

**OFFICE OF THE FIRST
MINISTER AND DEPUTY FIRST
MINISTER**

**EXAMINING THE CASE FOR A
COMMISSIONER FOR OLDER
PEOPLE**

FINAL REPORT

MAY 2008

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1. INTRODUCTION

1.1 Background

Deloitte has been commissioned by the Office of the First Minister and Deputy First Minister (OFMDFM) to undertake an assessment to inform the review of the case for, and in particular to advise on the potential roles and responsibilities for, an independent Northern Ireland Commissioner for Older People.

1.2 Terms of Reference

The agreed terms of reference state that the assessment will take account of the following:

- the desired outcome for older people which is that older people are valued and respected, remain independent, participate as active citizens and enjoy a good quality of life in a safe and shared community;
- the existing provisions for advocacy, protection and support (including in other jurisdictions);
- the views of stakeholders; and
- costs and benefits of different options.

The key issues which must be considered as part of the assessment include:

- impact and accessibility of existing level(s) of advocacy and protection for older people in Northern Ireland provided by statutory organisations such as (and including) the Equality Commission for Northern Ireland, the Northern Ireland Human Rights Commission the Northern Ireland Ombudsman's Office and the Law Centre Northern Ireland;
- how existing provisions for older people in Northern Ireland compare/differ from the advocacy and protection provided in other jurisdictions (England, Scotland, Wales and the Republic of Ireland);
- identification of any 'gaps' in existing advocacy and protection currently provided by statutory organisations in Northern Ireland;
- stakeholders' views on the need for and the potential role, responsibilities and duties of an Older People's Commissioner; and
- how older people will directly benefit from the establishment of an independent Northern Ireland Commissioner for Older People.

1.3 Approach

Table 1.1 outlines the approach that was taken to meet the terms of reference.

Stage 1 – Project Initiation	A Project Initiation meeting was held to discuss and agree the approach and timescales. A project plan note was developed.
Stage 2 - Project Preparation	Review of advocacy and protection structures across the UK and RoI using existing research and updated through document review, web based review and follow-up telephone conversations where necessary. Confirmation of consultation arrangements with the agreed range of stakeholders.
Stage 3 -Stakeholder Consultation	Completed stakeholder consultations include: <ul style="list-style-type: none"> ■ Equality Commission; ■ Human Rights Commission; ■ Office of the Northern Ireland Ombudsman¹; ■ Age Concern; ■ Help the Aged; and ■ Law Centre NI. ■ Officials from Republic of Ireland, Wales, England and Scotland; ■ age sector consultations in Belfast, Cookstown and Londonderry; and ■ the Committee for the Office of the First Minister and deputy First Minister.
Stage 4 – Options Appraisal	Our final analysis focused on appraising potential options including: <ul style="list-style-type: none"> ■ need and support for a commissioner; ■ potential scope / role of a commissioner; ■ an analysis of potential costs and benefits; ■ potential legislative implications of various options (although this will not represent an official legal opinion).
Stage 5 Reporting	Production of interim, draft, final and summary reports.

¹ The Northern Ireland Ombudsman is the popular title for the Assembly Ombudsman for Northern Ireland and the Northern Ireland Commissioner for Complaints

1.4 Structure of Report

The rest of this report is structured as follows:

- **Section 2** – an overview of the strategic context in Northern Ireland covering how society is ageing, issues facing older people, policy approach towards older people and advocacy and protection in place for older people;
- **Section 3** – existing provision for advocacy, protection and support of older people in other jurisdictions;
- **Section 4** – an overview of the views of older people and key stakeholders on the need for and potential role of an Older People’s Commissioner for Northern Ireland;
- **Section 5** – analysis of various options including consideration of cost and likely benefit; and
- **Section 6** – final conclusions and recommendations.

2. STRATEGIC CONTEXT

2.1 Introduction

The purpose of this section is to provide an overview of the strategic context in which this research is set and some key issues in considering the case for a Commissioner for Older People. We outline some details on our understanding of the demographic trend toward an ageing society and the range of issues, both opportunities and challenges that this presents. A summary of the current policy context is also presented.

2.2 An Ageing Society

At the moment, there is no United Nations standard numerical criterion for what constitutes an older person². The most commonly accepted United Nations cut-off is age 60 or over to refer to the older population. There is, however, a growing interest in the cohort below the conventional definition of older people (i.e those of pensionable age). The ‘Ageing in an Inclusive Society’ strategy³ considers older people as age 50 or over. This strategy seeks “to highlight the importance of preparing for older age and the diversity of needs as society itself ages’.

The estimated population by gender and age group is shown in Table 2.1. The 50 and over population in Northern Ireland is some 30 per cent of the total population. Those of pensionable age represent over 16 per cent. The gender split of the 50 and over population is 46 per cent male and 54 per cent female.

Table 2.1
Estimated NI Population by Gender and Age Group

Age Group	Males	Females	Persons
Other (0-49)	553,944	604,941	1,216,292
50 -59	98,917	100,099	199,016
60 – 69	75,529	81,558	157,087
70 – 80	46,971	61,180	108,151
80 –84	12,756	22,007	34,763
85+	7,880	18,430	26,310

Source: NISRA Annual Abstract of Statistics: 2007

² <http://www.who.int/healthinfo/survey/ageingdefnolder/en/index.html>

³ OFMDFM, *Ageing in an Inclusive Society, Promoting the Social Inclusion of Older People*, 2005

Population projections show the estimated impact of demographic assumptions (fertility, migration and mortality) and the latest projections are based on the 2006 mid-year population estimates for Northern Ireland. The figures are shown in Table 2.2.

Table 2.2

Northern Ireland Projected Population (2006 based) By Gender 2006 –2041

All Ages	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2013	2023	2031	2041
Males	853	863	887	893	879
Females	888	902	933	947	944
Persons	1,742	1,765	1,821	1,840	1,823

Source: NISRA Annual Abstract of Statistics: 2007

Further analysis of the statistics by age groups is detailed in Table 2.3. These show that by 2041:

- the estimated population of persons aged 50 and over will increase by 64 per cent – to 42 per cent of the total population in 2041 compared to 30 per cent in 2006;
- the working age population will increase from 62 per cent to 67 per cent of the total population, an increase of five per cent;
- persons of pensionable age will increase by 59 per cent to represent 25 per cent of the population; and
- the 75 and over population will more than double to 14 per cent of the total population.

Table 2.3

Northern Ireland Projected Population (2006 based) By Age Groups 2006 - 2041

Age Groups	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2013	2023	2031	2041
50 and over	525	601	718	776	861
60 and over	326	375	470	551	600
75 and over	110	128	176	217	279
Working age*	1,077	1,143	1,191	1,211	1,228

* Includes changes which will be made between 2010 to 2020 when the female age for pension increases from 60 to 65

Source: NISRA Annual Abstract of Statistics: 2007

Table 2.3 shows the structure of the Northern Ireland population is quite clearly one of an ageing society. This has been recognised by Government, for example in its Ageing in an Inclusive Society Strategy⁴. Northern Ireland is not unique in this regard and in many developed countries, society is facing up to one of the most significant demographic changes of the 21st Century.

It is useful to compare the changing population demographics with our counterparts in England, Scotland, Wales and RoI. Tables 2.4 to 2.7 show how the older people population is predicted to change across these jurisdictions.

England

Table 2.4

Population Predictions for England

Age Groups	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2013	2023	2031	2041
50 and over	17,103	18,847	21,929	23,368	25,746
60 and over	10,783	12,205	14,495	16,700	17,911
75 and over	3,914	4,335	5,772	6,862	8,449

Source: Government Actuary's Department, Office of National Statistics

⁴ OFMDFM, *Ageing in an Inclusive Society, Promoting the Social Inclusion of Older People*, 2005. See Section 1 for reference to the increasing proportion of older people in society and 'demographic restructuring'.

Scotland

Table 2.5
Population Predictions for Scotland

Age Groups	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2013	2023	2031	2041
50 and over	1,798	1,996	2,265	2,333	2,433
60 and over	1,462	1,609	1,524	1,718	1,755
75 and over	382	435	573	692	856

Source: Government Actuary's Department, Office of National Statistics

Wales

Table 2.6
Population Predictions for Wales

Age Groups	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2013	2023	2031	2041
50 and over	1095	1,199	1,362	1,416	1,512
60 and over	702	801	941	1,056	1,088
75 and over	252	277	377	452	536

Source: Government Actuary's Department, Office of National Statistics

Republic of Ireland

Table 2.7
Population Predictions for RoI

Age Groups	Estimated Population (000s) 2006	Projected population (000s) in 2006			
		2011	2021	2031	2036
50 and over	1,122	1,274	1,640	2,111	2,333
60 and over	648	754	1,011	1,326	1,510
75 and over	203	223	306	463	550

Source: Central Statistics Office Ireland 2005 Population Predictions

Further analysis of how the population predictions in the rest of the UK and RoI compare with those of Northern Ireland are shown in Table 2.8. The Table show the percentage difference between the 2006 population figures and the predicted population figures in 2041 (2036 in RoI).

Table 2.8

Comparison of Population Predictions for the 50+ in the UK and RoI

Geographical Location	% difference in projected population between 2006 - 2041 (2036 in RoI)		
	50 +	60+	75+
NI	64%	84%	154%
England	51%	66%	116%
Scotland	35%	20%	124%
Wales	38%	55%	113%
RoI	108%	133%	171%

The comparison between the five geographical areas show:

- all jurisdictions show substantial increases, with greatest increases at 75+;
- Northern Ireland is predicted to have the second largest increase in people aged 50+, 60+ and 75+ by the year 2041, with RoI showing the largest increase;
- Scotland demonstrates the smallest percentage increase between 2006 and 2041 of people aged 50+, 60+ and 75+;
- There is a large difference between the percentage increase for those aged 50+ and 60+ across all five locations. However the difference between the 75+ groups is less pronounced with only a 58 per cent difference between the lowest and highest (113 per cent and 171 per cent).

Further analysis can be made by looking at what the percentage of the population is 50+, 60+ or 75+ in 2006 compared with 2041 (2036 for RoI). This is shown in Table 2.9. Notably Northern Ireland is projected to have the largest proportion of 60+ year olds in 2041.

Table 2.9
Percentage of Population That is 50+ and 75+ in 2006 compared to 2041 (2036 for RoI)

Geographical Location	Total Population 2006 (000s)	% of population aged 50+, 60+ and 75+ in 2006			Total Population in 2041 (2036 for RoI) 000s	% of population aged 50+, 60+ and 75+ in 2041 (2036 for RoI)		
		50+	60+	75+		50+	60+	75+
England	50763	34%	21%	17%	63571	40%	28%	13%
Wales	2966	37%	24%	18%	3379	45%	32%	16%
Scotland	5117	35%	29%	17%	5335	46%	33%	16%
RoI	3847	29%	17%	5%	5820	40%	26%	9%
NI	1742	30%	19%	16%	1823	47%	33%	15%

Source: UK - Government Actuary's Department, Office of National Statistics, RoI - Central Statistics Office Ireland Population Predictions

2.3 Issues Arising from an Ageing Society

As Northern Ireland is an ageing society, as indeed is the rest of the United Kingdom and Ireland, a range of societal wide issues are raised. A range of research⁵ has indicated that the demographic shift has direct impacts on a number of issues including the following:

- economic growth;
- labour markets;
- pensions;
- transfer of wealth between generations;
- health and timing, extent and availability of health care;
- family make-up;
- carers;
- volunteering; and
- accommodation requirements.

