

Finance and Public Administration Committee Consultation Scotland's Commissioner Landscape: A Strategic Approach

Independent Age response

March 2024

About Independent Age

Independent Age is the national charity for older people living in poverty.

Our helpline and expert advisers offer free, practical support to older people without enough money to live on. Through our grants programme, we support hundreds of local organisations working directly with older people across the UK.

We use the knowledge and insight gained from our support services and partnerships to highlight the issues experienced by older people in poverty and campaign for change.

We believe no one should face financial hardship in later life.

Response

Independent Age welcome the opportunity to respond to the Committee consultation into the Commissioner Landscape in Scotland. As acknowledged by the Committee, there are currently proposals to introduce an Older People's Commissioner (OPC) for Scotland. Whilst Independent Age support the proposal to create an OPC, we recognise that the remit of the Committee consultation does not extend to considering the merits of proposals for individual commissioners.

Our submission to the consultation sets out: why a commissioner is the preferred model to best support and protect older people's interests and rights; the growth in support for an Older People's Commissioner; the wider positive economic impact of commissioners; and what the role of a commissioner and the oversight arrangements should be.

1. Why is the Commissioner model chosen over other approaches, such as a public body or government department, and why do you consider there has been such a growth in Commissioners in recent years?

The Commissioner model

At Independent Age, we believe that older people and their interests must be adequately represented both within the Scottish Government and by an independent voice and champion, in the form of a commissioner.

The issues faced by older people are multifaceted and require the attention of multiple government departments, from social justice to health and transport. Our recommendation to create an Older People's Commissioner (OPC) is based on the need to create a long-term independent advocate and champion for older people. The independent role of a commissioner for older people (or a commissioner advocating for any group) should not compromise, or be seen to be a replacement for, investment or expansion of government structures that also affect that group.

Independent Age believe the independent Commissioner model has key benefits. Independent commissioners have a unique standing in public life, fostering the ability to reach many groups who are seldom heard and underrepresented. The independence of commissioners is essential in guaranteeing their ability to be an advocate for older people (or whatever group said commissioner represents) without fear or favour. Independent Commissioners can be powerful independent figureheads, amplifying the voices of specific groups and advocating for their interests.

It is essential that people who develop policies and shape services fully understand and consider the issues older people face, if they are to adequately address the multifaceted challenges people from all walks of life experience as they age. An OPC would work with Ministers and civil servants across government – as well as with businesses and public services – 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.

Another benefit of the Commissioner model is that it safeguards the continuity of an independent advocate for a particular group or issue regardless of future government administration or other political events. For example, Ministerial roles or titles may change in political re-shuffles and issues or groups of people can be seen to be deprioritised.

Growth of support for an Older People's Commissioner

Scotland's population is ageing quicker than elsewhere in the UK. Currently, over one-million people are over 65, around a fifth of the population, with this projected to rise to 1 in 4 by 2040.¹ As well as an ageing population, the issues faced by older people are becoming ever more acute – with rising pensioner poverty, a lasting impact of COVID-19, and feelings of being badly represented and understood.

There have been ongoing campaigns over recent years for an OPC in Scotland, with current proposals for a Members' Bill from Colin Smyth MSP and a previous Members' Bill, that did not pass, by Alex Neil MSP in 2006.

Our research found that almost three-quarters (74%) of older people in Scotland think that older people are badly understood by the Government. Whilst almost three quarters (72%) of those aged 65 and over think the issues they face are badly understood by society. An overwhelming majority (89%) of older people also support the idea of creating a commissioner.² An Older People's Commissioner could have a positive impact on all of us as we move towards later life, with public support for a commissioner for older people not just limited to older people themselves. Age Scotland found that seven in 10 people of all ages support creating the role.³

Alongside this public support, in May 2023, over 35 organisations working on a range of issues that affect older people joined together to back the call for an Older People's Commissioner. The organisations supporting the creation of an OPC include Age Scotland, the ALLIANCE, Carers Scotland, Cruse Bereavement, RNIB, Scottish Care, the RCN and Fuel Poverty Action.

