

# A Commissioner for Older People in Northern Ireland

*a strong independent voice for older people*

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## **Questionnaire**

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

(See Chapter 1, Paragraph 1.4 and Chapter 2)

Yes

### **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?

The UN principles should be the principles that guide the work of the Commissioner at all times, mindful of his/her duty to promote the rights of older people.

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

Those aged 60 and over, and in exceptional cases, those over 50 who have retired from their primary/main career.

**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)**

Yes, if that individual has been forced to retire from their primary/main career (for example, to act as an advocate in respect of pension matters), but not those who have taken voluntary/early retirement.

**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)**

Provision to review the Commissioners' enacting legislation is included in the draft bill. This should be sufficient provision.

**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 Commissioner's Principal Aim should be to safeguard, promote and **advance** the interests of older people.

The Commissioner should have a further aim to enable society to benefit from the wisdom and experience of older people, in other words, recognising our elders as a resource to society, not just a 'drain' on it.

**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 should be at all times mindful of the interests of that individual with whom he / she is interacting but must take account of a "bigger picture" which may impact on others.

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

N/A

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

The "interests" of older people should be inclusive of both rights and needs.

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

Yes

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

The establishment of a pilot forum for consultation with victims and survivors has proved valuable to CVS in undertaking our work. A similar forum or panel should be considered.

**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)**

CVS has found the development of Memoranda of Understanding a useful tool in undertaking our work and would encourage the Commissioner to undertake the same approach, as appropriate in each case.

**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?**

The power to conduct informal investigations lacks clarity in terms of powers to compel co-operation and to enforce remedial action if deemed necessary. This may need further explanation.

**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?**

The Commissioner should be able to support/fund mediation and/or arbitration where they deem such an approach to be in the interests of older persons. There are a number of independent organisations providing these services, so if the Commissioner were to provide this service internally it could lead to duplication.

The Commissioner should have the power to “make arrangements” provided that power is not interpreted as the power to compel, which goes against the spirit of mediation/arbitration.

**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)**

Yes

**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 power to publish information regarding the Commissioners' recommendations and how they were acted upon, or not, is sufficient.

**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?**

This is appropriate: current regulatory structures should not be changed.

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

No

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

N/A

**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 – Public sector organisations and appropriate private or voluntary organisations in relation to both their public and private/voluntary functions. This will remove confusion and difficulties for those seeking help as to whether the Commissioner or RQIA should provide assistance.

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

N/A

**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

**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?**

The power to support or take legal cases as outlined in paragraph 12.1 may not be sufficient in of itself, as has been witnessed by the Northern Ireland Commissioner for Children and Young People. Legislation should consider how victim standing can be granted, so that the Commissioner's powers are robust.

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

All matters he/she deems as relating to the interests of older people.

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

Yes

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

First and deputy First Minister acting jointly.

**31. Should older people have a role in the recruitment/selection process for a Commissioner?**

(See Chapter 14, Paragraph 14.7 – 14.8)

Yes

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

Formal recruitment should be taken forward under the direction of the Commissioner for Public Appointments.

The Advisory panel of the Older Persons' Advocate could conduct initial sifting and interviews, with those deemed appropriate being interviewed by ministers at the final stage. The First and deputy First Minister should make the appointment.

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

Four years

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

Yes, for one additional term only

**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)**

Yes

**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)**

Yes

**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

**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 agree with this statement?**

Yes

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

Through the development of a Forum/panel for discussion where a broad range of views can be elicited and considered but where no one group or interest can dominate.

**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)**

No, Memoranda of understanding with relevant groups and a robust advisory panel/forum should be sufficient and prevent the Commissioner's work from becoming 'top-heavy.'

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<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).

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

**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, but it need not be enshrined in legislation, rather allowed to develop once the Commissioner is in post.

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

Yes, so that appropriate changes deemed necessary as a result of experience gained can be recommended.

**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.

Every 3 years

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

Ensuring appropriate set-up arrangements are made in advance by the sponsor Department, OFMDFM and developing co-operation and shared services with other NDPBs as appropriate.

**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)**

Yes, providing there is a clear separation of duties and no conflict of interest.

### **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.