

A Commissioner for older people in Northern Ireland Comments by Mencap

1.0 About learning disability and Mencap

Learning disability has been defined by the Bamford Review as "including the presence of a significantly reduced ability to understand new or complex information or to learn new skills (impaired intelligence) with a reduced ability to cope independently (impaired social functioning), which started before adulthood with a lasting effect on development". Learning disability is a lifelong disability. People with a learning disability are likely to find it harder to learn, understand and communicate than others in their community.

The Bamford Review's report on learning disability, "Equal Lives" referred to the growing numbers of older people with a learning disability and to the different impacts of aging for people with a learning disability compared to the rest of the population. It drew attention to the fact that some people with Down's Syndrome age prematurely and to evidence which shows particular risks of older people with a learning disability experiencing neglect, poor access to health care and marginalisation within society.

The issues affecting older family carers were also outlined in the "Equal Lives" report including increased anxiety about the future; an interdependent relationship with the person they are caring for and supporting; increased likelihood of caring alone; less access to support networks; different experiences from younger family carers of accessing and using public services; a reluctance to seek help.

The "Equal Lives" report recognised that expertise needed to be developed in learning disability services to enable them to meet demands associated with aging and that changes were needed in services for older people to ensure that people with a learning disability could enjoy equal access, including access by people with a learning disability who may be in need of such services from a younger age.

Mencap is a voluntary organisation which works alongside and represents the interests of people with a learning disability and their families across Northern Ireland. We provide a wide range of direct services, support a membership network and campaign for equal rights and opportunities for people with a learning disability.

2.0 General comments

Mencap welcomes the proposal for a Commissioner for Older People in Northern Ireland and supports many of the proposals within the consultation document.

We wish to commend OFMDFM for producing a consultation report which contains clear and useful information about the proposals themselves and includes examples of evidence which informed the proposals.

Mencap believes that it is important that the Commissioner for Older People has sufficient powers to promote and protect the rights and interests of all older people, including the ability to challenge discrimination and inequalities experienced by older people and to require public bodies and others providing services to act in the interests of older people, on an individual and/or group basis. We believe that the Commissioner should have the status of "victim standing" as outlined in the consultation report.

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Mencap believes that the interests of older people extend across all aspects of life and that it is essential that the Commissioner pays particular attention to older people who are at greater risk of exclusion, disadvantage or inequality, including older people with a learning disability and older family carers of a person with a learning disability.

We agree that the Commissioner should take account of the UN Principles for Older People and suggest that s/he should also take account of other relevant international standards and conventions including the UNCRPD.

We accept that the Commissioner should primarily cover people who are aged 60 and over and recognise that some restrictions should operate, for practical reasons, on providing services to people who are aged 50 years and over. We urge OFMDFM, however, to ensure that people who need services normally used by older people, such as younger people with a learning disability who need services normally provided to older people should be able to access the services of the Commissioner.

3.0 Roles, functions, duties and powers

We note that the consultation document indicates that "interests" might include "rights and needs". We suggest, however, that it is important for the Principal Aim to be explicit and to state that the Commissioner's role is to promote and protect the rights, interests and needs of all older people.

We accept that the rights, needs and wishes of older people should be of paramount importance to the Commissioner and would welcome more information and clarity regarding the term "interests". We suggest that OFMDFM may wish to consider the current proposals for a single bill on mental capacity and mental health and the relevance of principles like autonomy and justice for the role of the Commissioner.

Mencap supports the proposed duties outlined in the consultation report. We suggest that the Commissioner should pay particular attention to groups at greater risk of exclusion, disadvantage or inequality. We suggest, too, that the duty to encourage older people to communicate with the Commissioner should extend also to engagement with representative organisations working alongside or supporting older people, including organisations which may work across people of all ages, such as disability organisations.

Mencap believes in a strong Commissioner for Older People. We support the proposed general powers outlined in the consultation document. We believe that the Commissioner should be able to issue guidance or recommendations, as appropriate, which has sufficient status to encourage compliance by service providers and public bodies, with adequate sanctions for non-compliance. See also comments made in point 2.0.

4.0 Advocacy and support to older people

Mencap would welcome greater clarity on the term advocacy. We urge OFMDFM to consider the recommendations on advocacy support by the Bamford Review of

Mental Health and Learning Disability, particularly those outlined in its report on Equality and Human Rights.

5.0 Where an existing organisation already has the power to act

Mencap recognises that, for practical reasons and to ensure the delivery of an effective, efficient service, it will be important to establish if another organisation is involved with or has lead responsibility for acting on behalf of an individual. We agree that careful consideration should be given to how the Commissioner will work with other such organisations but believe that the Commissioner should be able to act in cases even where an existing organisation has an authority to act. We suggest that having clear memoranda of understanding with such agencies is an important mechanism for preventing the difficulties outlined in the consultation document.

