

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)

Yes, not least given the range of issues facing older people. The fact that there is much good work being undertaken both by voluntary and statutory agencies must be acknowledged, however by creating a Commission a significant step will thereby be taken towards “mainstreaming” the concerns/challenges facing older people.

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 clearly constitute an objective basis and starting point for assessing what the interests and challenges of older people are. Since there are evolving initiatives and increasing awareness of issues surrounding ageing it is essential that the UN Principles are not considered as sole or exclusive principles.

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

Since 60 is the age at which the range of challenges facing older people begin to present and take effect there is clearly good reason for suggesting that this is the age which the Commissioner should mainly/generally cover

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 – but there needs to be a clear and demonstrable rationale in each case for deviating from the main age range.

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 – mbut see response to Q 4.

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)

Yes.

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)

Yes – the precedent of paramountcy as enunciated in The Children (Northern Ireland) Order 1995 (s3) gives a useful precedent here.

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

No – it might be helpful to define more precisely the difference between Principal and Paramount.

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- the understanding in the Welsh legislation which permits "interests" to be regarded in a broad rather than a narrow sense is very helpful.

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?

No response.

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)

In whatever shape or form this takes there must be a clear and close working relationship with other organisations.

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 response.

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 fully accept the reasoning that there is the potential for a conflict of interest here. We would also state as a basic principle that no older person should be prevented from engaging in mediation exclusively on financial considerations. It therefore seems appropriate for financial assistance to be provided and in the circumstances the Commissioner would be an appropriate source of such finance.

Yes

Yes

It would be essential to offer mediation/arbitration in relation to statutory agencies. It would also in our opinion be appropriate generally to offer such services in relation to voluntary organisations.

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 response.

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 can accept the argument that the absence of punitive powers may be an advantage. We also take the view that “naming and shaming” could be a powerful force for positive change. In relation to statutory agencies the Executive and/or Assembly could and should act on receipt of a report. In relation to voluntary agencies perhaps the sponsoring department would be the appropriate vehicle to act on foot of any report issued.

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?

It makes perfect sense that there should not be duplication. However it is also essential there is someone who will take ultimate responsibility. The Commissioner should not necessarily be the “default” person to so act.

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

Yes.

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

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?

Definitely not option 1. Option 3 while more complex would seem to have to commend it.

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

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 – see response to Q 15.

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?

In light of 12.3 of Consultation document there would seem to be duplication if “victim standing” were given to Commissioner – Such a move would therefore seem to be unnecessary (even if possible).

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

It is absolutely essential in relation to non-devolved organisations for the Commissioner to have power to make representations on any or all of the issues which affect 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)

OFMdfM.

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)

The NICCY model has much to commend it. (we note footnote 26, p 74 of the Consultation document).

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

4 years.

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

Yes.

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 Report¹ 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?

See comments above.

40. The Age Sector Report² 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)

Yes.

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

² *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?

Initially by creating greater awareness of the challenges facing older people and the remedies thereof.

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)

Essential.

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

Yes.

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 5 years.

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

If the Commissioner is providing value for money this will result in a marked improvement in the quality of life for older people. Measuring such improvement is clearly difficult. We really have no views as to how such measurement could be undertaken – clearly benchmarking has much to commend it.

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.

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. We would be very grateful for your views on this material.