

Commissioner for Older People – Private Members Bill Scottish Parliament Consultation

SOCIAL WORK SCOTLAND RESPONSE

Closes: 23 October 2023

INTRODUCTION

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome this opportunity to comment on the consultation for the establishment of a Commissioner for Older People. The consultation document was considered by our care at home working group, which reports to the Older Adult Sub-Group. All of the participants are engaged and involved with service provision for older people primarily through the planning of community-based services.

Social workers are uniquely placed as a profession to offer insight and contribution to this consultation as social workers hold legal duties under the Social Work (Scotland) Act 1968 placing responsibility with them for assessing the needs of those in the local authority area. As such, we seek to support the effective interaction and joint working of partner professionals in the process of delivering services and interventions to adults and children under the auspices of the above noted legislation. Working within this multi-agency context, social work holds a duty to offer perspective to ensure that a Human Rights enabling and strengths-based approach is central to the delivery of services

CONSULTATION QUESTIONS

Aim and approach

1. Which of the following best expresses your view of the proposed Bill? Please note that this question is compulsory.

Fully supportive

An Independent Commissioner to promote and safeguard the rights and interests of older people in Scotland is welcomed. Other nations in the United Kingdom (UK) have already adopted this approach, Wales since 2006 and Northern Ireland since 2011.

The role of Independent Commissioner for Older People is to be a champion for older people who is specifically responsible for ensuring that their rights and interests are being observed and that any policies or government legislation takes account of their views and lived experience. Specifically, the role will

- Raise awareness of the interests of older people in Scotland and of the need to safeguard those interests.
- Promote the provision of opportunities for, and the elimination of discrimination against, older people in Scotland.
- Encourage best practice in the treatment of older people in Scotland.
- Keep under review the adequacy and effectiveness of law affecting the interests of older people in Scotland.
- Undertake investigations into how service providers take account of the rights, interests, and views of older people in the decisions they take and the work they do in relation to devolved matters.¹

All four nations of the UK now have Children's Commissioners. Having an Older People's Commissioner (Scotland) provides a critical role in championing the rights of older people in Scotland by amplifying the voice of older people voice, and tackling the age discrimination people experience in our society. This role also supports a holistic overview of the issues that are affecting Older People and supports opportunities to collectively challenge on-going concerns faced by our older adult population, and therefore the implementation of the Fairer Scotland for Older People A Framework for Action².

Annual reporting, detailing strategic priorities and main achievements is welcomed as this promotes best practice and building of a good evidence base to support further progress. However, we would urge Scottish Government to consider how it would make best use of the substantial amount of data already provided by Local Authorities, Health & Social care Partnerships and Health Boards before plans are set in place to make additional requests.

¹ <https://www.parliament.scot/bills-and-laws/proposals-for-bills/proposed-commissioner-for-older-people-scotland-bill>

² <https://www.gov.scot/publications/fairer-scotland-older-people-framework-action/documents/>

Social Work Scotland would like to take this opportunity to note our support for Age Scotland's Consensus Statement on an Older People's Commissioner for Scotland³

Our society is ageing, and policymakers should embrace this demographic shift. Currently in Scotland, over 1 million people are aged 65 or over. By 2030, 1 in 5 people in Scotland will be over 65. Growing older is a privilege, but an ageing population will require collaboration and joined-up thinking to deliver innovative policy solutions and meet the needs of the future.

The support people need in later life from institutions like the NHS, social care and social security systems are critical, but no single government department can respond to these issues alone. A commissioner would facilitate the long-term planning that is needed to ensure our economy and public services are adapting to demographic shifts, while also enabling more people to age well. This would not just benefit older people, but the nation as a whole.

A sharper focus on the range of experiences in later life is required. Not everyone enjoys a financially secure retirement – indeed an alarming proportion are struggling to make ends meet – and too often, older people's rights and interests are forgotten by decision-makers, particularly as we face unprecedented crises.

But there is an opportunity to fix this. Older people want to be part of the nation's vision, now, and in the future. As our older population becomes increasingly diverse, we believe that older people urgently need a champion to help make Scotland the best place in the world to grow old.