Currently, Wales and Northern Ireland both have Older People's Commissioners who are recognised to have been successful in advocating for older people (whether through the interventions around Do Not Resuscitate orders in Wales at the start of the pandemic or the Make the Call campaign in Northern Ireland). In Scotland, we have had an effective Children and Young People's Commissioner since 2003, and now is an opportunity to ensure there is an independent advocate for people in later life too.

Whilst there may be pressure on resources, we believe the need for, and impact of, an OPC warrants the investment required – whether this be the investment in the costs of

¹ [National population projections: 2020-based interim](#), Office for National Statistics

² YouGov plc survey on behalf of Independent Age. Total sample size was 569. Fieldwork was undertaken between undertaken 1 – 11 September 2023.'

³ Age Scotland, 2022

the office bearer or additional resources required for accountability functions such as the Scottish Parliamentary Corporate Body (SPCB).

2. What are the implications of this growth on Scotland's finances, other organisations and wider society?

Finances

At Independent Age, we believe long-term strategic planning is required to meet the needs of an ageing population. A commissioner could play an important role in directly engaging with older people and taking a long-term strategic view across policy areas, to propose solutions that will positively impact Scotland's future finances and wider society.

The creation of a commissioner role should not just be considered in terms of the initial monetary output required but also the wider social and economic returns that effective commissioners can create.

For example, currently only 63% of older people eligible for the social security payment, Pension Credit, are receiving it – meaning over £100m goes unclaimed each year by older people in Scotland. Independent Age estimate that if Pension Credit uptake was 100% in Scotland, overnight 38,000 older people would be lifted out of poverty. Low uptake of social security also has wider repercussions for other areas of government spend. Through research we commissioned in 2020 with Loughborough University, looking at data for 2017/18 when £2.1 billion of Pension Credit was not received by those eligible in the UK, the increased cost to health and social care spending could have been £4 billion a year across the UK (or an estimated £320m in Scotland).⁴

Commissioners have shown they can play a key role in driving social security uptake in groups that are not currently being reached. In Wales, the Older People's Commissioner campaigned to improve Pension Credit take-up. As well as calling on the Welsh Government and the UK Government to do more to increase take-up, the Commissioner also reached out directly to older people and provided practical information through a flyer that went out with the renewed bus passes. Data from the Department of Work and Pensions (DWP) showed that the number of new Pension Credit claimants in Wales was 26% higher during this period compared with the average per quarter over the previous two years.

In Northern Ireland, the Older People's Commissioner was instrumental in promoting the Make the Call campaign, which connects individuals to benefits advisers who provide a full assessment of their entitlements. The Commissioner worked closely with the Department for Communities, targeting older people in promotion activity. The Commissioner was a public figurehead for the campaign, including appearing on TV and radio. It was key that the Commissioner was independent, and one step removed from the Department for Communities, giving older people reassurance this was a service they could trust. In October 2023 the Government of Northern Ireland announced that during 2023, the Make the Call wraparound service supported 11,700 people to access entitlements they had not been claiming and who, on average, are now £90 per week better off. In 2022/23 an additional £54.9m of benefits were claimed. This includes over £19m for people of pension age receiving Attendance Allowance and Pension Credit. A report into the Social Return on Investment of the Make the Call campaign found that its success in increasing uptake improved physical and mental health outcomes, mobility and ability to socialise, and overall quality of life.⁵

⁴ [Pension Credit Independent Age and Loughborough University Report Summary 0.pdf](#)

⁵ Ipsos, Independent Report on the Social Return on Investment of the Make the Call Wraparound Service [Normal dot \(Rev02 January 2009\) \(communities-ni.gov.uk\)](#)

It is vital that when considering the cost of a commissioner – or establishing an OPC for Scotland – this is seen as a social investment which can bring wider economic benefits, whilst doing the essential work of an advocate for older people.

Other organisations

Independent Age believe that commissioners can bring positive benefits to other organisations through direct engagement, amplifying issues and advocating for positive changes.

Dereck Roberts, Chairperson of the National Pensioners Convention Wales, told Independent Age about the impact the Older People's Commissioner for Wales has had on the organisation and people in later life in his community:

"We are one of four national organisations in Wales which represent pensioners of different groups who meet regularly with the Older People's Commissioner for Wales. And, actually, we also meet regularly with the Welsh Government where we can raise issues that affect older people in Wales now. The work with a commissioner that is independent of government and has statutory powers has been very successful."

