

Proposed Commissioner for Older People (Scotland) Bill

Independent Age response

September 2023

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

[x] Fully Supportive

Please explain the reasons for your response:

At Independent Age, we believe it is necessary for older people in Scotland to have an independent voice to champion their needs, rights and interests. This is why we fully support the introduction of an Older People's Commissioner for Scotland. We therefore welcome the opportunity to respond to this consultation and to explain why we are supportive of the proposed Bill.

Prior to the announcement of Colin Smyth MSP's proposed Bill, Independent Age were calling for the establishment of an Older People's Commissioner for Scotland and welcome the Member's Bill proposal. ¹

The Covid-19 pandemic briefly brought to light some issues that older people in Scotland face including digital exclusion, access to food, social care packages and loneliness. However, despite this focus on older people in the media, and an increase in public awareness of these issues, many older people feel that their experiences are not on the agenda of decision-makers. Recent polling by Age Scotland found that just 8% of over 50s in Scotland felt satisfied that decision makers treat older people's issues with due consideration and only 3% felt it was easy to have their voice heard by decision makers. ² Older people in Scotland have told Independent Age that they feel forgotten, overlooked and undervalued, not only by decision-makers, but by society as a whole. Recent polling carried out by YouGov on behalf of Independent Age found that just under three quarters (72%) of older people in Scotland think the issues they face are badly understood by society. ³

We recently asked older people about the issues older people in Scotland face. They told us:

"Once people get to a certain age, they're not bothering about us"

"I see a lot of people my age becoming withdrawn from society. It's very easy to become withdrawn"

People in later life are not a homogenous group and there are many issues faced by those growing older in Scotland. To adequately address these varied issues, the experiences of older people from all walks of life must be fully understood and taken into consideration by legislators when developing policies and shaping public services. We believe a Commissioner would help bridge the gap between older people and the

¹ Independent Age, 'Not Enough to Live on: Pensioner Poverty in Scotland' report, Feb 2023

² Age Scotland survey finds two thirds don't feel valued | HeraldScotland – Age Scotland, Big Survey 2023

³ Independent Age, YouGov polling, August 2023

Scottish government; engaging directly with older people, listening to their concerns and working with decision-makers to improve the systems to make Scotland the best place to grow old.

While we each have our own idea of what a good later life looks like, too many people have told us that as they age they are not living the lives they expected and hoped they would. The reality is that many older people across Scotland are constrained by factors outside their control. They lack the freedom to carve out their later years as imagined. Whether this is due to living on a low, fixed income which doesn't adequately cover basic costs or because they live in a home which does not suit their needs, older people have told us they feel left behind and forgotten about. At Independent Age, we believe that a Commissioner highlighting the interests of older people, making policy recommendations and reviewing government policies and legislation would make a real impact, making people in later life feel valued and helping us all look forward to a good later life by ensuring that the needs of older people are considered and acted upon accordingly.

There is substantial support across Scotland for an Older People's Commissioner:

In May of this year, Independent Age brought together organisations working on a range of issues that affect older people to show their support for an Older People's Commissioner. With the support of 35 charities from across the third sector in Scotland, we outlined why older people need an independent voice to represent them across government and parliamentary bodies.

All 35 organisations supported the below statement:

'We call on the Scottish Government to establish an Older People's Commissioner for Scotland to act as an independent champion for older people and ensure that policy and practice across government considers the long-term needs of people in later life.'

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 crisis.

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.'

Like the issues faced by people as they age, the organisations who backed the call are varied and wide-ranging, including local older people's charities, organisations who work to tackle loneliness and digital inclusion, health and social care organisations and food insecurity enterprises. Together, we united behind the call for a Commissioner because we believe this is one of the key actions required to better the lives of Scotland's older population now and in the future.