2. Do you think legislation is required, or are there are other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

As with other Scottish Parliament Independent Officeholders (Commissioner for Ethical Standards in Public Life in Scotland, Scottish Biometrics Commissioner, Scottish Commissioner for Children and Young People, Scottish Human Rights Commission, Scottish Information Commissioner, Scottish Public Services Ombudsman, Standards Commission

³ <https://www.ageuk.org.uk/scotland/latest-news/2023/may/older-peoples-commissioner/>

for Scotland), it is likely that additional legislation will be required to establish an Older People's Commissioner. Social Work Scotland is not aware of any existing legislation that could perform this function.

3. Which of the following best expresses your view on whether there is a need for a specific, dedicated Commissioner focusing solely on older people's rights and interests?

Fully supportive

The consultation document states that the work of the Commissioner would be informed by the views of older people, with an input from those organisations working with and for older people. The Commissioner would adhere to the principles of consultation, participation and accessibility when carrying out their duties. This would require the Commissioner to take steps to:

- Ensure that older people are made aware of the functions of the Commissioner and how the Commissioner may be contacted.
- Consult older people on the work to be undertaken by the Commissioner.
- Consult organisations working with and for older people on the work to be undertaken by the Commissioner.
- Prepare and keep under review a strategy for involving older people in the work of the Commissioner.

It is the view of Social Work Scotland that the breadth of the proposed functions is appropriate and appears to hold the necessary statutory duties to uphold the key purpose.

The proposal that the Older People's Commissioner would have a public facing role and to raise the profile of issues faced by our older adult population is supported. This would assist in raising public awareness and support to push forward progress by pulling all resources together to tackle issues jointly.

The Commissioner's capacity to scrutinise legislation in relation to the rights and interests of older people as well as carrying out post-legislative scrutiny is wholly supported as a means of ensuring that policy makers consider the rights and needs of an older and ageing population. However, as is the case in the rest of the UK, it will be important that any Older People's Commissioner for Scotland has a close and productive working relationship with all relevant bodies, and guards against duplication of effort. The report notes that the proposed Commissioner will have a close working relationship with the EHRC and the Scottish Human

Rights Commission, in our view this relationship will be essential to the success of the role of Commissioner for Older People.

4. Which of the following best expresses your view on the age range of the proposed Commissioner's remit covering all those in Scotland aged 60 and over?

Fully supportive

The consultation reports comments on Scotland and the UK's growing older adult population. Older age is a subjective construct which is dependent on different societies, contexts, and circumstances. Differences in ageing dependent on factors like poverty.

The United Nations defines older age as 60 plus, Wales and Northern Ireland have gone with aged 60 plus. Fairer Scotland for Older People defines this as 50 plus. Research elsewhere notes 65 plus as meeting older age criteria.

This paper proposes 60 plus and seeks views on this age proposal. The age range 60 and over appears reasonable and has been the age used within other UK nations.

5. Which of the following best expresses your view on whether the proposed Commissioner should hold powers of investigation?

Fully supportive

Please explain the reasons for your response including how the powers of investigation would work in practice.

We would note that an important aspect of the investigatory powers of the Children's Commissioner is that they cannot investigate if another avenue is open to the individual. It is our position that it would be useful to have a similar power for older people's commissioner.

We are wholly supportive of any investigatory powers having a specific regard for the Rights Interests and Views of older people as we do not believe that this aspect is reflected elsewhere within Scotland's regulatory framework.

6. Given a number of other bodies have similar functions to some of those proposed for the Commissioner, which of the following best expresses your view on whether the proposed Commissioner's work can avoid duplication with existing officeholders?

Tend to agree

It will be important that any Older People's Commissioner for Scotland has a close and productive working relationship with all relevant bodies, and guards against duplication of effort. The report notes that the proposed Commissioner will have a close working relationship with the EHRC and the Scottish Human Rights Commission. This close and collaborative working relationship needs to be established with all key stakeholders to foster a holistic/whole-system approach to upholding the rights of Older People.

A condition that the Commissioner for older people work closely with other commissioners to avoid duplication and particularly, where there are competing rights would also be useful.

7. Which of the following best expresses your view on whether the proposed Commissioner should be independent of Government?

Fully supportive

It is the view of Social Work Scotland that, like the Children & Young People's Commissioner, and the Human Rights Commissioner, this role should be independent of the Scottish Government to ensure that policy and practice across government considers the long-term needs of people in later life and the implications of our ageing population on society.

Financial implications

8. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

skip to next question

Equalities

9. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

skip to next question

Sustainability

10. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas?

skip to next question

General

11. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

skip to next question