⁵ For example see Department for Work and Pensions: *Opportunity Age: Meeting the Challenges of Ageing in the Twenty-First Century (2005)*

2.4 Challenges for Older People

The issues facing older people have been well documented. Previous Deloitte research⁶ for the sector and a review of the most recent sector literature highlight the following issues. Key challenges include:

- Poverty – Poverty is the largest risk factor for ill health. Income is clearly linked to a person’s health status and life expectancy as well as quality of life. Specific concerns include the rising cost of fuel and food, rates and water charges and the impact of debt. Over one in four pensioners (28 per cent) are 60 per cent below median income⁷;
- Isolation and Loneliness - Social networks are important for people of all ages, as they provide friendship and emotional and practical support as well as a sense of belonging and inclusion. A lack of social networks can have a significant impact on mental wellbeing, since it can be linked to loneliness and isolation. For older people, social exclusion is a particular issue, since many are living alone following the death of a partner, while families may live far away. Older people are often less mobile than younger people, which may contribute to lack of social networks and inability to participate fully in society⁸. Help the Aged found that 16 per cent of older people in Northern Ireland do not get out of their home more than once a week, while 21 per cent of older people often or always felt lonely⁹;
- Fear of Crime and Personal/Community Safety - Fear of crime is of significant concern amongst older people and can hinder an older person leaving their home leading to social isolation. The stress and worry of burglary or attack can have detrimental effects on mental health and wellbeing¹⁰;
- Access to Health and Social Care Services and especially the costs of residential and nursing care - It is well recognised that the conditions that account for most disease in the UK are primarily related to old age. Older people are proportionally the main users of acute hospitals and community health and social services. The greatest concentration of health care costs occurs in the last year of a person’s life, whatever the age of death¹¹. Due to the reduced level of income that many older people face, long term health and social care remains a major concern. Many feel the only option is to sell their house and move into sheltered accommodation or residential care. A recent

⁶ Atlantic Philanthropies and Engage With Age - Evaluation of Engage With Age and Other Multi-Agency and Intersectoral Approaches to Improving the Health and Well-Being of Older People (2006)

⁷ DSD / NISRA, *Households Below Average Income NI*, 2005-2006, Table 6.7

⁸ Healthy Aging: Interaction Plan, EHSSBS area – Belfast Healthy Cities, April 2006

⁹ Help the Aged Research, 2006-2007

¹⁰ Healthy Aging: Interaction Plan, EHSSBS area – Belfast Healthy Cities, April 2006

¹¹ Older Peoples Health and Well Being Strategy, EHSSB, 2005-2015

report by the Northern Ireland Audit Office¹² found that there remains a constant level of unmet need among older people awaiting domiciliary care;

- Elder Abuse - Help the Aged describe elder abuse as “an action, or lack of action, which causes harm to an older person in a relationship where there is an expectation of trust”. The charity notes that while the issue is large in scale (affecting approximately half a million older people at any one time within the UK) most of society is unaware of the issue. In our consultations, increasing interest in issues such as over-medication and non-natural deaths was noted;
- Mobility and Access to Public Transport - The Department for Transport’s research has shown that those older people who have always been drivers are much less independent and mobile in old age than those who have used public transport throughout their adult lives. If a time comes when a person can no longer drive the loss of independent, flexible mobility can present social and psychological difficulties. However public transport use for older people requires consideration of accessibility (especially in the context of rural areas), reliability, information and personal security issues. This need remains apparent as almost one in two older people who have a free bus pass (45 per cent) do not use them¹³. A tangible example was evidenced in a recent report on supermarket shopping experiences, which found transport and mobility issues as a barrier to availing of supermarket services for some older people¹⁴;
- Availability of Affordable and Adaptable Housing - limited housing options for older people and those with houses which do not allow for adaptations, may mean older people feel they have to move away from family and friends to sheltered housing or residential care if additional support or care is needed; and
- Insurance – difficulties in getting various forms of insurance for example car insurance (irrespective of driving record) or travel insurance (on the assumption that someone who is older will be less healthy), and having to pay higher premiums when they are available¹⁵.

¹² Older People and Domiciliary Care – Northern Ireland Audit Office, October 2007

¹³ DRD Public Transport Division, following an information request on Senior Smartpass usage, 2007

¹⁴ Consumer Council and Age Concern - *Silver Service? Are shopping Centres meeting the needs of older shoppers?* 2007

¹⁵ “Everyday Age Discrimination What Older People Say” – Help the Aged, London 2004.

2.5 Opportunities for Older People

With longer life expectancy and better health there are also clear opportunities for society with regard to an aging society. These can be both social and economic. Key examples of opportunity include contributions through working in paid employment until an older age, setting up businesses, carer roles and volunteering. A flipside of the opportunities afforded through these roles is to ensure there is greater recognition of the contribution made to local communities and society at large.

2.6 Policy Approach to Ageing

We consider here the context within which older people policy and strategy has developed. Notably this includes a relevant international perspective with principles and rights put forward by the United Nations and the European Commission.

UN Principles for Older People

In December 1991, the UN Assembly adopted the "United Nations Principles for Older Persons" (Resolution 46/91) encouraging governments to incorporate them into national programmes whenever possible. The Principles call for action in many areas, among them:

- Independence: Older persons should have access to food, water, shelter, clothing, health care, work and other income-generating opportunities, education, training, and a life in safe environments;
- Participation: Older persons should remain integrated into community life and participate actively in the formulation of policies affecting their well-being;
- Care: Older persons should have access to social and legal services and to health care so that they can maintain an optimum level of physical, mental and emotional well-being. This should include full respect for dignity, beliefs, needs and privacy;
- Self-fulfilment: Older persons should have access to educational, cultural, spiritual and recreational resources and be able to develop their full potential; and
- Dignity: Older persons should be able to live in dignity and security, be free of exploitation and physical or mental and be treated fairly regardless of age, gender and racial or ethnic background.

The UN's Madrid International Plan for Ageing 2002¹⁶ called for '*changes in attitudes policies and practices at all levels in all sectors so that the enormous potential of ageing in the 21st century may be fulfilled*'. The UN noted that Governments had the primary responsibility for implementing the broad actions in

¹⁶ United Nations Programme on Ageing - Report of the Second World Assembly on Ageing - Madrid, April 2002

the 2002 Plan. This led to increased activity across the UK and Ireland and has resulted in the types of approaches described in Section 3.

European Commission

The European Union Charter of Fundamental Rights (2000/C 364/01) includes a specific Article on the rights of older people. Article 25, entitled The Elderly states:

The Union recognises and respects the rights of the elderly to lead a life of dignity and independence and to participate in social and cultural life.

Development of Older People's Policy and Strategy within NI

With the ageing society question rising up the agenda there has been a range of policy and strategic documents that have reflected and developed the context in which an older people's strategy was developed and indeed the context for the potential development of an independent Commissioner for Older People in Northern Ireland. Relevant policy and strategic documents are included in Table 2.10.

Table 2.10

Policy Context Documents

2001	The Rights of Older People – A Programme of Action: NIHRC,
2002-2005	Healthy Action Zone, Action on Poverty and Health, 2002-2005
2002	Investing for Health – DHSSPS
2003-2008	Promoting Mental Health: Strategy & Action Plan 2003-2008. DHSSPS
2003	Supporting People – DSD / NIHE
2003	New Targeting Social Need – The Way Forward - A Consultation Document Phase 2 – Office of First Minister and Deputy First Minister
2005-2007	The Bamford Review of Mental Health and Learning Disabilities(Northern Ireland) – Key Documents included: Strategic Framework for Adult Mental Health Services (2005); Equal Lives: Review of Policy and Services for People with a Learning Disability in Northern Ireland (2005); and Living Fuller Lives : Dementia and Mental Health Issues in Older Age (2007)
2005	Independence, Well Being and Choice – The English Green Paper on Adult Social Care
2005	Ageing in an Inclusive Society - Promoting the Social Inclusion of Older People, OFMDFM;
2005	Positive Steps - Government response to the proposals in Investing Together: Report of the Taskforce on Resourcing the Voluntary and Community Sector - DSD
2005	An Accessible Transport Strategy for Northern Ireland – DRD,
2005	Life Time Opportunities – Government’s Anti-Poverty and Social Inclusion Society, OFMDFM
2005-6	Promoting Social Inclusion Older People’s Strategy Annual Report
2005-2025	A Healthier Future – the DHSSPS twenty year vision for Health and Wellbeing in Northern Ireland
2006	Opportunity Age- Meeting the Challenges of Ageing in the 21st Century – Department for Work and Pensions
2006-2016	Older People, New Opportunities: Health and Wellbeing Strategy for Older People: EHSSB.

Programme for Government

Public Service Agreement Seven within the Northern Ireland Executive’s 2008-2011 Programme for Government, entitled Making Peoples’ Lives Better, has the aim to “drive a programme across Government to reduce poverty and address inequality and disadvantage”. Objective Two, which is to take forward co-ordinated strategic action to promote social inclusion for older people, includes a target of “delivering a strong independent voice for older people”.

Anti-Poverty Strategy and Promoting Social Inclusion

OFMDFM has overall responsibility for developing, coordinating and driving the Government's priorities for tackling poverty and social exclusion. For the previous administration, these were outlined in "Lifetime Opportunities" (LTO) - Government's Anti-Poverty and Social Inclusion Strategy. The strategy includes a section on older people with the objective:

"to ensure older people are valued and respected, remain independent, participate as active citizens and enjoy a good quality of life in a safe and shared community."

The current Executive Committee is required under the Northern Ireland St Andrews Agreement Act 2006 to adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need, and will consider LTO in this context. The Promoting Social Inclusion strand of the anti-poverty strategy identified older people as a group of society that are at greatest risk of social exclusion.

Older People's Strategy – Ageing in an Inclusive Society

In March 2005 Government launched "Ageing in an Inclusive Society": A Strategy for promoting the social inclusion of older people". The Strategy sets out six objectives and a number of underpinning principles. The six objectives are:

1. to ensure that older people have access to financial and economic resources to lift them out of exclusion and isolation;
2. to deliver integrated services that improves the health and quality of life of older people;
3. to ensure that older people have a decent and secure life in their home and community;
4. to ensure that older people have access to services and facilities that meet their needs and priorities;
5. to promote equality of opportunity for older people and their full participation in civic life, and challenge ageism wherever it is found; and
6. to ensure that Government works in a coordinated way interdepartmentally and with social partners to deliver effective services for older people.

The underpinning principles are:

- prioritising social need taking account of the way in which older people face more than one form of exclusion;
- promote the esteem and dignity of older people;
- work to ensure that there is equality of treatment for older people;
- respect the desire of older people to live independent and self-fulfilling lives;

- ensure that we continually listen to older people in the design and delivery of services; and
- encourage a partnership approach involving all the stakeholders in the design and delivery of the Strategy.

2.7 Advocacy and Protection of Older People

This section considers the legislation in place that affords specific protection and advocacy structures in place in Northern Ireland.

Advocacy for Older People in Northern Ireland

The historic perception was one of older people being passive service recipients and not empowered to participate in the design or monitoring of services. There was a lack of evidential research on issues and as a result, the debate was immature and easily defeated. Advocacy resources and capacity were limited, while political interest was limited. Recent years has seen a significant increase in the capacity and effectiveness of the age sector lobby.

In Northern Ireland the independent lobby on older people's issues was traditionally the responsibility of Age Concern NI and Help the Aged:

- Age Concern NI has been in operation for over 25 years and is a Northern Ireland run charity that works with 30 local groups across the Province and 18 sub-regional groups. These groups are organised into four forums that meet quarterly; and
- Help the Aged Northern Ireland (HtA) was established in 1986 and operates through a network of 10 senior citizens forums across Northern Ireland. It is part of the UK-based charity.

We note that Age Concern NI and Help the Aged are increasingly working in partnership with one another. They are also focused on innovative ways of enhancing the age sector lobby in the future. Examples demonstrating progress within the sector is the Changing Ageing Partnership, a collaborative venture supported involving Age Concern NI and Help the Aged, the Workers Educational Association and Queen's University, and work regarding the age sector infrastructure supported through the modernisation fund.

Other organisations and structures that are playing a role with regard to advocacy for the sector include:

- The Age Sector Reference Group (ASRG) was set up in 2000 and was formed initially out of Age Concern NI, Help the Aged and the National Pensioners Convention (NPC). It was a response to the volume of work resulting from the equality agenda and it had a representative on the Civic Forum set up by the Northern Ireland Assembly. ASRG now has 25 affiliates, usually representatives from networks of older people's groups, trade unions and other groups e.g. carers, Alzheimer's Society, University of the Third Age etc. A significant ongoing project, funded by Atlantic Philanthropies, is seeking to develop the capacity of the group and renaming it the 'Age Sector Platform';

- The Northern Ireland Council for Voluntary Action (NICVA) has over 1,000 members from the voluntary and community sector. In 2005 NICVA established an Older Peoples Policy Forum aimed at building policy assessment capacity and is supported by Age Concern NI and Help the Aged. Its aim is 'To enhance the capacity of organisations within and beyond the older people's sector to make policy responses, coordinate policy information, participate in policy development, and influence decision making';
- The Law Centre (NI), while not older people focused, is a not for profit agency working to advance social welfare rights in Northern Ireland. Examples of key themes with significant implications for older people include:
 - Care in the Community. Cases tend to focus on the process of bartering and bargaining around the level and type of service package provided. One common failure is failure of the system to complete proper assessments of need in advance of commencing care package negotiations;
 - Residential and Nursing Home Care – They are seeing less than they used to but not necessarily because there are less issues. Cases tend to be surfaced by family members or staff whistleblowers. A proactive role from a Commissioner on this area would be welcome;
 - Healthcare – Delays in discharge and hospital treatment;
- Health and Social Services Councils are made up of voluntary members. They have an advocacy role across health and social services however in practice have included a focus on issues affecting older people; and
- The voluntary sector advice sector, notably Citizens Advice and members of Advice NI network as well as offering substantial advice and information services for older people also provide advocacy for older people.