In addition to the third sector consensus on this issue, there is substantial public support for the establishment of an Older People's Commissioner for Scotland. Independent Age polling carried out in April of this year found that **9 in 10 (89%) people aged 65 or over in Scotland support appointing a Commissioner.** ⁴ Additionally, polling by Age Scotland found 7 in 10 (71%) respondents of all age groups were in favour of the establishment of a Commissioner. ⁵ The same polling found that 7 in 10 people aged between 18-24 were supportive. ⁶ Age Scotland's 2023 Big Survey results showed that 8 in 10 people aged over 50 in Scotland support a Commissioner, with just 3% opposing. ⁷

When we asked older people if they thought a Commissioner could make a difference to their lives. They told us:

"It probably would help, yes. The worry is the difficulty getting something like this off the ground."

"They're not paying attention to the over 60s"

"We need a champion"

How a Commissioner could assist the Scottish Government to better the lives of Scotland's older population:

As highlighted throughout this consultation response, the issues older people in Scotland face are wide ranging. Although the responsibility for older people officially sits under the remit of the Minister for Equalities, Migration and Refugees, the policy areas that impact older people span numerous Scottish Government Directorates and Cabinet Secretary remits. For the Scottish Government to work best for older people living in Scotland each

⁴ Independent Age, YouGov polling, November 2022

⁵ Age Scotland, YouGov polling, 2022

⁶ Ibid.

⁷ Age Scotland, Big Survey, 2023

department within the Scottish Government must coordinate with each other. The role of the Commissioner gathering insight into what older people need, and sharing this across Government departments to help deliver robust policies which are suited to the needs of older people, could help facilitate this coordination.

Why the right time to introduce an Older People's Commissioner for Scotland is now:

The population of Scotland is ageing. Currently, over one million people are aged 65 or over – around a fifth of the population. ⁸ This is projected to rise to one in four people by 2040.⁹ This changing age demographic requires innovative policy solutions to ensure that the needs of everyone in our society are being met properly as they grow older. Much like the Children and Young People's Commissioner the Older People's Commissioner would cover a broad set of issues from a cross section of society, tackling problems across the board which people might face in later life.

The Older People's Commissioner for Wales was introduced in 2008 and the Commissioner for Older People for Northern Ireland has been in place since 2011. Both play important roles in advocating on behalf of older people across the nations. Older people's organisations have found the creation of the post in Wales to be very successful. Dereck Roberts, Chairperson of the National Pensioners Convention Wales told Independent Age that his organisation enjoys regular meetings with the Older People's Commissioner for Wales, where they can raise issues that affect older people in the nation. ¹⁰ The same group cited the importance of having a Commissioner during the Covid pandemic and the support they received from the current Commissioner during this crucial time. ¹¹

Given that the other devolved nations of the UK have had an Older People's Commissioner in place for many years and there is substantial support for the creation of a commissioner for England, we feel that without the introduction of a Commissioner for Scotland, older people in Scotland are at risk of being left behind.

Independent Age's latest commissioned polling from YouGov, carried out in August 2023, found:

- Almost **three-quarters of older people** in Scotland think that older people are **badly understood** by the Government.
- **77%** of older people feel the issues facing older people are **represented badly in government.**

One older woman recently told us:

"We're not heard by the Government. They're not interested in us. They are just waiting for us to die"

⁸ National Records of Scotland, mid-year population estimates for Scotland, 2021

⁹ Projected Population of Scotland, ONS (2020-based)

¹⁰ Independent Age, 'Who wants to listen to me? Why England needs a Commissioner for Older People and Ageing' report, September 2023

¹¹ Ibid

Older people in Scotland need a voice for later life. The establishment of an Older People's Commissioner will provide older people with an independent champion who will advocate for people in later life on a national platform.

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.

We believe it is necessary that the role of the Older People's Commissioner for Scotland is established in primary legislation. Establishing the Commissioner on a statutory basis will clearly lay out the remit and powers of the role and ensure that any proposed changes to the role will be consulted upon via parliamentary process. Additionally, it is important for older people to know that the Commissioner's authority will be taken seriously and respected by policy makers – having the responsibilities and the scope of the role entrenched in legislation will help cement this and validate the Commissioner's functions.