"As well as providing effective emergency interventions during the COVID pandemic, she's also been very supportive and kept the pressure up on campaigns and raising issues that affect older people such as transport and digital exclusion."

"We will be involved in the appointment process for the next commissioner which will likely also involve an older persons' interview panel, as part of that process. It's about having somebody in the role who understands how government works, but the role is independent and has the statutory powers to make change happen. It's an advantage to government because they get to know about the problems that older people are facing before they get worse, and they can do something about it."

Wider society

Independent Age believe that a commissioner – in this case for older people – would bring positive impacts to wider society. By amplifying the voices of older people and advocating for improvements to the systems that affect people in later life, an OPC would have the potential to make a positive impact to people in later life today and the older people of the future.

3. Currently, there is a mix of regulatory, investigatory, rights-based, and policy-focused Commissioners in Scotland.

- **What should the role of Commissioners be and which should report directly to Parliament (and why)?**

At Independent Age, we believe that an effective commissioner for older people should have powers across four key areas: information, investigation, publicity, and recommendation.

Central to the role of an individual commissioner is strong advocacy for a clear constituent group, amplifying the voices of and advocating for the policy changes needed to support that group. Part of this involves highlighting wrongdoing. Currently the Children and Young People's Commissioner in Scotland holds powers of investigation

under the Children and Young People (Scotland) Act 2014. We believe any future Older People's Commissioner should have the same powers to ensure equity and coherence across age-specific commissioners in Scotland.

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. Any future 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 and seldom heard. It will be particularly important for the OPC to advocate for, and represent, older people from these groups, including those in poverty.
- **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 took part in 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.
- **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 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.

Looking across the entire model of Commissioners, do you consider it to be a coherent approach? What, if any, improvements could be made to the Commissioner landscape in the future to ensure a coherent and strategic approach?

Independent Age believe that establishing an OPC on the same statutory basis as the current Children and Young People's Commissioner for Scotland would ensure coherence and consistency with two age-specific commissioners. This is the current commissioner landscape in Wales and Northern Ireland for age-specific commissioners – bringing a coherent approach to two age-groups that are often underrepresented in public and political debate. Having commissioners that advocate for both children and older people also allows for a broad range of issues to be addressed by the commissioners, for example in Wales the OPC has worked on covid guidance, bus passes, domestic abuse and social security uptake.

Governance, accountability and scrutiny

5. Are the existing governance and oversight arrangements adequate and, if not, what improvements are required?

Independent Age believe that the oversight and governance of commissioners should be by the Scottish Parliament, rather than Government, as is the case for existing commissioners - such as the Children and Young People's Commissioner. We believe this ensures independence from Government and is appropriate. We acknowledge there may be a question of the resource required for governance and oversight and refer to our answers to questions 2 and 8 on the wider economic, social and health benefits that commissioner roles can bring and that must be considered when assessing resourcing costs.

Value for money and effectiveness of current approach

8. Does the current Commissioner model in Scotland deliver value for money?

Independent Age believe that the cost of running the Older People's Commissioner's office could over time result in significantly higher overall savings and returns for the economy. 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. Spending on commissioners, including the cost of creating a future OPC, should be seen as social investment.

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 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, adapt to an ageing society or on how to increase social security uptake, could result in longer term savings for health and social care spending associated with poverty and poor housing.

Please see response from question two for further details on the potential economic, social and health benefits that social investment in the office of a commissioners can create through activities such as increasing social security uptake.

10. To what extent is there overlap and duplication of functions across Commissioners, and across other organisations in Scotland and how can this be avoided?

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 ensuring human rights are not breached. An Older People's Commissioner would promote the interests of older people, engage with older people and amplify their voices, review government policies and legislation and carry out awareness work on a wide range of issues. 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 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.

Example of successful collaboration between commissioners and other bodies exists in Scotland and beyond. 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. For example, in Scotland, following a Children and Young People's Commissioner investigation into restraint in Scottish schools, the Economic and Human Rights Commission used their legal powers to support a judicial review of the Scottish Government to address some of the findings.

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. If introduced the broad scope of this role can be viewed positively, as they would cover a lot of ground within their remit. 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, poverty in later life.