The current view with regard to advocacy and protection of older people is increasingly positive. There is greater recognition of the issues facing an ageing society. As a result of the demographic opportunities and challenges and arguably through the more effective lobbying of the age sector, the national and local political interest has been sharpened (e.g. all main political parties specifically highlighted policies for older people in their manifestos and participated fully within transitional and current Assembly debates relating to a potential commissioner for older people).

Protection

In addition to the policy development there is an interlinked development of equality and human rights legislation that provides protection for older people. Table 2.11 summarises the key protective legislation that is currently in place or in development and how it links to older people.

Table 2.11
Equality and Human Rights Context

1998	Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions in Northern Ireland, to have due regard for the need to promote equality of opportunity between persons in different categories. The categories specified include people of different age. The Northern Ireland Human Rights Commission (NIHRC) was set up following the NI Act 1998. One of its functions is to advise Government on what should be in a Bill of Rights.
2000	European Commission's Employment Framework Directive ¹⁷ provides for protection against discrimination on the grounds of age.
2006	Employment Equality (Age) Regulations (Northern Ireland) 2006 came into operation on 1 October 2006.
Ongoing	European Commission work on assessing gaps in current equality legislation, Potential new European Directive calling for wider protection for older people and introduction of protection with regards to goods, facilities and services.
Ongoing	Development of a Single Equality Bill to harmonise, update and extend, where appropriate, anti-discrimination and equality legislation in Northern Ireland.
Ongoing	NIHRC will be taking forward work on the development of a Bill of Rights for Northern Ireland following the recent report from the Bill of Rights Forum.

Section 75 of the Northern Ireland Act 1998 requires public authorities, in carrying out their functions in Northern Ireland, to have due regard for the need to promote equality of opportunity between persons in different categories. The categories specified include people of different age. In order to comply with this statutory obligation each public authority has an Equality Scheme, which sets out the authority's arrangements for assessing and consulting on the impact of their proposed policies for the promotion of equality of opportunity.

The Employment Equality (Age) Regulations (Northern Ireland) 2006:

- prohibit age discrimination in terms of recruitment, promotion and training;
- set a default retirement age of 65 – retirement ages below the default retirement age will need to be objectively justified or changed;

¹⁷ Directive (2000/78/EC)

- introduce a new right for an employee to request working beyond retirement age and a duty on the employer to consider that request;
- require employers to inform employees in writing (and at least 6 months in advance) of their intended retirement date;
- allow pay and non-pay benefits to continue which depend on length of service requirements of 5 years or less or which recognise and reward loyalty and experience;
- provide exemptions from many age-based rules in occupational pension schemes; and
- remove the upper age limit for unfair dismissal and redundancy rights, giving older workers the same rights to claim unfair dismissal or receive a redundancy payment as younger workers.

One potential gap in protection relates to protection of older people with regard to goods, facilities and services (protection that key stakeholders are on record as supporting). We understand that Ministers are currently considering future direction of equality legislation including consideration as to whether extra protection will extend to goods, facilities and services. It is not clear at this juncture whether this protection will be provided.

Secondly there is a desire to strengthen the emphasis on equality and human rights of older people. The 1998 Human Rights Act is the current human rights legislation in place. The introduction of a Bill of Rights is being strongly supported by age sector stakeholders (e.g. Age Concern and Help the Aged) in order to strengthen current provisions. The Bill of Rights Forum reported to the NIHRC on its work and NIHRC has committed to provide its advice on a Bill of Rights for Northern Ireland to the Secretary of State by December 2008.

2.8 Other Regulatory and Scrutiny Bodies in Northern Ireland

A number of regulatory and scrutiny bodies directly or indirectly act on behalf of older people in Northern Ireland. A brief synopsis of the remit of these bodies and the ways in which they act on behalf of older people is outlined below.

The Equality Commission for Northern Ireland

Established under the Northern Ireland Act 1998 the Commission took over on 1 October 1999 the functions previously exercised by the Commission for Racial Equality for Northern Ireland, the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission and the Northern Ireland Disability Council. General duties include:

- working towards the elimination of discrimination;
- promoting equality of opportunity and encouraging good practice;
- promoting affirmative/positive action;
- promoting good relations between people of different racial groups;

- overseeing the implementation and effectiveness of the statutory duty on public authorities; and
- keeping the relevant legislation under review.

The Commission is responsible for promoting awareness of and enforcing anti-discrimination law on the following grounds: age, disability, race, sex (including marital and civil partner status), sexual orientation, religious belief and political opinion.

The Equality Commission provided evidence as to how Section 75 has had an impact for older people. Examples provided related to transport and fisheries. The Equality Commission also highlighted Age Concern research in 2003 that identified impact of S75 on Public Authorities and the older community.

As well as Section 75 issues, the Equality Commission now has responsibility for overseeing issues relating to Employment Equality (Age) Regulations (Northern Ireland) 2006 which came into operation on 1 October 2006. These regulations are detailed above (see section entitled Protection).

The Commission has also produced guidance for employers and others on the law, run a major promotional campaign to raise awareness and provided training. It is shortly to publish research on the levels of awareness of the new Regulations.

In the first year since the Employment Equality (Age) Regulations (NI) 2006 came into effect, the Equality Commission has dealt with 265 legal enquiries on potential age discrimination; considered 42 applications for legal assistance and is currently supporting nine cases on age discrimination in employment. In one of those cases, an industrial tribunal made its first decision in Northern Ireland under age discrimination legislation on 31 December 2007 and ruled that a local man was discriminated against on grounds of age when he was not appointed to a post as salesman with a local timber firm¹⁸.

The Northern Ireland Human Rights Commission

The Northern Ireland Human Rights Commission (NIHRC) is an independent, statutory body set up in 1999. Its role is to promote awareness of the importance of human rights in Northern Ireland, to review existing law and practice and to advise government on what steps need to be taken to fully protect human rights in Northern Ireland.

¹⁸ www.equalityni.org

Current interests include non-natural deaths, over-medication and backlog of inquests. While no age related statistics are kept by NIHRC the following highlights its key activity with regard to older people:

- Older people do come to NIHRC regarding human rights issues. The Commission do not currently keep age related statistics. Notably some have gone somewhere else first;
- NIHRC has taken on and investigated some high profile older people's cases;
- Training and education e.g. developing social services and dementia training with a human rights framework at its core;
- Research e.g. Enhancing the Rights of Older People (2001) and Older Peoples Views of Health Service (with OFMDFM and Help the Aged in 2004);
- Profile issues through speaking at conferences; and
- Bill of Rights.

In the past the NIHRC worked directly on behalf of older people to review human rights issues affecting older people, such as adverse impacts of policy and practice in the health service. As well as investigations NIHRC have been involved in other activity that will have impact on older people's human rights including developing and delivering training programmes and speaking at conferences

Office of the Northern Ireland Ombudsman

The purpose of the Northern Ireland Ombudsman's Office is to ensure that every citizen in Northern Ireland is served by a fair and efficient public administration that is committed to accountability, openness, and quality of service. The Ombudsman acts on the behalf of every citizen in Northern Ireland (including older citizens) to ensure they are served by a fair and efficient public administration.

The Office does not keep age-related statistics but it is considered that older people constitute a considerable proportion of complaints each year especially in the health and social care sector and in housing (many registered housing associations have a specific remit for older people).

It is noted that the Ombudsman's remit extends to devolved matters only. The Parliamentary Ombudsman addresses excepted and reserved matters (i.e. those matters within the scope of the Westminster Parliament).

Regional Quality and Improvement Authority

In April 2005, the Regulation and Quality Improvement Authority (RQIA) was established as a non-departmental public body of the DHSSPS. The RQIA is the independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland, and encouraging improvements in the quality of those services. The RQIA acts specifically for older people through the inspection of a range of health and social care services delivered

by HPSS bodies and the independent sector, to assure the comfort and dignity of those using the facilities, and ensure public confidence in those services.

Northern Ireland Social Care Council

Northern Ireland Social Care Council is the regulatory body for the social care workforce in Northern Ireland. Its aim is to increase the protection of those using social care services, their carers and the public. NISCC was legally established on October 1 2001 by the Health and Personal Social Services Act (Northern Ireland) 2001 . It is a non-departmental public body, sponsored by the Department of Health, Social Services and Public Safety (NI). NISCC is one of 13 health and social care regulators established to make professionals meet agreed standards. The NISCC acts on behalf of older people through its general remit to protect all those using social care services and their carers, a large proportion of which are within the older age group.

Mental Health Commission for Northern Ireland

The Mental Health Commission promotes high standards in the delivery of mental health services and ensures the interests of those involuntarily admitted to Approved Centres are protected. The Commission acts on behalf of older people through its general remit to represent all those using mental health services.

Victims' Commissioners

The Commissioners for Victims and Survivors of the Troubles are responsible for coordinating the delivery and coordination of services for victims and survivors of the political violence of the Troubles. The Victims Commissioners will act on behalf of older people through their general remit to represent all Victims and Survivors of the troubles in Northern Ireland. Four Commissioners were appointed in January 2008.

Police Ombudsman for Northern Ireland

The Office of the Police Ombudsman is intended to provide an independent, impartial police complaints system for the people and police under the Police (Northern Ireland) Act 1998 and 2000. The Police Ombudsman acts on behalf of older people through its general remit to represent all people and police under the police acts.

Prisoner Ombudsman for Northern Ireland

The Prisoner Ombudsman is an independent body appointed by the Secretary of State for Northern Ireland that investigates complaints from prisoners held in Northern Ireland who have failed to obtain satisfaction from the Northern Ireland Prison Service complaints procedure. The Prisoner Ombudsman acts on behalf of older people through its general remit to represent all past prisoners.

Criminal Justice Inspection Northern Ireland

Criminal Justice Inspection Northern Ireland (CJINI) is an independent statutory inspectorate, established under the Justice (Northern Ireland) Act 2002, constituted as a non-departmental public body in the person of the Chief Inspector. Its key function is to work with criminal justice agencies and the public in Northern Ireland to create an efficient and even-handed justice system for all. The CJINI acts on the behalf of every citizen in Northern Ireland (including older citizens) to ensure they are served by an efficient and even-handed justice system.

Northern Ireland Commissioner for Children and Young People

The role of the Northern Ireland Commissioner for Children and Young People was created in 2003 as a result of new legislation. The role defined within the legislation has the key aim of acting to promote and safeguard the rights and best interests of children and young people. The Commissioner for Children and Young People has no cause to act on behalf of older people though the remit of their work. The role and structure of the Commissioner for Children and Young People is of interest however since its counterpart body in Wales provided a template for developing the Older People's Commissioner for Wales. The legislation there also provides for collaboration between the Commissioners in relation to any connected matter i.e. a matter of interest to children, younger people and older people.

Overview of Regulatory and Scrutiny Bodies

It is clear therefore that there is a significant number of existing regulatory and scrutiny bodies. Consultations also highlighted other sectors around which Commissioners were being considered (e.g. Disability, Irish Language and Bi-sexual, Lesbian, Gay and Transgender).

Several of the existing bodies have a specific role with regard to older people, but no one body has a holistic view of issues affecting older people. This overview identifies the key bodies with which an Older People's Commissioner for Northern Ireland would potentially overlap with as the Equality Commission, Human Rights Commission, the Northern Ireland Ombudsman, RQIA, NISCC and Mental Health Commission.

3. EXISTING PROVISIONS FOR ADVOCACY, PROTECTION AND SUPPORT OF OLDER PEOPLE IN OTHER JURISDICTIONS

3.1 Introduction

In this section we review the existing provisions within the United Kingdom and the Republic of Ireland on the advocacy, protection and support of older people. We would also refer to the population projections included in Tables 2.8 and 2.9 in Section 2.