The Children and Young People's Commissioner for Scotland was established through the Commissioner for Children and Young People (Scotland) Act 2003 and the powers were subsequently strengthened by the Children and Young People (Scotland) Act 2014. The functions of the Children and Young People's Commissioner are clearly entrenched throughout these pieces of legislation, the former of which we believe should be the legislative blueprint for Scotland's Older People's Commissioner. It would also put the role on equal footing with the Older People's Commissioner for Wales and the Commissioner for Older People for Northern Ireland.

Legislating for an Older People's Commissioner would also ensure a legacy and mean that older people have an independent voice and champion under future Scottish Government administrations.

Over the past decade there has been some confusion among older people in Scotland regarding who represents their interests in Government. In May 2012 the call for a Scottish Minister for Older People was rejected by the Public Petitions Committee.¹² Our understanding is this was due to the consensus that because the responsibility for older people fell under the remit of the then Cabinet Secretary for Health, Wellbeing and Cities Strategy, committee members did not want the interests of older people to be diluted if there was a separate minister.¹³ Despite this view being communicated by the Committee, the role of Minister for Equalities and Older People was instated a few years later in 2018. This came alongside the decision to move the responsibility for Scotland's older population from under the Cabinet Secretary for Health and Wellbeing to the Cabinet Secretary responsible for Social Security. While the Cabinet Secretary position briefly held 'older people' in the title – Cabinet Secretary for Social Security and Older People – this was changed again in 2021 with the titled removed.

Additionally, in March of this year, older people were removed from the title of the role for Minister of Equalities. Led by Age Scotland, Independent Age joined 20 organisations in a call on the Scottish Government to reinstate a named Minister for Older People.¹⁴

¹² Petition PE1419, [Meeting of the Parliament: nzet/20/03/2012 | Scottish Parliament Website](#)

¹³ Ibid.

¹⁴ [Reinstating a Minister for Older People | Age Scotland \(ageuk.org.uk\)](#)

We agreed that the issues faced by older people are too complex to be included within the responsibilities of a minister with such a vast portfolio including the responsibility for refugees, migration, LGBTI issues, among others.

The ministerial responsibility for older people appears to have changed each time there is a Cabinet re-shuffle. Perhaps this could be because the issues older people face, and the variety of their needs, are so wide that even the Government cannot decide where responsibility should sit. At Independent Age we believe the breadth of challenges faced in later life are too much for one Minister's remit. By having one person responsible for older people (as well as multiple other areas) there is a significant risk that Ministers in other departments (e.g. Housing, Social Care, Mental Wellbeing and Sport, Public Health and Women's Health, and Zero Carbon Buildings, Active Travel and Tenant's Rights) will feel they don't have the remit to focus on an agenda that improves life for older people, and instead they may feel forced to pass any issues that touch on older people back to the Minister for Equalities, Refugees and Migration.

Independent Age believe an Older People's Commissioner - established on a statutory footing - would work with Ministers and civil servants across government to represent older people in each area where their interests lie and on the policies which will impact them. This role would be a collaborative convener, supporting Ministers in every relevant department to understand the challenges that need to be tackled and the hugely positive difference each directorate could make. By establishing a Commissioner through legislation this would safeguard the role and ensure older people have an independent voice regardless of administration or other political events.

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?

[x] Fully Supportive

Please explain the reasons for your response, including your views on the list of proposed functions set out between pages 29 and 32 of the consultation document, and any additional functions you think the commissioner should have.

While the issues faced by older people in Scotland are multifaceted, Independent Age believe there is a strong specific need for a dedicated Commissioner for older people.

The issues faced by older people in Scotland:

- Currently, over one million people are aged 65 or over in Scotland – around a fifth of the population.¹⁵ This is projected to rise to one in four people by 2040.¹⁶ This change in demographics requires innovative policy solutions to ensure that the needs of the older people in our society are being met properly, both now and for the future.

