

# A Commissioner for Older People in Northern Ireland

*a strong independent voice for older people*

## Questionnaire

### 1. Do you agree with the need for a Commissioner for Older People?

(See Chapter 1, Paragraph 1.4 and Chapter 2)

Belfast Healthy Ageing Strategic Partnership (Belfast HASP) welcomes and agrees with the proposal for an Older People's Commissioner in Northern Ireland. NISRA projections for the next 20 years indicate that there will be a 53% increase in the numbers aged 60 and over, and people aged 80 and over doubling in this period. We therefore support the need for a dedicated Commissioner who:

- champions the present and future needs and rights of the growing number of older people in Northern Ireland
- is independent
- will prioritise and promote older people's issues in Northern Ireland
- will liaise with the Children's Commissioner on common issues for older and younger people and other Commissions as appropriate.

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?

Belfast Healthy Ageing Strategic Partnership agrees that the Commissioner should take account of the UN Principles for Older Persons whenever he or she is deciding how to act and what constitutes the interests of older people. These are common approaches in our partner organisations and the four priority areas of work presently identified by Belfast HASP. In addition we would recommend that an **advisory panel of diverse older people and the age sector** be used to provide additional advice on what constitutes the interests of older people.

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

The Partnership agrees that the Commissioner should mainly cover the ages 60 and over, or 50 and over in exceptional circumstances.

### 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)

Belfast HASP would support the Commissioner being able to provide services to people aged 50 and over, but **only** regarding priority issues or circumstances that are also particularly relevant to people aged 60 and over. The age band from 50 to possibly 100 is so large that these circumstances need to be exceptional.

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)

Yes, this age range should be kept under review as proposed and take into consideration views of the Commissioner and a range of age sector organisations.

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)

The partnership agrees that the Commissioner should have a Principal Aim 'to safeguard and promote the interests of older people' and supports the alignment to that of NICCY. However, we would suggest that there should be more details of what this aim will involve for the Commissioner e.g. promote the interests of older people, safeguard their rights, advance equality and challenge discrimination and promote the voice of older people in society.

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)

No, the partnership agrees that the commissioner should have consideration for the interests of that older person, but should also consider the potential benefits or pitfalls for all Older People in Northern Ireland. The Commissioner will need to prioritise cases which have a wide application to the rights and needs of a wide group of older people.

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

The Partnership agrees with the stated Principle Aim and Paramount Consideration and supports the alignment to that of NICCY.

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

Yes, but as for answer to question, we would recommend that an advisory panel of diverse older people and the age sector be used to provide ongoing advice on the interests of older people.

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

Yes, these duties are suitable.

The use of the term 'reasonable steps' to make older people aware and to communicate appears quite weak. We would suggest the term 'extensive steps'

Under the duty to 'keep under review the adequacy and effectiveness of the law...., it will be important to ensure that this applies to the **formulation of new legislation**. It is of major concern to older people and the age sector that the Age Regulations were interpreted to revoke concessionary fees for older people, leading to a 37% reduction in the number of older people registered for further educational courses. It is therefore very important that the Older People's Commissioner reviews and explores the effect of new legislation on the interests of older people e.g. a single Equality Bill for NI.

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

The partnership feels that there should be an additional duty to liaise regularly and collaborate with other Commissions as appropriate-e.g for older people on issues related to disability, race, sexual orientation and also intergenerational issues.

**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)**

The Partnership welcomes the approach to formal agreements with other regulatory bodies so that there is a "joined-up" approach to the interests of older people, but not in such a way that dilutes the powers of the Commissioner. We suggest that these protocols are clear in order to avoid confusion or duplication and asks that synergies are made with other Commissions.

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

Yes

**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?**

No

**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?**

- a) The Partnership supports the provision of financial assistance where necessary towards the cost of mediation as some older people would prefer this approach and also in cases where time is important. However we would suggest that criteria would need to be developed to ascertain whether funding could be provided.
- b) The Commissioner should hold a register of mediation/arbitration services and be able to direct older people to these services who would not meet any above agreed criteria
- c) 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. However the commissioner's independence in these circumstances should not be compromised.

**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)**

Yes

**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)**

The Commissioner should be able to provide assistance to an older person. The Partnership proposes that **internal complaints systems are exhausted** previous to Commissioner involvement and that the Commissioners office have specific sign posting information for these internal complaints systems.

Its is likely that strategic decisions will need to be made about the provision of financial assistance and clear guidance should be provided as to how these decisions would be made. The Commissioner will need to prioritise cases which have a wide application to the rights and needs of older people in Northern Ireland.

**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?**

No

**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)**

The Commissioner should provide support to relevant authorities in following their recommendations. Any sanctions/punishments should be considered in line with the legal standing of the recommendations, considering the relevant authority's circumstances and taking into account the likelihood of the sanction bringing about a satisfactory solution for both the relevant authority and the complainant.

**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?**

Agree

**21. Do you think that the list of organisations at Annex 6 should be included as relevant authorities? (Chapter 11, Paragraph 11.30 – 11.31)**

Yes.