3.2 Wales

Wales currently has the oldest population in the UK. By 2041 the number of people aged 50 and over will increase from 37 per cent to 45 per cent of the population and the number of people aged 75 and over will represent 16 per cent of the population.

In May 2002 the Welsh Assembly Government's Advisory Group on a Strategy for Older People published a wide ranging report¹⁹ and recommended inter-alia that the Government should consider the case for the appointment of an Older People's Commissioner for Wales. The Wales Assembly Government elected in 2003 had a manifesto commitment to establish such a Commissioner. An Advisory Group was appointed and it reported in March 2004²⁰. The report recommended the establishment of a Commissioner and that his or her overall aim should be "*to promote and safeguard the rights and dignity of older people in Wales and to challenge discrimination against older people*".

*'The Strategy for Older People in Wales'*²¹, published in January 2003 produced an action plan containing 21 recommendations. These included the establishment of a Cabinet Sub-Committee for Older People's Needs and the creation of an advisory National Partnership Forum for Older People to support Government in implementing the strategy. Measures to improve engagement with older people in their communities required local authorities and other statutory bodies to build appropriate engagement and participation into their planning and consultative systems e.g. to designate an Old Persons 'Champion'. A sum of £10 million was made available to support the strategy for the first three years. This increased to £13m over the subsequent two years to March 2008.

¹⁹ "*When I'm 64 ... and More*", The Report from the Advisory Group on a Strategy for Older People in Wales – May 2002

²⁰ "*A Commissioner for Older People in Wales: The Report and Recommendations of the Welsh Assembly Government's Advisory Group*" – March 2004.

²¹ *'The Strategy for Older People in Wales'* – Welsh Assembly Government, January 2003

Following extensive Parliamentary and public consultation, a draft Bill was introduced into the House of Lords in May 2005 and into the House of Commons in February 2006. The Commissioner for Older People (Wales) Act 2006 received Royal Assent on 25 July 2006.

The Commissioner's range of functions will enable her to:

- promotes awareness of the interests of older people (i.e. any person aged 60 or over) in Wales and of the need to safeguard those interests and in this respect the Commissioner must have regard to the United Nations Principles for Older Persons²²;
- promotes the provision of opportunities for, and the elimination of discrimination against, older people in Wales;
- encourages best practice in the treatment of older people in Wales;
- keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales;
- consider and make representations to the Assembly about any matter relating to the interests of older people in Wales;
- undertake, commission or provide assistance for another to undertake or commission research or educational activities in connection with any of his or her functions;
- make reports to the Assembly on the exercise of his or her functions;
- make reports generally on the discharge of his or her functions;
- review the effect on older people in Wales of the discharge of or failure to discharge functions by the Assembly or by a range of bodies specified in the Act and in so doing the Commissioner is expected to work jointly with other bodies e.g. Public Services Ombudsman;
- review arrangements made by certain specified bodies for dealing with advocacy, complaints and responses to the disclosure of potentially adverse information in relation to the body (“whistle blowing”) to ascertain whether, and to what extent, the arrangements are effective in safeguarding and promoting the best interest of older people in Wales; and
- enter any premises, other than a private dwelling, to interview an older person, with their consent and in connection with his or her powers to review arrangements and the discharge of functions.

²² ‘United Nations Principles for Older People’ - adopted by the General Assembly of the United Nations on 16th December 1991

Proposals for secondary legislation covering the role and responsibilities and the appointment of a Commissioner were issued for consultation in October 2006. Final regulations were made on 14 February 2007 and came into effect on 16 February 2007.

The recruitment process for the Commissioner commenced in July 2007 and has had substantial involvement from older people as required by the regulations. The Commissioner was announced on 7th January 2008 and will take up her post on 21st April 2008. At the same time the Welsh Assembly Government committed further funding of £7 million to the next phase of its strategy for older people.

The Public Services Ombudsman for Wales investigates complaints of maladministration by specified public bodies. In relation to equality and human rights issues, the newly established Equality and Human Rights Commission will have a Wales commissioner and a decision-making Wales Committee. The Commission will have responsibility for age equality, particularly in relation to employment issues. It is anticipated that a Memorandum of Understanding will be put in place in due course between the Commission and the Older People's Commissioner to cover the complementary and effective working relationship on equality and human rights to the benefit of older people in Wales.

Advocacy arrangements in Wales are well advanced as is evidenced in the close collaboration with NGOs (Age Concern Cymru and Help the Aged) and the national arrangements for consulting older people through the National Partnership Forum.

3.3 Scotland

Between 2006 and 2041 the proportion of the population that is aged 50 and over will increase from 35 per cent to 46 per cent. Moreover the proportion of people aged 75 and over is projected to be 16 per cent of the overall population.

A Members' Bill to establish a Commissioner for Older People in Scotland was introduced in the Scottish Parliament in September 2006. The Bill fell at the dissolution of the Scottish Parliament on 2 April 2007.

The Scottish Government has since indicated²³ that it does not plan to legislate to establish a commissioner for older people. It intends however to establish a broadly based National Forum on Ageing as set out in '*All Our Futures: Planning for a Scotland with an Ageing Population*²⁴'. The Forum will act as a champion for older people by progressing an agreed vision. In the current year, planned work will include the setting up of a Scottish Centre for Intergenerational Practice and a campaign to tackle ageism, and promote positive images of older people.

Greater protection for older people as part of wider society is afforded by the work of the Scottish Public Services Ombudsman, the Equality and Human Rights Commission for Great Britain and the planned Scottish Human Rights Commission

²³ Scottish Parliament – Parliamentary Question – 14 June 2007 (S3W-00054)

²⁴ Published in March 2006 under the previous administration but endorsed by the new Scottish Government

together with specific legislation on age regulations and protection of vulnerable adults. Advocacy arrangements have included an Older People's Consultative Forum and activity by Age Concern Scotland and Help the Aged along with other groups.

3.4 England

By 2041, some 40 per cent of the population in England will be aged 50 and over. Those aged 75 and over will form 13 per cent of the total population.

Opportunity Age²⁵ is the Government's strategy for an ageing society. It is led by the Secretary of State for Work & Pensions in his role as Champion for Older People. His department (DWP) co-ordinates action within Government on furthering the strategy covering three key areas - work and income, active ageing and service delivery.

The Opportunity Age strategy referred to possible developments in Wales on the creation of an older people's commissioner as '*an interesting development and we will want to see how it works*'. The priority then (2005) was to establish a Commission for Equality and Human Rights to enforce all equality legislation and have wide powers to examine all forms of inequality (the Commission came into operation in October 2007). The Government also stated '*There are other structures in England to supervise services for older people and tackle abuse*'.

Advice and communication with older people is organised through the Opportunity Age Partnership Group, Better Government for Older People²⁶ and its Older People's Advisory Group. Other initiatives to support the strategy have included Linkage Plus (improved service delivery for older people) and '*generationXperience*', a partnership of stakeholders to represent the interest and views of older people. The first UK Day for Older People was held on 1 October 2007. Age Concern and Help the Aged are actively involved along with a range of pensioners representative groups.

The Opportunity Age strategy will be reviewed during 2008 but for the present the effort in England has been to enhance current structures. This has been given increased emphasis in the Government's Comprehensive Spending Review 2007, which includes a Public Service Agreement²⁷ to ensure that the specific needs of the older population are given due priority. Outcomes, proposed reforms and measurement targets over the CSR period are specified along with a restatement of the roles and responsibilities of departments. A further Agreement²⁸ deals with priorities on dealing with age discrimination as part of the Government's equality agenda. In addition the Department of Health has a National Director for Older People's Services and Neurological Conditions who is responsible for rooting out age discrimination in the

²⁵ '*Opportunity Age: Meeting the challenges of ageing in the 21st century*' – HM Government, March 2005

²⁶ Better Government for Older People is a NGO supported by DWP

²⁷ '*PSA Delivery Agreement 17 – Tackle Poverty and promote greater independence and wellbeing in later life*' – HM Government, October 2007

²⁸ '*PSA Delivery Agreement 15 – Address the disadvantage that individuals experience because of their gender, race, disability, age, sexual orientation, religion or belief*' – HM Government, October 2007

National Health Service and for implementing both the National Service Frameworks for Older People and Long Term Conditions.

3.5 Republic of Ireland

Recent demographic projections anticipate significant growth in the numbers of older people in Ireland. The population aged 50 and over is expected to grow from 29 per cent to 40 per cent of the overall population by 2036. By that date those aged 75 and over will represent 9 per cent of the total population.

A strategic approach to older people's issues has featured in a number of key Government reports such as *Towards 2016*²⁹, *Building An Inclusive Society*³⁰ and *The National Development Plan*³¹. In its *Programme for Government*³², the Irish Government has committed itself to better support for older people covering pensions, improving income and employment conditions, education and retraining and housing in addition to a series of changes in the health sector. In particular the Government will develop in conjunction with the recognised age sector voluntary groups a New National Positive Ageing Strategy for older people. The Strategy will include:

- the development of operational plans by Government Departments closely setting out objectives relating to older people;
- joined up thinking on initiatives serving older people;
- ongoing mechanisms to monitor progress and identify challenges;
- liaising with recognised voluntary groups in the area; and
- consideration to the appointment of an Ombudsman for Older People.

A Minister of State for Older People with a brief covering a number of departments has been appointed and is a member of the Cabinet Committee on Social Inclusion. In January 2008 an Office was set-up to support the Minister for Older People. This Office is located within the Department of Health and Children and is to forge formal linkages with other Government Departments. A key function of the new Office for Older People will be to develop the National Strategy on Positive Ageing discussed above.

The social partnership framework provides for consultation with age related bodies. The Irish Ombudsman deals with complaints about maladministration by specified public bodies. The Employment Equality Act 1998 and the Equal Status Act 2000 introduced age as a ground on which discrimination is prohibited in the workplace and in the provision of goods and services, educational institutions and accommodation. The Human Rights Commission has no specific remit in terms of age discrimination

²⁹ 'Towards 2016' – Ten Year Social Partnership Framework Agreement 2006-2015

³⁰ 'Building An Inclusive Society' – National Action Plan for Social Inclusion 2007-2016.

³¹ 'National Development Plan 2007-2013 – Transforming Ireland – A Better Quality of Life For All

³² 'An Agreed Programme for Government – June 2007' – A Blueprint for Ireland's Future 2007-2012

but this is one of the many dimensions of the human rights considerations which can arise in the course of its work.

3.6 Comment on Mechanisms in Use Other Than a Commissioner

At present Wales is the only jurisdiction within the British Isles to legislate for an independent Commissioner for Older People. The Irish Government has recently committed to consider the case for an Ombudsman for Older People. In each instance a similar approach has been taken to issues affecting children and young people and this has been influential in the current policy for older people.

Other mechanisms are in place across all jurisdictions. The features of particular interest are:

- approaches to an ageing society are supported by specific strategies in each country and these are kept under regular review;
- in all instances efforts are being made to better co-ordinate Government's policy and delivery of services to older people e.g. Linkage Plus, champions for older people can be found at Ministerial level or within government departments and public bodies;
- a national forum for older people model exists in Wales and is being developed for Scotland;
- various mechanisms are in place to consult and harness the involvement of older people e.g. Better Government for Older People, the social partnership approach in the Republic of Ireland and the Older People's Policy Forum in Scotland; and
- arrangements exist across all jurisdictions to enhance equality for older people, to protect their human rights and to ensure that perceived maladministration in public services can be challenged. Advocacy arrangements are well advanced.

4. VIEWS OF OLDER PEOPLE AND KEY STAKEHOLDERS ON NEED FOR, AND POTENTIAL ROLES OF, A NORTHERN IRELAND COMMISSIONER FOR OLDER PEOPLE

4.1 Introduction

In this section we set out the issues considered and views expressed by older people and key stakeholders in discussion of the case for establishing a Commissioner for Older People in Northern Ireland.

4.2 Committee for the Office of the First Minister and Deputy First Minister

A briefing session was undertaken with the Committee for the Office of the First Minister and deputy First Minister. Deloitte briefed the Committee on progress with the research and the Committee raised questions regarding the issues. These questions were asked through subsequent consultations and consultation events and feedback is reported in this section.