¹⁵ National Records of Scotland, mid-year population estimates for Scotland, 2021

¹⁶ Projected Population of Scotland, ONS (2020-based)

- Despite 150,000 older people (1 in 7) currently living in poverty, pensioner poverty is a hidden crisis in Scotland and is an issue which is rarely mentioned by policy makers.
- Some older people in Scotland are living in homes which are unaffordable and do not fully suit their needs as they age.
- Many older people in Scotland live in low fixed incomes, yet they do not receive the social security payments they are entitled to, such as Pension Credit.
- Older people in poverty across Scotland are facing high household costs which are forcing them to cut back on essentials, however many miss out on financial support and social tariffs to help them bring down their bills.
- Older people are the largest users of social care and the NHS, many living with long term conditions and disabilities. A significant proportion of older people also have caring responsibilities which can have a significant financial and health impact.

A Commissioner could help lower pensioner poverty in Scotland:

Currently, across Scotland, one in seven pensioners live in poverty – a total of 150,000 people and 15% of Scotland’s older people. ¹⁷ Older people are more likely to live below the poverty line if they live alone (1 in 5) or if they privately rent their home (4 in 10). ¹⁸

As the national charity for older people facing financial hardship, our Independent Age advisers hear from people in later life who are struggling to meet the costs of necessities. The people who reach out to our organisation are often on low and fixed incomes, with many people relying on the State Pension alone.

Polling by Independent Age carried out in May of this year found that just under one third (30.3%) of over 65s living on an annual household income of less than £15,000 can only just afford their essentials and often struggle to make ends meet. ¹⁹

While the State Pension and Pension Credit are reserved issues, we believe that a dedicated Commissioner could work with the Scottish Government to develop a strategy to increase benefit up-take. Most recent statistics for Pension Credit up-take estimate it to be 66% in Scotland. Polling by Independent Age found that while almost one third of older people (31%) surveyed had heard of Pension Credit, they had no knowledge about it. ²⁰ Our calculations show that if Pension Credit uptake in Scotland was 100%, 38,000 older people would immediately be lifted out of poverty.

The Commissioner for Wales hosted a Pension Credit Summit in December 2022 which brought together a wide range of individuals and organisations from across Wales to determine the best ways in which to increase Pension Credit uptake in the nation. Data from the DWP showed that the number of new Pension Credit claimants in Wales was over one quarter (26%) higher during this period compared with the average per quarter over the previous two years. ²¹ Raising awareness of social security entitlements and

¹⁷ HBAI

¹⁸ HBAI

¹⁹ Independent Age, YouGov polling, May 2023

²⁰ YouGov/Independent Age polling, Nov 2022

²¹ Independent Age, ‘Who wants to listen to me? Why England needs a Commissioner for Older People and Ageing’ report, September 2023

getting the money into the hands of those entitled is a step towards tackling pensioner poverty in the nation, and as experience in Wales has shown, it is just one example of the vital role an Older People's Commissioner can play. This is covered in the first key function of the Commissioner set out on page 29 of the consultation document: 'promote awareness of the rights and interests of older people in Scotland and of the need to safeguard those interests'.

We asked older people if they thought a Commissioner could help reduce poverty among older people in Scotland. They told us:

"The government should be really doing more for pensioners, even a tenner a week makes such a difference. To help people live."

A Commissioner could help increase the quality of older lives by helping to tackle health and wellbeing inequalities:

Living on low, fixed incomes is having a negative impact on the health and wellbeing of Scotland's older population. Polling by Independent Age found that almost half (45%) of older people living on an annual household income of less than £15,000 are worried about not being able to meet food and drink payments when considering their financial situation over the next 6 months.²² The same poll found that many older people (40%) were already cutting back on costs of food and drink and 12% were skipping meals.²³ Those who are managing to scrape by and not fall behind on food payments have told us that they are doing so by relying on foodbanks, like Eddie who is in his late 60s. Eddie, who has ongoing health worries, is struggling to afford the healthier foods recommended to him by his doctor. He visits a foodbank fortnightly, despite trying to find the cheapest healthier options in the supermarket.

