do you agree with the proposal that the Older People's Commissioner should be an independent body sponsored (including funded) by OFMDFM? (See Chapter 14, Paragraph 14.16)**

The Commissioner should be an independent body funded by but independent from OFMDFM.

**36. Do you agree that the Commissioner should be accountable to the Department/body that provides his or her funding (i.e. OFMDFM)? (By accountable we mean report on his or her actions and how the Commissioner's office allocates and spends his or her budget). (See Chapter 14, Paragraph 14.17 – 14.20)**

We advocate that the Commissioner is created first and foremost as a body accountable to the Assembly. He or she should be like an Ombudsman – not accountable to any particular government department but to the legislature. In our view it is important that the Commissioner is independent and oversight by any department could potentially compromise this.

**37. To achieve accountability of the Commissioner to older people, do you think that older people should be consulted (and informed) about the priorities of the Commissioner and what the Commissioner does? (See Chapter 14, Paragraph 14.21 – 14.22)**

We believe that giving audience to older people should be a central focus for the Commissioner. We recommend that the Commissioner facilitates an older people's panel such as is the case with NICCY. Further to this in general, there should be regular consultation between the Commissioner and older people on her/his priorities and feedback on progress and results.

The Commissioner should adopt a pro-active approach to developing engagement and participation practice in relation to informing and consulting older people. Particular consideration needs to be given to developing methods to involve those considered to be hard to reach including those in residential care and older people with dementia.

The Commissioner should also have a duty, replicated in her/his job description, to liaise regularly with the age sector and established older people's groups.

**38. The Age Sector Report<sup>1</sup> recommended that the, "Commissioner should have an active relationship with, but be demonstrably**

---

<sup>1</sup> 'A Commissioner for Older People in Northern Ireland -: A Report and Recommendations from the Age Sector', February 2009. Recommendation 9 (page 18).

***independent from, stakeholder organisations.” Do you agree with this statement?***

We accept the statement that the ‘Commissioner should have an active relationship with, but be demonstrably independent from, stakeholder organisations.’

***39. If you answered yes to question 38, how do you think this should be achieved?***

It is important for the Commissioner to give careful consideration to the views of older people – whether consulting on issues, responding to complaints or in general networking. This could readily be achieved by engaging with existing networks, age sector groups and older people generally through a wide reaching communications strategy that offers awareness raising and promotion of the offices functions, opportunities to engage and various feedback mechanisms.

The Commissioner must also give consideration to the views of those against whom complaints are made. S/he must operate a transparently fair process in undertaking reviews and investigations, S/he must be free and seen to be free to come to decisions based on a her/his independent judgement informed by the principle underpinning the office – that of promoting and safeguarding the interests and rights of older people generally. If an older people’s panel is established as suggested in response to question 37, members could have a role in advising the Commissioner in this respect.

***40. The Age Sector Report<sup>2</sup> recommended that there should be “an infrastructure of champions in government and across the public sector, with visible leadership demonstrated at Ministerial level, to work with” the Commissioner “in promoting and protecting older people”. Do you agree with this recommendation? (Chapter 14, Paragraph 14.23)***

We recommend an infrastructure of champions in government and across the public sector. These should be motivated people in a position of influence within their department/agency. It would be inspiring for older people if a nominated Minister was the lead champion, co-chairing an inter-departmental group, or interagency group of public sector representatives, with the Commissioner. The Commissioner might foster joint activities involving the public sector champions and an age sector stakeholder group.

***41. If you answered yes to question 40 – how do you think they will improve the lives of older people?***

There is a distinct need to change the way older people are viewed in our society. Encouraging the appointment of such champions in departments, local government and across the public sector has the potential to raise

---

<sup>2</sup> *A Commissioner for Older People in Northern Ireland - A Report and Recommendations from the Age Sector*, February 2009. Recommendation 8 (page 18).

consciousness about older people could help deliver the culture change that is desperately needed as our population ages. We believe that older people should be enabled to contribute to our society as fully as possible for as long as possible and that they have the security that when support is needed everything possible will be done to provide that support. An infrastructure of champions could help make this vision a reality by providing a prevailing user focussed "lens" to policy and service development processes.

**42. It is good practice for every organisation providing services to the public to have a complaints procedure. Do you think the Commissioner should have one? (See Chapter 14, Paragraph 14.24- 14.26)**

The Commission should have a procedure whereby complaints can be investigated. This should be provided for in the founding legislation.

The Commissioner should be added to the list of bodies in respect of which complaints can be considered by the Assembly Ombudsman acting as the Commissioner for Complaints. A complaints process must be easily accessible and user friendly so that older people are not discouraged from contacting the Commissioner's office.

**43. Do you agree that the Commissioner should be able to recommend the legislation should be changed? (See Chapter, Paragraph 14.27)**

We agree with placing a duty on the Commissioner to keep the legislation under review and that the first review should be as soon as is practical after the second anniversary of the legislation, as was the case for the NI Human Rights Commission. Reviews should happen at regular intervals and we suggest an amendment '*thereafter as such time as the Commissioner sees fit, not being earlier than three nor more than five years after the making of the last previous report.*' The Commissioner should have the power to recommend changes to the legislation where s/he feels this is required. The Commissioner should make her/his recommendation to the First and deputy First Ministers and to the Assembly.