4.3 Stakeholder Interviews and Consultation Events

Direct consultation with older people took place through events held in Belfast, Cookstown and Derry / Londonderry. Almost 190 people attended these events. Of these approximately 160 were older people, with the remainder advocates for older people. The events were structured around questions of need, age remit, role and supporting infrastructure. The delegates then had time for discussion of these in small groups. A record of the discussion of each group was kept, collected and reviewed for this report. This approach allowed for maximum input from the older people attending.

Stakeholder consultations have been held with Age Concern, Help the Aged, the Human Rights Commission, the Equality Commission, the Northern Ireland Ombudsman and the Law Centre.

In the case of the Equality Commission and the Human Rights Commission, the representatives consulted were not presenting an agreed organisational line or policy on this subject. Rather, they were engaging in discussion on the need for a new entity focusing on issues relating to older people, the form that entity might take, how it might relate to existing organisations, the roles it might adopt, the benefits it could yield and risks that should be considered in weighing up the case for establishing a Commissioner.

4.4 Views on Need

In considering the need for a Commissioner for Older People, it is important to refer back to the issues flagged in the terms of reference as critical to this assessment including the impact and accessibility of existing levels of advocacy and protection for older people and any gaps in current provision. Also central to the assessment of need is the ultimate desired outcome for older people i.e. that older people are valued

and respected, remain independent, participate as active citizens and enjoy a good quality of life in a safe and shared community.

Across the three consultation events approximately 95 per cent of attendees agreed with the intention to create a Northern Ireland Commissioner for Older People. Many also communicated this opinion with great passion. Only five people did not think there should be a Commissioner and another five people were not sure. Those who did not agree questioned the need for “*yet another tier of government*”, saying “*there are enough people in Stormont*”. Those who were not sure were concerned over the role and power, saying “*I want to be clear what powers a Commissioner would have*”.

In the consultation events and meetings, the following points were made in support of the case for appointing a Commissioner for Older People:

- the issues identified in Section 2.4 of this paper were widely endorsed i.e. there was strong agreement that there are a range of challenges for older people that must be addressed by Government through strong policy and quality services. The key challenges stated in consultation included poverty (including fuel poverty), health and social care, social exclusion, isolation, safety, housing, and mobility / transport (especially rural transport). People raised concerns of “*systematic neglect*” and “*a breakdown in trust between older people and public service providers*”. Older people commented that many of the issues are exacerbated by age and combined with the rising cost of living “*ultimately erode their quality of life*”. Many anecdotal examples were provided to support this. For example one older person spoke of older people congregating in a different neighbour’s house each day as they could not afford to heat their own houses. If things don’t change older people felt these set of challenges “*will only become greater as society becomes older*”;
- it was also recognised that although there is a level of advocacy and engagement which has improved over recent years, it remains limited relative to the needs of the constituency. This was considered to be partially due to resources. Older people regularly stated that “*they need a stronger voice*”, some felt they were “*ignored*” or the “*poor relation of society*” which translated into the perception that “*older people currently have very little say as to how the government does its business*”. Therefore, if the desired outcomes are to be achieved, additional and / or different interventions are required;
- although there are a range of regulatory and scrutiny bodies that do address issues of direct relevance to older people (listed in Section 2.8), no one body has the concerns of older people as their primary purpose. For many older people a commissioner with proper powers would provide them for the first time with a body that “*truly understands the difficulties facing older people*” indicating that existing bodies were not perceived to have this understanding. Linked to this none of these bodies have the range of functions or powers that could be vested in a Commissioner for Older People;

- older people need an independent ‘champion’ and while the voluntary organisations in this sector are perceived by stakeholders and older people to be doing good and valuable work, they can only advocate and are powerless to enforce. Many consultees reported therefore that a body with authority is required (several agreed to the need for a Commissioner on the condition that “*it had teeth*”). For example, it has been highlighted that the Ageing in an Inclusive Society has yet to make significant impact and that more needs to be done on specific policy areas such as community safety;
- there is a need for an organisation with a cross-cutting remit, which looks for the gaps between the existing authorities in relation to the concerns of older people, and has responsibility for seeking out and addressing the issues which might otherwise fall between the gaps;
- some pointed to the failure to make the Older People’s Advisory Panel into an effective forum as an indicator of need for a new approach. Associated with this was a view that the UN Principles for Older People are not currently being adequately promoted in Northern Ireland;
- a Commissioner model has the added value of clear visibility and is more likely to attract the attention and engagement of older people. This is particularly important given the number of organisations that currently exist and the confusion this can cause. This was validated by older people who confirmed that they were not always sure who they should approach; and
- as people live longer the role of older people in society is changing with people working longer and with more active citizenship in later life. At the consultation events older people were keen to highlight the “*skills, knowledge and experience they could offer*” with another considering that “*society was yet to harness the potential role of older people properly*”. The view was expressed that there is a need to think through the policy implications of this and a Commissioner is the ideal authority to encourage and challenge Government to do so;

Consultees were aware of the degree of political support for a Commissioner from political parties and recognised the significance of that in the overall debate. Several consultees asked whether there is a danger that Government is creating a large and potentially unwieldy infrastructure of regulatory bodies and whether the appointment of too many Commissioners might dilute their impact. The risk was acknowledged by consultees. One suggested that the litmus test for establishing a Commissioner should be (a) that the beneficiary group should be exhibiting evidence of clear disadvantage and (b) the number of people impacted should be ‘substantial’. Given that older people represent a more significant proportion of society now and that statistical evidence indicates we are becoming an ‘older’ society combined with the evidence presented on issues such as pensioner poverty, elder abuse and increasing incidence of dementia, it was generally considered that the older population in Northern Ireland clearly meet these tests. One consultee however did question whether the clearly genuine needs of the older population really differed significantly in nature from other deserving groups.

4.5 Views on Age Remit

As noted in Section 2 there is no universally agreed age that defines when someone becomes an older person. The current Northern Ireland strategy covers people aged 50 and over, the UN commonly uses 60 and over while the World Health Organisation and the Wales Commissioner model have also adopted 60 and over. The views around the age definition for a Commissioner in Northern Ireland are discussed below.

50 and Over

Research and consultation makes clear that older people are not a homogenous group, indicating that the age at which you may begin to face challenges associated with older age can vary depending on your circumstances. Consultees commonly highlighted discrimination in relation to employment, with one articulating the common sentiment that *“you are only employable in principle, but if you are made redundant it is very difficult to get a job in your 50s”*. Ageism relating to employment was a particular concern to many considering the *“wealth of experience”* many people had at that age. The other issues mentioned included health, leisure and education opportunities and benefit eligibility which affect many people in their 50s and which often had knock-on effects to their quality of life. Others again highlighted many people who retired early during their 50s for a range of reasons, including health reasons, and suggested their protection would best fit under an Older People’s Commissioner.

It was argued that it was important to get society’s approach to this age spectrum right, which would allow a Commissioner to help people in the 50s to *“prepare for retirement and prevent more difficult challenges from arising during their transition into retirement”* and ultimately *“get more out of older age”*.

Mid 50s

The arguments for this age spectrum were very similar as those for 50 or over but are focused more on preparation for moving from employment and into retirement. In the late 50s it was also noted that employment discrimination can heighten.

60 and Over

The majority of older people in the consultation events argued that 60 should be the age limit adopted. Many felt this represented the best estimation of when people moved into older age. Many felt that those younger than 60 were more likely to be working and would not consider themselves to be old (some countered this was driven out of a negative perception of what it meant to be old and hence was a spurious argument). Others felt that the employment discrimination issue affecting people in their 50s could be addressed by other bodies (e.g. Equality Commission).

It was observed that most older-age groups were made up of people aged 60 and over, with some commenting that it was very difficult to get people still in their 50s involved. Some consultees felt it was useful to be consistent with what the UN generally use.

The most significant concern was that there are already considered to be a huge range of needs amongst older people. Therefore there is a danger in making the age spectrum too broad, so as to spread the finite resources of a Commissioner too thinly to be effective. Setting a limit of 60 or over brings a minimum level of focus required.

‘Pensionable Age’

A smaller number spoke of pensionable age as being an appropriate delineation as the movement from working to retirement and associated pension was considered a defining moment that could be used. The difficulty with this is that technically this is age 60 for women and 65 for men and may change in the future. There was significant support for 60 and over, and little support of any substance for an older cut-off of 65 years and over. There was no appetite within the consultation to distinguish the support a Commissioner could bring to an older person depending on gender, therefore those who suggested using pensionable age as the boundary, can be considered to most closely correspond to age 60 and over.

Issue Focused

“Some people are old at 50 while others are active at 80” argued one person, indicating a need to take a different approach to defining the remit of the Commissioner. Others noted that *“old age is an evolving term, what is old now may not be considered so in the future”*. Rather than look simply at age, there was a call to focus on defining the remit of an Older People’s Commissioner by the issues they should address. These issues were considered to be the same ones that were put forward as evidence of need for a commissioner (See Section 2.4).

Let the Commissioner Decide

There was limited support for putting forward a provisional age remit for review by the Commissioner. The Commissioner could consider this through initial engagement and soundings with older people, for example during the first six months of being in post.

Age Remit Overview

Based on an overview of the discussion with regard to the age at which an Older People’s Commissioner should focus on, the following principles emerge:

- sixty and over would be consistent with practice in Wales and UN’s most commonly used definition of an older person;
- sixty would be in line with a popular view of when a person becomes ‘older’, aligning well with moving from employment into retirement, or at least preparation for moving from employment into retirement and moving into a ‘pensionable age’;
- as people live longer, work longer and enjoy better health for longer it is more likely that a higher age bracket, such as 60 and over would provide an appropriate focus; and

- people in their 50s do face issues linked to ‘older age’. Therefore there is a valid argument to allow some flexibility in remit so that a Commissioner could intervene around an issue that is linked to a person’s older age, even if they are younger than 60.

Setting Priorities

While for statutory purposes an age definition is necessary, evidence from the consultations is of a significant demand for a Commissioner. Hence there will be a need to prioritise resources on a strategic need basis even within a defined age definition.

In terms of setting priorities for a Commissioner, some suggested that a selection criterion should be ‘*relative impact on disadvantaged and vulnerable people*’. The point was also made that in setting priorities, care should be taken not to reinvent wheels. Some noted that good work had been undertaken in the development of ‘Ageing in an Inclusive Society’ and there was a need to identify priorities within the strategy that are still appropriate.

It was also broadly agreed that the potential impact of a Commissioner would be assisted by focusing on a smaller number of core priorities. It is relevant to note that the 2007 Review³³ of the Commissioner for Children and Young people highlighted concern that effort was ‘diluted’ across too many priorities (15 priority areas).

4.6 Potential Roles

A range of potential roles were discussed with strategic stakeholders and with older people in consultation events.

Investigatory Powers – the ability to review public authorities in relation to their compliance with legislation and service quality standards (including powers to compel documents, witnesses, unannounced access etc.) and the ability to highlight such matters in reports to the Northern Ireland Assembly.

The consultation made clear that investigatory powers would be essential to a Commissioner, and several considered this to be the most important power the Commissioner should have. The power to investigate was seen as an integral step to affecting change in public authorities. This would bring independent challenge to public authorities around the service they deliver.

Many thought that the power should include unannounced access, and powers to compel documents and witnesses. This was important as it was often difficult to get the relevant information. Some raised concern as to limitations on investigatory powers, in particular saying they should not be restricted to public authorities but should extend across community, voluntary and private sector organisations as the rights of older people could be undermined in these, just as in public bodies. This breadth of scope would also be important if the Commissioner was to attain the

³³ OFMDFM, *Review of the Commissioner For Children & Young People For Northern Ireland, Final Report*, 24th October 2007

holistic and strategic overview of issues affecting older people that many put forward as a central argument for establishing such a Commissioner.

There was support that the Commissioner should not just have power to investigate and report (albeit putting findings in the public domain was considered important), but to investigate and be able to ensure compliance, particularly in situations where issues were recurring. It was felt that articulating how the Commissioner should move from investigation to ensuring compliance would be important in defining the role. Ultimately a power of enforcement was considered integral to ensuring higher standards in practice.

It was recognised that there needed to be close co-operation with other bodies that currently have investigatory powers that might overlap with the Commissioner for Older People (e.g. NIHRC, ECNI, RQIA). Primary and secondary legislation should specify these working arrangements and additionally memoranda of understanding and /or protocols could be drawn up around operational matters. The implementation of the Welsh Commissioner for Older People has required similar consideration of working arrangements with existing bodies through legislation and memoranda.