Eddie said: ***"We don't like going [to the food bank] every week. Being honest, all my life I've never been someone to rely on somebody else. You never think when you're younger, that when you get older, things are going to change. It actually feels embarrassing."***²⁴

With the number of pensioners living in poverty in Scotland increasing by 25% since 2012, combined with the current cost of living crisis, we know that older people's health is suffering due to issues such as malnutrition. Research by the Food Train estimates that up to 30% of older people in Scotland are at risk of, or are suffering from, malnutrition.²⁵ Independent Age polling found that over one third (36%) of low-income pensioners in Scotland changed their food shopping habits last winter to reduce costs, including buying less meat and less fresh food. The same polling showed 18% had reduced portion size of meals.²⁶

Without strategic, long-term policies designed to combat pensioner poverty, the issue of poverty related ill-health among Scotland's older population will continue to grow. We

²² Independent Age, YouGov polling, May 2023

²³ Ibid

²⁴ Independent Age, 'Not Enough to Live on: Pensioner Poverty in Scotland' report, Feb 2023

²⁵ ['The Hidden Problem', Eat Well to Age Well Impact and Learning report, 2018-2020](#)

²⁶ Independent Age, YouGov polling, May 2023

believe that establishing a Commissioner who will champion older people's rights could help to substantially reduce poverty among those in later life in Scotland, leading to improved lives and less pressure overall on healthcare systems.

A Commissioner could help the Scottish Government reach its goals of eradicating fuel poverty:

We hear from older people who tell us that over winter, the only way they keep warm is to stay in bed all day under the covers. Polling by Independent Age found that over half (55%) of older people living in Scotland on a low income reduced heating usage in their home over the last winter to help manage the cost of living, with 19% already doing this before the beginning of winter to save money.²⁷ The same poll found that over half (54%) of over 65s in Scotland living on less than £20,000 per year are worried that they will not be able to meet payments for their gas or heating bill when considering their financial situation over the next 6 months.²⁸

Independent Age welcome the Scottish Government's goal of reducing fuel poverty to no more than 15% of households by 2030 and 5% by 2040. However, currently in Scotland 19% of older households are estimated to live in fuel poverty, with 11% living in extreme fuel poverty.²⁹ To significantly reduce fuel poverty across Scotland, older households must be taken into consideration by the Scottish Government when developing policies.

An Older People's Commissioner could advise the government on what would improve the situation for older people who own the home they live in. Conversations with older people in this situation will demonstrate they don't always have the money to make their more homes energy efficient without substantial financial aid. A Commissioner could seek out insight directly from older people and use this knowledge to make informed recommendations to Government. This will ensure that older people in Scotland can access the help they need to ensure their homes are more energy efficient and warmer for winter, while allowing the Scottish Government to meet statutory zero-carbon targets simultaneously.

A Commissioner could help facilitate the long-term planning needed to deliver adequate housing to suit the housing needs of Scotland's older population:

Older people's voices are often excluded when it comes to the planning and development of homes.³⁰ The Scottish government recommends and encourages that new homes should be accessible and adaptable to meet the needs of older people.³¹ It does not, however, explicitly insist that a certain percentage of new housing should be suitable for older people.³² While there should never be a one-size-fits-all approach to the housing needs of older people, their needs should be taken into consideration to ease the process of growing older at home, particularly given Scotland's ageing population.

²⁷ Independent Age, YouGov polling, May 2023

²⁸ Independent Age, YouGov polling, May 2023

²⁹ Scottish House Condition Survey, 2021

³⁰ Sixsmith J, Fang ML, Woolrych R, Canham SL, Battersby L, Sixsmith A. "Ageing well in the right place: partnership working with older people," Working with Older People (2017); 21:1

³¹ Scottish Government, Age, Home and Community: A Strategy for Housing for Scotland's Older People: 2012-2021, (2011)

³² Fyfe, A., Hutchison, N., and Squires, G., "The role of the state in encouraging the supply of senior housing: a looming welfare crisis?," Property Management (2023)

Older people from across Scotland have told Independent Age that they live in homes which do not meet these needs.