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

The partnership agrees with the list of organisations and would also propose that all private, community and voluntary organisations responsible for the health and social care of older people be included. We would also propose that the list should be subject to regular review especially in the light of changes under RPA.

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

In order to benefit from the commissioner's powers of independence and scrutiny.

**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?**

Option 3  
All organisations would be expected to work to a similar standard, be scrutinised in the same way and gain similar benefits.

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

No

**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)**

Yes, but the expectations of this needs to be managed and a clear differentiation made between test cases and routine civil action. A memoranda of understanding or working protocols with other organisations/Comssions would assist in managing overlap.

**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 understand that 'victim status' would be beneficial for older people as some may be unwilling or unable to take a case in their own name. However, the Partnership support careful consideration of legal implications for the Commissioner on this matter.

**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 speak out about the priority areas affecting the interests of older people in Northern Ireland-this should be based on advice from older people and the age sector and on research findings.

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

The Partnership agrees that this should be a full-time post.

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

As the accountable body, OFMDFM should be responsible for appointing the Commissioner on the basis of a transparent appointment process. They should be appointed jointly by the first and deputy first minister.

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

Yes, the Partnership agrees that older people should be represented in the process for selecting a commissioner. The role for older people in this process should be made clear and learning applied from the involvement of older people in the recruitment of the older people's commissioner for Wales.

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

The partnership suggests a clear, transparent and supported process to ensure that older people feel that their role has been informed and important. The following are suggested:

- Development of criteria and a clear process for the recruitment/nomination of key older people to have input to the development of a job description, selection criteria, and in interview process for the Commissioner
- Training and support for the agreed older people.

**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 4 years.

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

Yes, but for only one more term of four 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**

The Partnership agrees that the Older People's Commissioner should be an independent body sponsored (including funded) by OFMDFM. The Partnership suggests that the Commissioner should have clear links with the Equality Commission and other commissioners and share a consistent approach.

**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)**

The Partnership agrees with there needs to be accountability and welcomes a transparent approach to the sharing of information on performance and spending of public money. However, the Commissioner's independence may be affected by reporting to its funding department and an arrangement to directly report to the Assembly may be preferable.

**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)**

Yes, this would be best facilitated through:

- An older people's advisory panel (as is the case for NICCY)
- Regular consultation and feedback events/visits
- Develop a range of methods to involve a diverse a range of older people e.g. use of new technology and links to nursing homes

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

The Partnership is in agreement with this statement, and suggests the need for the Commissioner to develop a good range of relationships but be clear about their unique role.

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

1. Through consultation and meetings with older people and age sector organisations
2. The development and publication of policy and good practice papers from the Commissioner
3. Events and meetings which include public, voluntary and community –to provide support and information on the impact of an Older People's Commissioner advice on their work
4. Give consideration to the views and challenges against whom complaints are made

**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**

<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).

<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).

**Ministerial level, to work with” the Commissioner “in promoting and protecting older people”.**

**Do you agree with this recommendation? (Chapter 14, Paragraph 14.23)**

The Partnership welcomes the recommendations of the Age Sector Report that there should be “champions in government and public sector ...to work with the Commissioner in promoting and protecting older people”. It is recommended that these should be motivated people, who are in a position of influence on public services that are of priority interest to older people.

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

In driving forward the agenda for older people within their respective departments, organisations and constituencies.

Belfast Healthy Ageing Strategic Partnership aims to develop and promote joined up planning for older people’s services and encouraging an embedding of older people’s issues is an important part of our work. The reporting structure in Belfast City Council is an example which could be replicated in other council areas:

- An All Party Reference Group on older people, chaired and championed by Councillor Diane Dodds
- A cross departmental officers group that develops and works to an action plan for older people throughout Belfast City Council, chaired and championed by the Director of Parks and Leisure and supported by a council officer specifically allocated to work on older people’s issues.

**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)**

Yes. The Commissioner should be added to the list of bodies in respect of which complaints can be considered by the Assembly Ombudsman.

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

Yes, reviews should happen at regular intervals.

**44.If you answered yes to Question 40, 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.

The time period should be considered in line with best practice from learning through NICCY and the Commissioner in Wales.

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

We feel that this can best be achieved through:

- Proper and effective management of resources and setting clear goals, outcomes and indicators of success. Accountable reporting mechanisms should be identified
- Collaboration with other Commissions with a Memoranda of Understanding to ensure duplication is avoided, but combined effort is encouraged
- By championing the interests of older people and issuing guidance on best practice, the Commissioner has the potential to influence the development of more efficient services that better meet the needs of older people.

**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)**

The Partnership agrees that back office services should be shared where possible and appropriate, in order to help save public money and suggests that the Commissioner considers carefully the alignment of the office with other commissioners.

**Impact Assessments**

Finally, further to these proposals a Draft Integrated Impact Assessment has been completed. A summary is attached at Annex 2 and the full assessment is available on request or on our website at: [www.ofmdfmi.gov.uk/index/equality/age](http://www.ofmdfmi.gov.uk/index/equality/age). We would be very grateful for your views on this material.