In addition consultees made the point that while it is important to avoid duplication it would be unhelpful to count something as off-limits which was of strategic importance to older people. The working arrangements between the Commissioner and other bodies would need to take account of this inherent tension.

Casework – review of individual complaints and taking of individual cases where it is considered that an individual's rights have been breached, with a focus on strategic litigation and cases which fall outside the remit of other bodies – this function could also extend to a review of arrangements for dealing with complaints.

This was considered to be very important element of the role and was closely linked with powers of investigation. Taking on individual cases would support vulnerable people who otherwise would not have a voice and would uncover learning and evidence which could feed into more strategic debates regarding policy, legislation and good practice.

There was some concern as to the resources available to review complaints and take forward cases. Several points were made relating to this. First there would need to be clear communication of the complaints process so that people are aware of how to make contact with the Commissioner over an issue. Second there would need to be clarity as to which complaints would be taken forward as cases. Key questions to be asked in this process would include: is the complaint linked to a wider strategic issue or issue of principle; and is there some other body better placed to address the complaint. Third there would have to be sufficient resources to take forward cases (*“they can't just sit on a shelf”*) and the recognition that some cases might need to be taken forward with urgency, for example where serious health matters were at stake. Fourth the individual should be kept informed as to progress on the case.

It was recognised that the capacity to investigate and undertake case work would be finite. Therefore it would be helpful if principles were laid down to assist the Commissioner in identifying which cases to undertake. Suggestions included:

- cases would only be undertaken where there is a clear strategic merit and/or an issue of principle for older people generally; and
- cases would only be undertaken where there was no duplication of work being undertaken by another scrutiny body.

It was felt these would be helpful in ensuring the resources available for casework added most value.

The same issues would apply to casework as for investigatory powers with regard to developing processes of co-operation with other protection and scrutiny bodies. Developing memoranda of understanding with these other bodies would assist with this.

Advocacy – highlighting of issues, working with age sector NGOs, influencing of policy, identification of best practice in the treatment of older people.

Advocacy was considered central to the overall role of a Commissioner. The need for advocacy links back into a core concern that older people do not currently have a sufficient voice in society, despite the best efforts of the NGOs. It was anticipated that the role would complement the efforts of the NGOs (e.g. Help the Aged, Age Concern and Age Sector Platform) who are well established, well known and have extensive networks, but have limited resources and powers. Ideally advocacy efforts would be co-ordinated.

The Commissioner would be anticipated to have a substantial network and access to senior officials and elected representatives. This should also be used to assist age sector advocacy efforts.

It was noted that many, if not all, policy developments affect older people and the Commissioner would need to take a strategic approach to influencing policy. Older people reported some of the relevant examples currently been lobbied on by the age sector as including policy relating to hospitals, nursing homes, carers, transport, housing, fuel, access to education, pensions and benefits.

Advocacy was generally considered to complement other roles (e.g. investigation, casework, research and education), some expressed a view that holding both advocacy and investigatory roles can give rise to conflict of interest and perceptions of partiality.

Research and Education – commissioning research and providing educational activities in connection with the Commissioner's functions.

There was wide support for a Commissioner having the capacity to commission research which could assist in identifying issues, challenge attitudes and perceptions' bring these to the public arena and open up more informed debate. This was particularly so as some felt there remained gaps in knowledge and understanding of some issues relating to older people and an ageing society. Research was strongly linked to the Commissioner's capacity to provide a strong advocacy role.

While there was general support for some educational role, there was some uncertainty as to what an appropriate educational role would entail. People generally felt support for education with regard to promotion of rights of older people and responsibilities of organisations. Some however suggested there may be some conflict of interest if the Commissioner was for example responsible on the one hand for educating a hospital or care home with regard to its responsibilities, and on the other potentially being responsible for investigating some alleged breach of those responsibilities.

Participation – facilitating the engagement of older people in the work of the Commission and in policy debates, consultation exercises, service review etc.

This was considered absolutely critical to the success and credibility of a Commissioner. The Commissioner would need to take time, particularly at the outset to get out and about, meeting people and groups and listening to them³⁴. This would bring mutual benefit building trust (so that people will have confidence to report their concern), profile, understanding (of older people's issues for the Commissioner and the roles and responsibilities of the Commissioner for the older people) and accountability. Mechanisms for engagement should continue and be embedded within the overall delivery of the Commissioner's functions.

It was considered important that the views of older people were reflected in findings and outcomes. This should be transparent and build further credibility and trust.

The Commissioner should also seek to ensure that public sector organisations have appropriate mechanisms in place undertake sufficient engagement with older people in considering strategy, future planning and service deliver options. This would ensure participation more widely across public policy and planning.

One concern raised was how to engage the most isolated and vulnerable in society, across the whole of Northern Ireland. The Commissioner should not simply rely on established groups but would need to hear from a wider cross-section of older people. This linked into to a wider issue of accessibility (discussed further below) in that the engagement would be needed across Northern Ireland as the Commissioner would have to demonstrate that he or she was available to, and serving, all older people. The Commissioner should demonstrate this by taking reasonable steps to publicise their role and contact details and make public a plan or strategy as to how older people would be engaged and consulted, including those who are more 'difficult to reach'.

Signposting – it was suggested that a Commissioner might become a first line response for older people and that it could either refer people appropriately to other organisations or support them directly, depending on the issue which prompted them to make contact.

³⁴ The newly appointed Commissioner in Wales has said her first priority is "to listen to older people". AgendaNI, March 2008.

There was some divergence on whether or not signposting should be adopted as a role of the Commissioner. The older people consultation events were evenly split over whether a Commissioner should have a sign-posting role. Emerging from the debate however was a view that a signposting role was desirable but not essential.

Those arguing for a signposting role focused on accessibility. Currently older people reported a sense of confusion as to which bodies they should direct their concerns to. Therefore the Commissioner could be a significant help in ensuring older people got the right help from the right organisation.

Others felt signposting was less necessary and in some cases potentially unhelpful. The reasons given were that there are already organisations (age sector NGOs, Citizens Advice) and mechanisms (e.g. Seniorline) in place that can signpost older people. While some felt these were doing a good job perhaps they needed to increase the capacity to better fulfil this service. The second argument was that the resources of the Commissioner should focus on addressing issues that have arisen as people have been let down through normal channels. There is a tension inherent in this debate, however, between being accessible to all and the scope and scale of issues a Commissioner could take on.

The principles that emerged from the debate are that while people should feel free to go straight to the Commissioner, and its contact details should be made widely available, it should not be promoted or branded as a first point of call or as a contact centre for older people. Rather it would add greater value to older people through focusing its resources on roles such as investigation and casework, for which it would have powers to undertake (and powers that others do not have) while working and supporting others strategically to provide adequate signposting.

Awareness Raising – promoting the rights and interests of older people and in this respect bringing attention to the UN Principles for Older People, highlighting ageism and emphasising the contribution older people make to society.

Raising awareness was considered an inherent part of the Commissioner's role. People highlighted how the Commissioner could promote the findings of investigations, research and case work to promote the rights and interests of older people. The profile of the office would also ensure high levels of media attention on key issues.

It was again highlighted that the Commissioner would have an opportunity to raise awareness at different 'markets' for example to the public through the media, but also to senior officials and elected representatives. These various media and networks should be used to challenge and raise awareness of key issues.

It was noted that this was a clear example of how a Commissioner would be of benefit to all society not just older people. Raising awareness and challenging attitudes towards old age would benefit all, as all hope to lead an enjoyable old age in which our rights and interests are safeguarded.

Breadth of Powers – Consideration as to the breadth of powers a Commissioner should have with regard to transferred, reserved and excepted matters.

What was clear from consultations was a desire to have a Commissioner who would be able to take a holistic, strategic overview of issues affecting older people and that it ought to be able to work across all policy and legislative areas in promoting and securing the rights of older people.

With regard to transferred matters (i.e. those under the responsibility of the devolved Assembly at Stormont) it was agreed that the Commissioner should be able to make direct representation to the Assembly on the discharge of its functions or failure to discharge its functions and to a range of government departments and public bodies.

A range of views were held with regard to how a Commissioner should deal with issues arising from reserved matters (e.g. criminal justice) and excepted matters (e.g. pensions). It is noted that such matters could impact significantly on older people (e.g. older people in poverty in relation to the scale and receipt of pensions or older people concerned about crime and community safety). It was recognised that founding legislation for the Commissioner could provide for him or her to make representations on an excepted or reserved matter to the local Assembly and for the Assembly to subsequently make representations to Westminster. Some felt however that reliance on the Assembly taking forward the issue to Westminster would restrict the Commissioner too much³⁵. It was noted that in the case of the Commissioner for Children and Young People the custom and practice is for the NI Commissioner to make representation to Westminster through their English equivalent. While there is no Commissioner for Older People in England, the principle of using a similar body to make representation on behalf of the Commissioner was considered a possibility (e.g. Equality and Human Rights Commission). It was agreed the treatment of reserved and excepted matters required further consideration.

Summary of Role and Powers

Overall, the dominant view was that in order to have impact, a Commissioner should have fairly wide ranging powers and the signal that allocating those powers would make was important to how the public would perceive the political commitment to addressing the key issues of concern to older people.

It was highlighted that the overall effect of combining these powers would be greater than the sum of the various powers. For example organisations would be more likely to pay attention to best practice being promoted by the Commissioner if the same body had powers of investigation to back this up.

The Commissioner's role would be wide and include awareness raising, research, education and advocacy, through to investigation and casework, all with appropriate engagement of older people.

It was evident from consultations that there was a high expectation that the Commissioner's roles and powers should, and indeed would, be wide-ranging and strong. This was linked with positive observations of Wales and the Children's Commissioner and mixed observations regarding the implementation of existing

³⁵ This was a criticism among NGOs in Wales as the Commissioner in Wales is subject to the local Assembly and is reliant on the Assembly to make representation to Westminster on non-devolved matters.

strategy and previous attempts at a Ministerial Champion for Older People, especially pre-devolution.

4.7 Other Issues Raised in Consultation

Some consultees made points in consultation regarding a Commissioner for Older People that are appropriate to reflect in this report:

- there is a need to develop an appropriate infrastructure to support the development of a Commissioner. The Welsh example was considered a good model where there is a Cabinet Sub-Committee for Older People’s Needs, an advisory National Partnership Forum for Older People (which includes older people and charities working in the age sector) and a network of Public Sector Champions. It was felt that in Northern Ireland there was an opportunity to develop an existing forum, for example the Age Sector Platform and designate champions at senior levels of central and local government and in public bodies. Such an infrastructure would assist the Commissioner in several ways for example channelling views of older people, grassroots organisations, government departments and organisations, and disseminating information back through the same. The network and forum could also act as sounding board, providing advice and views. Such an infrastructure should assist the Commissioner to fulfil responsibilities with regard to the participation issue discussed above;
- the process of appointing a Commissioner was a critical issue for many consultees. Several pointed to the example of Wales with the involvement of older people in the recruitment and appointment of the Commissioner. They felt this was good practice that should be applied in Northern Ireland. In Wales it was also noted that the appointment regulations required the involvement of older people in this process;
- it was also anticipated that the process of implementation would be aided by the opportunity to learn from the precedent set in Wales and in particular the relevant Welsh legislation and the Northern Ireland Commissioner for Children and Young People;
- a point that was made by several at the consultation events was the expectation and hope that the Commissioner appointed should be an older person or someone who had direct experience of the issues facing older people. This would help demonstrate understanding and empathy with the issues facing older people in society. Several felt the appointment of an older person, and not a “*well-known figure head or former politician*” but a genuine worker with the talents and energy required for the job, would bring greater credibility and buy-in from the older population;
- the consultation events made clear that the Commissioner would need to be Commissioner for all older people in Northern Ireland. In particular this related to issues of geography, accessibility and capacity. The Commissioner should not be “*too Belfast based*” – it is important that the Commissioner should demonstrably pay equal attention to the whole region. The location of workers in local government offices or of the Commissioner in a location

other than Belfast, were suggested as possible solutions. As well as physical access, other accessibility issues (e.g. leaflets in different languages) need to be factored in. A further interlinked concern was that the most vulnerable older people would be the least likely to access the Commissioner yet might be the very ones most needing their intervention. The vulnerable could include those suffering poor health (in body or in mind), the isolated and ethnic minorities. Therefore while it may be difficult to reach these people, it was felt that some resource should be focused on ensuring that the voice of these people was heard;

- the accountability of the Commissioner was a regular issue raised in consultation. To fulfil the Commissioner role effectively and in particular the investigation and casework role, he or she should be able to act independently. It was noted that in Wales the Commissioner was directly accountable to the Assembly. This was considered a strong model of independence and accountability by some consultees. In Northern Ireland it was noted that the Departmental accountability model had been adopted in the case of the Northern Ireland Commissioner for Children and Young People, which was accountable to OFMDFM. This precedent was considered to present a natural possibility for the Older People's Commissioner. A potential advantage of OFMDFM sponsorship would be the proximity it would provide to the policy making Executive via the First Minister, deputy First Minister and Junior Ministers. It was noted that OFMDFM, while having strategic policy responsibility, was not primarily a spending or service delivery Department. There were concerns however that the Commissioner would not be subject to a level of financial control that might affect its independence³⁶. In the case of the Commissioner for Children and Young People, the 2007 review proposed that OFMDFM's main method of oversight be limited to an observer role at the Audit and Risk Committee of the organisation and the Commissioner as Accounting Officer should attend these meetings. This was considered a method to "*support and strengthen the arm's length relationship between the Commissioner and OFMDFM*³⁷". This may be a consideration appropriate for an Older People's Commissioner; and
- the scale of resources made available to the Commissioner was seen as critical to effective delivery of role and responsibilities. Attendees at consultation events were keen to emphasise the need for a sufficient number of skilled and experienced staff to address the anticipated workload of the newly established Commissioner. In terms of scale some felt it was appropriate to mirror the Northern Ireland Commissioner for Children and Young People and that in terms of equality and respect for older people, a similar resource should be available.