"I know if I complain to my landlord, it will get me nowhere but homeless".

"My home is never warm; the heating system seems ineffective. There is a smell of damp in the winter months. There is a huge opening in the back wall where the boiler is located. The wind whistles into the flat... I'm living in a property that has not been improved or renovated in over twenty years."

An Older People's Commissioner could bridge the information gap on what older people need from their homes and would inform policy makers in this field about what solutions are needed to meet the housing requirements of older people in Scotland now and for future older generations. A Commissioner would ultimately work with the Government to inform housing policy which would encourage best practice in the treatment of older people, keeping under review the effectiveness of laws affecting the interest of people in later life, and supporting the elimination of discrimination against older people in Scotland.

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?

[X] Fully supportive.

We agree that the Commissioner's remit should cover all people aged 60 and over in Scotland.

While there is no universal definition of an 'older' person, there is a general acceptance across Scotland that 'older' people can be defined as those who are State Pension age and above – in the UK this is currently people aged 66 years and over.

However, in many instances in Scotland those over 60 are already viewed as 'older'. One example of this is gaining access to new benefits including a pass for free bus travel when turning 60 years old. Additionally, until 2010, women in the UK received their State Pension at 60 years old. It is also important that the group aged 60 and over are the focus so that the policy makers design policies that help people at an earlier point, solving problems early and resulting in people spending their later years in a more fulfilling and dignified way.

Scotland's ageing society means that the number of those approaching State Pension age is expanding. Currently, one quarter (26%) of Scotland's population is aged 60 years or over.³³ This is projected to rise to one third by 2050.³⁴ It is important that the OPC represents those aged 60 and above because many of the economic, societal and health and social challenges are already embedding when people are in their 60s. This is particularly the case in areas which have higher rates of poverty. Health inequality statistics show the impact poverty can have on older people's lives across Scotland. Men

³³ National Records of Scotland, mid-year population estimates for Scotland, 2021

³⁴ ONS, 2020-based Interim National Population Projections

who live in Scotland's most deprived areas have a life expectancy of just 68.6 years old, 13.7 years lower than men living in the least deprived areas.³⁵ For women, the difference was 10.5 years, with a life expectancy of 75 years for those in the most deprived areas compared to 85 in the most affluent.³⁶

The UK Government have confirmed that the State Pension age will rise from 66 to 67 by 2028, with further review to reconsider this rise to 68.³⁷ We do not believe that the scope of the proposed Commissioner's remit should correlate with the State Pension age.

The legislation of the devolved governments that established the roles of the Older People's Commissioner for Wales and the Commissioner for Older People for Northern Ireland each define 'older person' to mean anybody aged 60 and above.

Independent Age agree that the age range for the proposed Commissioner's remit should cover those in Scotland aged 60 and over.

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

[x] Fully supportive

We are fully supportive of the proposal for the Commissioner to hold powers of investigation.

At Independent Age, we believe an OPC for Scotland should have powers across four key areas: information, investigation, publicity, and recommendation.

A key role of an OPC is to highlight wrongdoing and ensure that people in later life can voice their concerns. There may be some parties with an interest in underplaying issues, so it will be important for the Commissioner to have powers that allow them to require information and cooperation so they can investigate any potential issues or malpractice.

Currently the Children and Young People's Commissioner in Scotland holds powers of investigation under the Children and Young People (Scotland) Act 2014. Ensuring the Older People's Commissioner has these powers would ensure equity and consistency across age-specific commissioners in Scotland.

We do not however recommend the OPC for Scotland carries out individual casework, but instead focuses on conducting investigations that impact the wider population. This would be a difference to the OPCs in Wales and Northern Ireland, which both deal with individual cases. This is so the OPC in Scotland has more time to focus on addressing macro policy challenges, similar to the general investigations carried out by the Children and Young People's Commissioner in Scotland which are only carried out if the case has significance to younger people generally or particular groups of young people.