**44. If you answered yes to Question 43 how often do you think the Commissioner should be required to examine the legislation? (See Chapter 14, Paragraph 14.28)**

- A. Every 3 years.
- B. Every 4 years.
- C. Every 5 years.

We think that the Commissioner should review the legislation for the first time when the legislation reaches its second anniversary. This would help ensure that the Commissioner gets up and running quickly and is focused on delivery. Thereafter, it should be reviewed every 3-5 years and as suggested in response to question 43.

**45. How can the Older People's Commissioner demonstrate value for money? (See Chapter 15, Paragraph 15.6 – 15.7)**

We expect that the Commissioner will as a matter of integrity ensure the proper, economic, effective and efficient use of resources and employ principles of best value in their practice. Value for money can be formally demonstrated through benchmarking, performance indicators, audit, and management practices.

Moreover we believe that the Older People's Commissioner we envisage for Northern Ireland has the potential to create value because this office, would have unique qualities that no existing body has. Our vision for the capacity to prioritise older people's issues, to place a sense of urgency upon finding solutions to the problems faced by our citizens as they age, consequently has the potential not only to improve services but to ensure that resources are targeted to best effect.

A Commissioner needs to be able to act and secure responses and compliance relatively quickly. To demonstrate optimum value for money a Commissioner must have effective and efficient powers. Strong powers to investigate and require compliance can be a very efficient and effective way to achieve change. Mediation and arbitration are likely to be cost effective means of getting results. Victim standing also has the potential to deliver cost effective outcomes as mentioned previously.

Memoranda of Understanding and regular engagement between Commissions, including the Commissioner for Older People, would assist; both collective strategic work and clear assignment of roles and tasks as appropriate. A duty to cooperate with other Commissions accompanied by a power to collaborate could help to demonstrate value for money.

We believe the Commissioner should have full powers, not limited by the fact that some pre-existing Commissions may already have similar powers. We believe that the interplay between the range of full powers under the strategic vision of the Commissioner is the most efficient and effective way to promote and safeguard the interests and rights of older people. We are in favour of improved cooperation and collaboration, with Memoranda of Understanding ensuring duplication is avoided and enabling best value for money.

**46. Do you agree that, where possible, the Commissioner should share back office services (e.g. administrative costs or accommodation) with other Commissions to help to save public money? (See Chapter 15, Paragraph 15.8 – 15.10)**

We agree that the Commissioner could save money by sharing services and should do so where possible and appropriate. This might include any

operations which do not require specific expertise on ageing such as audit and payroll arrangements, personnel/human resources expertise, IT support, estate management, etc. However we do believe that in the interests of building expertise and delivering continuity 'front of house' interfacing functions should remain exclusive and the office should have a clearly defined, separate identity, particularly if accommodation is shared. It is most important that available resources are directed towards the financial and staffing requirements needed to deliver the remit of this office.

## **Age Sector Platform Members**

- Age Concern Help the Aged, Northern Ireland
- ALLY Foyle
- Amicus Retired Members
- AT&GWU Retired Members Association
- Carers NI
- Castlereagh Lifestyle Forum
- Chinese Welfare Association
- Civil Service Pensioners' Alliance (CSPA)
- Communications Workers Union (NI Regional Retired Members)
- East Belfast Seniors Forum
- Engage with Age
- Friendship Federation
- GMB Retired Members
- Greater Shankill Senior Citizens' Forum
- Indian Community Centre 50+ Club
- National Federation of Post Offices & BT Pensioners
- Newry and Mourne Senior Citizens' Consortium
- Newtownabbey Senior Citizens' Forum
- NIC ICTU Retired Workers Committee
- North Belfast Senior Citizens Forum
- Northern Ireland Pensioners Convention
- Northern Ireland Public Service Alliance (NIPSA) Retired Members Association
- Older Women's Network
- Pensioners Actively Lobbying Services (PALS)
- Public Commercial Services Union (Associate and Retired Members)
- Sperrin Lakeland Senior Citizens' Consortium
- UNISON Retired Members
- University of the Third Age (NI)
- West Belfast 50+ Forum

## **Executive Committee**

- Mr Bill Carson, Chairman
- Mrs Phil Evans, Vice-Chair
- Mr Michael Monaghan, Secretary
- Mr Olaf Hvattum, Treasurer
- Mr Francis Hughes
- Mrs Margaret Galloway
- Ms Meg Holmes
- Mr Paddy Joe McClean
- Ms Patricia Donald
- Ms Anne O'Reilly
- Mr Seamus Lynch

**Any enquiry concerning this response should be made to:**

  
**Project Manager**

**Age Sector Platform**

Merrion Business Centre

58 Howard Street

Belfast

BT1 6PJ

Tel: 028 9031 2089  