³⁶ Office of the High Commissioner for Human Rights See Annex: Principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles) <http://www.unhchr.ch/html/menu6/2/fs19.htm#annex>

³⁷ OFMDFM – Review of the Commissioner for Children & Young People for Northern Ireland Final Report, page 45, 2007.

5. ANALYSIS OF OPTIONS

5.1 Introduction

This section identifies a range of options available. Initially a long list is considered in light of the evidence from the research regarding need and potential roles. A short list is brought forward for further consideration.

5.2 Range of Options

Before reaching a conclusion on whether there is a need for a Commissioner for Older People, it is important to review whether there are any other mechanisms or models which could achieve the same outcome or deliver similar benefits. Table 5.1 presents a long-list of options on alternatives to a Commissioner that was identified in our research. A summary of the consultation debate on these options is included.

Table 5.1
Consultation Views on Alternatives to a Commissioner

Options	Consultation Responses
Allocating specific responsibility for cross-department co-ordination of policy development and service review in relation to older peoples issues to a Senior Civil Servant	This was not considered to be an option which could realistically deliver the desired outcomes for older people. Firstly, this model would preclude a number of the potential roles identified as a result of the assessment of needs e.g. advocacy and investigation / supporting of cases as conflict of interest issues would preclude these duties. Secondly, the challenges of effective cross-departmental co-ordination are widely recognised and it would be virtually impossible for a public servant to try to navigate through the range of different Departmental and NDPB policy and service delivery issues.
Increasing the responsibilities of the Minister for Older People	Consultees felt the appointment of a Commissioner could be complementary to the responsibilities already vested in the OFMDFM Junior Ministers but that Ministerial accountability alone was insufficient to meet the needs identified. Given that part of the role of a Commissioner would be to advocate to Ministers and to hold them to account, it would not be possible for a Minister to juggle all of the accountabilities that would be involved.
Designating a Commissioner on either the Equality Commission or the Human Rights	This model (i.e. one where Commissioners have issue / sector specific responsibilities) was considered by the Equality Commission at its commencement and has not been pursued for a range of reasons. There

<p>Commission as having specific responsibility for the older people's agenda</p>	<p>was no appetite to change this approach now. In addition, stakeholders external to these bodies were not in favour of this option, largely because of a concern that the older people's agenda would get lost among the many other issues these bodies deal with.</p>
<p>Awarding the budget that might finance a Commissioner's office to one of the existing Commissions to facilitate more case work on issues relating to older people</p>	<p>While this option might result in more casework on issues relating to older people, locating the budget in either Commission would constrain it to either an equality based agenda or a rights based agenda (and therefore not effectively address issues of multiple disadvantage). It would also limit the advocacy to issues for which suitable cases can be found and constrain the wider activity that could take place in terms of investigation, inter-agency co-ordination, advocacy in terms of policy development and service planning and facilitation of greater participation of older people in these activities.</p>
<p>Establishment of an Ombudsman for Older People</p>	<p>This approach is to be considered in the Republic of Ireland but local stakeholders felt that this could be a much narrower role than the one needed to provide a holistic approach to older people's issues. Conventionally an ombudsman deals with alleged maladministration by public bodies and could not embrace the much wider role expected of a dedicated Commissioner. It was noted that a policy review of the present NI Ombudsman's Office had been completed some time ago and that further consolidation of that role may be in prospect.</p>
<p>Establish a network of champions within government and across public services.</p>	<p>A network of champions within the public sector would not have the necessary independence, legal powers or authority to achieve the desired impact. In addition it is doubtful they could provide sufficient focus on the task as they would likely have a range of duties and priorities that would deflect them from their responsibilities with regard to older people.</p> <p>A network of champions was seen by some to be an important part of an overall infrastructure that could assist an Older People's Commissioner model.</p>
<p>Establish a National Forum and reenergise the role of Older People's Champions across Government Departments and public bodies</p>	<p>Wales has made progress with similar arrangements in recent years and these are seen as important ingredients in the overall plan involving an Older People's Commissioner. Scotland is committed to use the national forum model. Some local consultees see merit in such an approach but they perceive this would not be sufficient to meet the task that could be</p>

	performed by an Older People’s Commissioner. A national forum was seen by some to be an important part of an overall infrastructure that could assist an Older People’s Commissioner model.
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5.3 Costs and Benefits of Different Options

While Table 5.1 reports the concerns from consultations with regard to alternatives compared to a Commissioner model, further consideration is given as to the options through a cost-benefit analysis.

In undertaking cost analysis it is recognised that currently no Older People’s Commissioner is fully operational within the UK or Ireland. Cost data that will inform the analysis is presented in Table 5.2.

Table 5.2

Cost Data Available

Organisation	Annual Cost (Approx. or Estimate)	Source	Comment
Wales Older People's Commissioner	£1.5 m	Commissioner for Older People (Wales) Bill, Hansard, June 14, 2005	Start-up costs are estimated to be of the order of £500,000 and, with a staff of about 30 (including a Deputy Commissioner), there will be estimated annual running costs of around £1.5 million.
Scotland Previously Proposed Older People's Commissioner	£1.0 m	Commissioner for Older People (Scotland) Bill 2006, Financial Memorandum	The Memorandum highlighted that further savings would be realised through co-locating with another Commissioner or Agency. The Memorandum anticipated approximately 11 staff.
NI Commissioner for Children and Young People	£1.9 m	2006/07 Annual Report and Accounts	There is provision for 26 staff. The 2007 review noted that the Commissioner has the power to take forward a formal investigation on behalf of children and young people. The costs of such an investigation are not included in the annual budget for the Commissioner. Also, it is not possible to judge the frequency or cost of such investigations.
Assembly Ombudsman for NI and NI Commissioner for Complaints	£1.5 m	2006/07 Annual Report and Accounts	A staff chart shows 22 staff – including Ombudsman, Deputy Ombudsman, three directors, twelve investigating staff and five administration staff.
NI Human Rights Commission	£1.4 m	2006/07 Annual Report and Accounts	There are ten Commissioners and a staff complement of 26.
Equality Commission for NI	£7 m	2006/07 Annual Report and Accounts	ECNI has 16 Commissioners, five core divisions and a communications and coordination unit. The five core divisions are strategic enforcement (including casework), promotion and education, employment development, policy and development and corporate services.

Table 5.2 shows a spread of annual costs from the previously proposed Commissioner for Older People in Scotland of £1 million, an anticipated £1.5 million annual budget for the Welsh Commissioner and £1.9 million for the Commissioner for Children and Young People in Northern Ireland. Notably the Ombudsman and NIHRC operate at similar annual cost. The Equality Commission is a much larger organisation by comparison.

A major cost factor is the scale of the staff complement. The review of the Children and Young People's Commissioner highlighted staff as the main cost (46 per cent in 2006/07). Staff complement underpins the difference in cost between Scotland and Wales. While the Welsh model's range of functions were developed more fully than the Scottish list of functions, both the Scottish and Welsh model's fundamentally focus (or focused in the case of the Scottish model) on both promotion of rights and safeguarding of rights with accompanying investigative powers. The Welsh office is, however, expected to have approximately 30 staff, while the Scottish model only anticipated 11 staff.

The experience of the Commissioner for Children and Young People in Northern Ireland is also of interest, as a Commissioner that is well established. The review concluded that "*financial resources of the body are adequate and sufficient in the short-term but would be insufficient if the Commissioner was to take on a major legal case on behalf of children and young people*"³⁸. Despite the limited use of its investigatory powers, the review highlighted that the Commissioner had made good progress against priorities.

For the purposes of cost-benefit analysis we have taken a broad description of the status quo and three potential Commissioner models. The options for consideration are:

- Option One: The status quo – Junior Ministers as quasi-champions for older people within Government within the context of a government strategy;
- Option Two: A Commissioner model with role and responsibility focused on promotion of rights through advocacy, advisory, research, education and awareness raising activity. Powers of investigation and casework are provided however the breadth of these and capacity to undertake these are limited;
- Option Three: A Commissioner model with role and responsibility across promotion of rights through advocacy, advisory, research, education and awareness raising activity and also protection of rights through investigation and casework activity with capacity to undertake this; and
- Option Four: A Commissioner model as per Option Three supported by enhanced infrastructure. The enhanced infrastructure would include establishment of a Cross-Departmental Sub-Committee for Older People's Needs and the creation or development of an advisory regional Forum for Older People. Measures to improve engagement with older people in their communities would require local authorities and other statutory bodies to build appropriate engagement and participation into their planning and consultative systems e.g. to designate an Older Persons 'Champion'.

Please note the costs for the options in Table 5.3 are indicative only. If a decision was taken to proceed to implement a Commissioner model, the investment required should be subject to a full business case.

³⁸ OFMDFM – Review of the Commissioner for Children & Young People for Northern Ireland Final Report, page 84, 2007.

Table 5.3

Cost-Benefit Analysis

Model	Cost	Summary of Likely / Potential Benefit
Option One – Status Quo	No additional cost.	While there would be no additional cost, experience of a ‘champion’ in the context of the Ageing in an Inclusive Society indicates that impact would be limited. This approach would be considered a backward step at a time when older people are expecting positive change.
Option Two – Focus on promotion role and responsibilities. Restricted breadth and limited capacity to undertake investigative role.	£1.0 m annual cost	The review of the Commissioner for Children and Young People highlighted that despite the limited use of its investigatory powers, the Commissioner had made good progress against priorities. The Commissioner for Children and Young People however has a greater budget (£1.9 m). It is not clear how in the long run an Older People’s Commissioner would add significant value over existing advocacy arrangements (e.g. Age Concern, Help the Aged) and equality reviews undertaken to fulfil responsibilities under Section 75 of 1998 Northern Ireland Act, without being in a position to undertake investigation and casework.
Option Three – Equal focus on promotion and protection role. Wide breadth of powers and sufficient capacity to undertake these	£1.5 m minimum annual cost Potentially more resources required by Departments and Agencies focused on complying with legislation / improving services for older people	While cost would be higher, if the Commissioner had the capacity to undertake investigations / casework and make strategic impacts on key issues (e.g. rural transport, elder abuse or insurance premiums) the potential benefits for older people and wider society could outweigh the costs many times over. The cost would also demonstrate a more equal balance of resource compared with Commissioner for Children and Young People.
Option Four – Commissioner as per Option Three plus enhanced supportive infrastructure.	£1.5 m annual cost for Commissioner Office plus an estimated £150,000 ³⁹ per annum for supporting a regional advisory network. No additional cost to the public purse is foreseen for a network of public sector champions.	For a relatively minor additional cost the Commissioner would be supported in fulfilling their role by infrastructure across public sector and through an older people’s advisory group. The advisory group would in turn be connected into local groups and communities. The infrastructure would provide additional channels for identifying and communicating issues and spreading good practice. The approach in Wales has developed infrastructure alongside the Commissioner to this end.