³⁵ National Records of Scotland, Life Expectancy in Scotland, 2019-2021

³⁶ Ibid.

³⁷ [State Pension age Review 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/state-pension-age-review-2023)

It will be important for the OPC to have powers that ensure they can publicise their findings and share recommendations with Government and public bodies. The OPC should have powers that allow them to produce reports on issues that have come to their attention. This could include both annual reports, as well as reports based on specific inquiries, such as those produced by the OPCs in Northern Ireland and Wales.

To ensure Government takes the OPC's reports and recommendations seriously, there should be a statutory requirement for the Government to respond within a specified period so that issues raised are addressed.

In short, we think an OPC should have the following powers:

- **Power to gather data and make it public**, including the power to impose a duty on public sector bodies to make information available to them.
- **Power to call a statutory inquiry and compel people to give evidence**, without needing to seek permission or resource from any government department.
- **Power to enter any premises** other than a private dwelling for the purpose of interviewing an older person accommodated or cared for there (with their consent).
- **Power to publish independent reports under their own authority**, including a statutory requirement that government and public bodies should respond within a specified period. If a public body fails to respond by the specified time, the OPC should be permitted to publish their dissatisfaction.
- **Power to issue guidance to public bodies to change practice** and require changes be implemented to address any problems identified.

In addition to these powers, an OPC would also:

- **Promote the interests of older people**, especially the most disadvantaged. It will be particularly important for the OPC to advocate for, and represent, disadvantaged and seldom heard older people, including those experiencing financial hardship.
- **Engage with older people to understand their views and experiences**, for example through engaging with people on a one-to-one basis or through conversations with community groups. The OPC should make a proactive effort to engage with older people from a range of backgrounds, including people in later life who are experiencing financial hardship. This insight gathering should inform the OPC's recommendations, consultation responses and publications. Public engagement forms a core part of the role of the OPCs in Wales and Northern Ireland. For example, between April 2021 and April 2022 the OPC in Wales held or attended 45 engagement sessions to hear directly from older people – 595 people took part in these sessions in total.³⁸
- **Challenge ageism and discrimination** against older people, and raise awareness of the impact of discrimination, especially on the most disadvantaged older people.
- **Produce reports and research** into any matter relating to the interests of older people. This research could be carried out individually, or with other OPCs in the UK if appropriate.
- **Promote best practice** in the treatment of older people, especially the most disadvantaged.

³⁸ OPC for Wales, Annual Report and Financial Statements, 2021-22

- **Review government policies and legislation** affecting the interests of older people and make recommendations. Again, a key role for the OPC in Scotland will be in promoting the interests of the most disadvantaged older people, including those experiencing financial hardship or living in inadequate homes.
- **Carry out awareness raising work** on any matter relating to the interest of older people.

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?

[x] Strongly agree

Independent Age believe that duplication of effort with existing officeholders can be avoided for the role of an Older People's Commissioner. As is indeed already the case with the efforts of the Children and Young People's Commissioner in Scotland with existing bodies – such as the Scottish Human Rights Commission.

The role of an Older People's Commissioner is much broader than human rights. As set out above in response to question 5, an Older People's Commissioner would promote the interests of older people, engage with older people, review government policies and legislation and carry out awareness work. This goes further than human rights issues alone and is much broader than the work of existing bodies.

Co-operation between bodies that have a duty to promote the rights and interests of particular groups in Scotland is essential to avoid duplication. Independent Age believe that the ways of working by existing commissioners should be considered and learnings gathered from this.

As set out in the consultation document, in Wales the Older People's Commissioner can use its power to investigate an issue before calling for further action to be taken by the Equalities and Human Rights commission. Independent Age agrees this is an example of successful cooperation, where the work of an Older People's Commissioner can support and supplement the work of existing bodies.

Indeed, in the current Scottish Government consultation for a new Human Rights Bill there are proposals to mirror new powers given to the Scottish Human Rights Commission to the Children and Young People's Commissioner. Collaboration between bodies that promote the interests and rights of rightsholders in Scotland will support creating a Scotland where human rights are upheld.

Independent Age believe that our ageing population requires an independent voice in the form of a commissioner, filling a current void in the commissioner landscape in Scotland. Fears of duplication should not be a barrier to this as we believe any potential duplication can be mitigated against and avoided.

Not only would there be little duplication of the functions of existing bodies, the remit of the Commissioner would also be broad enough that it would cover areas in which no existing body currently represents. Problems which currently do not receive the attention

needed to tackle them, could be highlighted by the OPC - for example, domestic violence in later life.

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

[x] Fully supportive

Independent Age is fully supportive of the proposed Commissioner being independent of Government. One older person we spoke to about the creation of an Older People's Commissioner for Scotland said it:

"Would be amazing – having somebody that's independent of Government"

As set out by the Institute for Government 'Commissioners must be able to investigate without needing to seek permission or resource from their sponsor department; be able to publish reports under their own authority; and have a direct link to parliament, particularly relevant committees.'³⁹

Establishing an OPC in primary legislation is essential to ensure independence and we welcome the intent of this Member's Bill to do exactly that. Establishing a Commissioner on statutory basis helps reinforce the independence and reassure external groups and interested parties that the role will be taken seriously by Government.

Some commissioners in the UK have to submit reports via their sponsor department, which in many cases will be the department whose performance they need to critique, before they go to parliament, which raises questions about their independence. Independent Age believe it is essential that the Commissioner is able to action their duties independently without interference and should be accountable to the Scottish Parliament rather than the Scottish Government – as is the case with the Children and Young People's Commissioner.

We believe that an Older People's Commissioner's office should be set up in a similar way to the Children and Young People's Commissioner, receiving support from the Scottish Parliament Corporate Body - who support independent office holders. This would include having an independent premises and being funded through the Scottish Parliament Corporate Body.

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?

[X] a significant reduction in costs

A significant reduction in costs

³⁹ [how-to-be-effective-commissioner.pdf \(instituteforgovernment.org.uk\)](https://www.instituteforgovernment.org.uk/resources/reports-and-publications/publications/how-to-be-effective-commissioner.pdf)

Independent Age believe that the cost of running the Older People's Commissioner's office could over time result in significantly higher savings for the public purse. Using the budget of the Children and Young People's Commissioner as a proxy for cost of establishing an Older People's Commissioner this would amount to £1.5m per annum. This is only 0.003% of the Scottish Budget for an intervention that aims to improve the lives of the one-million older people in Scotland.

In Scotland we have an ageing population, and an ageing population requires innovative policy solutions. The support a growing number of people in later life need from institutions like the NHS and social security system are critical, but no single government department can respond to these issues alone. The Commissioner's office through their investigation, publicity and recommendations would ultimately support the Scottish Government to co-ordinate policy interventions, spotting inefficiency and saving money over the longer term. For example, policy recommendations from the Commissioner to improve the living conditions of older people could result in longer term savings for health and social care spending associated with poverty and poor housing.

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.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

Independent Age cannot foresee circumstances that would cause the proposal to have a negative impact on different individuals or groups of individuals. In contrast, an Older People's Commissioner would be positive for older people from diverse groups, particularly those older people who are at a higher risk of discrimination and who are seldom heard.

An important role of an Older People's Commissioner is to seek out diverse experiences and views, and feed them into government to ensure that these voices are not overlooked and hidden. This is particularly important when it comes to people in later life, where so many assumptions are made about their situations, for example that everyone in older age is a home owner, with savings. A Commissioner could draw attention to those groups less likely to be heard in the debates, but who are often having a less fulfilled later life, including women, private renters, people from minoritised ethnic communities, carers, people with long term health conditions and disabilities. A Commissioner would help ensure that policies across Scotland better support our diverse community in later life.

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?

Independent Age believe the Commissioner's role would be driven by the mission of creating a better later life for older people now. This means any changes associated with

the work of the Commissioner would play a part in creating a healthier, more just society for not just the older people of today, but also tomorrow.