³⁹ This indicative budget would facilitate two / three staff members to support the network, administration costs and budget for commissioning research.

As Table 5.3 shows, our cost-benefit analysis indicates that a Commissioner model with powers and resources to undertake investigation and casework, as well as advocate would be more likely to provide the most added value and return on cost. This model would be further strengthened by enhancing infrastructure (Option 4) to support it both within central and local government and importantly for a regional advisory forum which includes older people.

5.4 Co-location and Collegiate Approaches

Others did point to the trend toward consolidation of such bodies in other jurisdictions and the existence of ‘umbrella’ bodies in others and flagged a concern that we could be investing in infrastructure now, only to find ourselves in a position where we are considering merging these bodies in the future.

This possibility was considered to strengthen the case for maximising the sharing of location, educational, investigative and back office services between similar bodies wherever possible.

Back Office Services / Co-location

With regard to back office services the following was noted within the review of the Commissioner for Children and Young People: *“For a body the size of the Commissioner, back office administration costs are generally proportionately high compared to larger organisations. Hence, there is a move towards encouraging shared services within the public sector, to help drive efficiency and reduce the administration costs across government. There are no inherent difficulties with outsourcing or shared services for the Commissioner (IT services are currently shared with the Equality Commission).”*⁴⁰

Similarly in the Financial Memorandum relating to the Scottish Bill for a Commissioner for Older People highlighted potential savings if the proposed body had co-located with another Commissioner or agency. Potential savings included sharing certain staff particularly around administration and reception, but also potentially with regard to certain officer roles, for example a Legal and Parliamentary Officer.

⁴⁰ OFMDFM – Review of the Commissioner for Children & Young People for Northern Ireland Final Report, page 32, 2007.

Collegiate Approach

With regard to more specialist roles, such as investigation, it was highlighted that these skills were not common, not easy to develop and were often very challenging to undertake. Sharing good practice and learning from other Commissioners and Ombudsmen with regard to such skills was considered positively. In this context consolidation and ‘umbrella’ models were being observed in other countries. One example given was that of Australia, where various Commissioners are ‘housed together’. Critically however it was noted that the individual Commissioners were still accredited at the international level and could participate in international networks and learn from international practice.

6. CONCLUSIONS AND RECOMMENDATIONS

6.1 Introduction

This section sets out our conclusions and recommendation regarding the way forward based on review of other bodies and jurisdictions, analysis of need and consultation feedback.

6.2 Need and Case for a Commissioner

With regard to the case for a Commissioner:

- Northern Ireland’s population is ageing with older people becoming an increasingly large proportion of society and there are a range of significant challenges and opportunities which impact directly on older people. The key challenges include health and social care, poverty (including fuel poverty), social exclusion, isolation, safety, housing, and mobility / transport (especially rural transport);
- although there are strong NGOs in this sector and some good progress has been made in terms of advocacy and there are a wide range of regulatory bodies with a variety of powers and responsibilities, there is no one body which has the concerns of older people as its primary focus;
- an organisation with power to influence policy making and service delivery which is focused on priority issues relating to older people has the potential to add significant value;
- an independent Commissioner model has the potential to meet a range of the needs identified and to help facilitate progress towards the desired outcomes described for older people; and
- none of the alternative models appear to have more potential to meet the defined needs better than an independent Commissioner model.

6.3 Role and Responsibilities

With regard to age remit:

- sixty and over would be consistent with practice in Wales and UN’s most commonly used definition of an older person;
- sixty would be in line with a popular view of when a person becomes ‘older’, aligning well with moving from employment into retirement, or at least preparation for moving from employment into retirement and moving into a ‘pensionable age’;
- as people live longer, work longer and enjoy better health for longer it is more likely that a higher age bracket, such as 60 and over would provide an appropriate focus;

- people in their 50s do face issues linked to ‘older age’. Therefore there is a valid argument to allow some flexibility in remit so that a Commissioner could intervene around an issue that is linked to a person’s older age, even if they are younger than 60.

With regard to resources:

- the scale of resources made available to the Commissioner was seen as critical to effective delivery of role and responsibilities. Other models considered that sought to undertake comparable roles included the Welsh Commissioner model. This is to have a budget of circa £1.5 million per annum; and
- due to anticipated high demand there will be a need to prioritise resources at strategic need. It was broadly agreed that the potential impact of a Commissioner would be assisted by focusing on a smaller number of core priorities in its first period of operation.

With regard to the role:

- legislation should allow for the Commissioner to undertake the following within its primary role:
 - Investigation (including powers to compel documents, witnesses, unannounced access etc.). The power to investigate was seen as an integral step to affecting change in public authorities;
 - Casework - review of individual complaints and taking of individual cases where it is considered that an individual’s rights have been breached. In order to maximise added value it will be important that the resources available for case work are applied optimally. The following principles would assist in this:
 - cases should only be undertaken where there is a clear strategic merit and/or an issue of principle for older people generally;
 - cases should only be undertaken where there was no duplication of work being undertaken by another scrutiny body;
 - memoranda of understanding should be developed with other scrutiny bodies who could potentially undertake overlapping case work to ensure working arrangements and relationships are clear;
 - Advocacy – activity would include highlighting of issues, working with age sector NGOs, influencing of policy, identification of best practice in the treatment of older people;
 - Research and education – the capacity to commission research which could assist in identifying issues, challenge attitudes and perceptions, bring to the public arena and open up more informed debate. While an

educational role is appropriate some thought needs to be given as to the scope of this;

- Participation - engagement of older people in the work of the Commission was considered absolutely critical to the success and credibility of a Commissioner. The Commissioner should also seek to ensure that public bodies have appropriate mechanisms in place to facilitate the input of older people in considerations of future policy and planning;
- Awareness raising – This is an inherent part of the role and would include promoting the rights and interests of older people and in this respect bringing attention to the UN Principles for Older People, highlighting ageism and emphasising the contribution older people make to society; and
- there was a mixture of views with regard to a signposting role. Our conclusion however is the Commissioner should not be branded as a ‘first point of call’. Rather it would add greater value to older people through focusing its resources on its other roles while working and supporting others strategically to provide adequate signposting for older people.

With regard to extent of powers:

- the consultation events made clear there is a high expectation that the Commissioner’s roles and powers should, and indeed would, be wide-ranging and strong. This was linked with positive observations of Wales and the Children’s Commissioner and mixed observations regarding existing strategy and previous attempts at Champions for Older People within Government, especially pre-devolution;
- the potential impact of a Commissioner is highly dependent on the extent of the powers enshrined within the enabling legislation;
- a Commissioner with powers of investigation and casework, with sufficient capacity to undertake these, would add most value over existing advocacy and protection, offering greatest benefit in return to the cost invested in it;
- questions were raised within stakeholder consultations and consultation events as to limitations on powers. These questions relate to:
 - what powers would a Commissioner have with regard to the private, voluntary and community sectors;
 - what powers would a Commissioner have with regard to reserved and excepted matters, and if accountable to a local Department or Assembly what would be the mechanism for making representations to Westminster. For example the mechanism could be for the Commissioner to make representation to the NI Assembly, in the expectation that the NI Assembly will support the issue and make due representation to Westminster. It was noted that in the case of the Commissioner for Children and Young People the custom and practice

is for the NI Commissioner to make representation to Westminster through her English equivalent. While there is no direct equivalent for an Older People's Commissioner the principle of using a similar body e.g. the Equality and Human Rights Commission could be a viable option. There is a need for further consideration as to the treatment of reserved and excepted matters,

- powers with regard to policy areas for which other protection and scrutiny bodies have responsibility; and
- some raised these questions out of a concern that restrictions in scope will stop the Commissioner from attaining the holistic and strategic overview of issues affecting older people. This holistic overview is part of the rationale put forward for establishing such a Commissioner.

6.4 Working Relationships

With regard to working relationships:

- the Commissioner will need to work in close co-operation with other bodies that currently have investigatory powers that might overlap with the Commissioner for Older People (e.g. NIHRC, ECNI, Ombudsman, RQIA). Primary and secondary legislation should specify these working arrangements and additionally memoranda of understanding and /or protocols could be drawn up around operational matters. The implementation of the Welsh Commissioner for Older People has required similar consideration of working arrangements with existing bodies through legislation and memoranda; and
- care must be taken in how in practice a Commissioner would work with age related NGOs. A Commissioner's effectiveness will be somewhat dependent on an infrastructure that connects the Commissioner with older people. Relationships with NGOs will be important for this. There is also a need to act in complementarity and not duplicate efforts with regard to advocacy, research and awareness-raising within the sector.

6.5 Independence and Accountability

- the degree to which the Commissioner can act independently and be seen to act independently is a key factor in a Commissioner being able to fulfil his or her role;
- in Northern Ireland it was noted that the Departmental accountability model had been adopted in the case of the Northern Ireland Commissioner for Children and Young People, which was accountable to OFMDFM. This precedent was considered a natural possibility for the Older People's Commissioner;
- an advantage of OFMDFM sponsorship would be the proximity it would provide to the policy making Executive via the First Minister, deputy First Minister and Junior Ministers. It was noted that OFMDFM, while having

strategic policy responsibility, was not primarily a spending or service delivery Department;

- there were concerns however that the Commissioner should not be subject to a level of financial control that might affect its independence. In the case of the Commissioner for Children and Young People, the 2007 review proposed that OFMDFM's main method of oversight be limited to an observer role at the Audit and Risk Committee of the organisation and the Commissioner as Accounting Officer should attend these meetings. This was considered a method to "support and strengthen the arm's length relationship between the Commissioner and OFMDFM"⁴¹. This may be a consideration appropriate for an Older People's Commissioner;
- it was noted that the Commissioner for Older People in Wales is directly accountable to the Assembly. This is one approach to ensure independence but is not in line with the current approach to the Commissioner for Children and Young People which has the potential advantage that OFMDFM sponsorship offers through the proximity it would provide to the policy making Executive through the First Minister, Deputy First Minister and Junior Ministers; and
- whichever arrangement is ultimately chosen, clarity of independence and accountability is of paramount importance.

6.6 Other Considerations

With regard to other supporting infrastructure:

- an independent Commissioner model would work best if there was a supportive infrastructure of older people's champions at Ministerial and official level and with appropriate forum type arrangements in place to better channel the views of older people. Existing infrastructure / forum arrangement for older people were not considered adequate to fulfil this role at present. The infrastructure in Wales is considered to provide an example of good practice with regard to infrastructure.

With regard to co-location / shared services:

- the potential for co-location and sharing of back office services should be considered in the design of the office of a Commissioner. This would realise savings, particularly with regard to fixed-costs; and
- the physical relationship with other Commissioners could also assist with sharing of experience and good practice with regard to the skill-set required by a Commissioner and his or her team, in particular with regard to the challenging skills of investigation and casework.

⁴¹ OFMDFM – Review of the Commissioner for Children & Young People for Northern Ireland Final Report, page 45, 2007.

With regard to process:

- it is expected that older people will be involved in the recruitment and selection of the Commissioner. Legislation for the Welsh Commissioner required this and a protocol was worked out with the Commissioner for Public Appointments; and
- there is anticipation that the process of implementation would be aided by the opportunity to learn from the precedent set in Wales and in particular the relevant Welsh legislation, and the Northern Ireland Commissioner for Children and Young People. It is recognised that due Assembly process with implementation of legislation will be required and timescales will not be necessarily shortened.

6.7 Overarching Conclusion and Way Forward

Our overarching conclusion is that there is significant need and a strong case for establishing an independent Commissioner for Older People in Northern Ireland. This rationale is based on evident need identified in existing research, recognition of the challenges facing older people and the rights of older people in Government strategy and policy, review of arrangements in other jurisdiction, consultation feedback and a cost-benefit analysis of options.

Therefore we recommend that OFMDFM proceed with the development of an independent Commissioner for Older People in Northern Ireland. In doing so OFMDFM should pay due attention to the issues identified and conclusions reached in this report, in particular:

- the role, responsibilities and extent of powers of the Commissioner;
- working relationships between the Commissioner and others including scrutiny bodies, age sector NGOs and older people; and
- independence and accountability arrangements; and
- supporting infrastructure.