

REGULATORY APPRAISAL

COMMISSIONER FOR OLDER PEOPLE IN WALES, WALES

THE COMMISSIONER FOR OLDER PEOPLE IN WALES REGULATIONS 2007

Purpose and intended effect of the measure

1. The purpose of these Regulations is to make detailed provision as to the administrative and wider strategic functions of the Commissioner for Older People in Wales. In particular, they:
 - prescribe the kind of advice and support arrangements that the Commissioner may review as part of his power to review advocacy arrangements;
 - confer power on the Commissioner to require information from prescribed persons for certain purposes;
 - confer power on the Commissioner to provide financial and other assistance to older people in relation to certain proceedings and procedures and set out the conditions, which may be imposed in connection with the provision of such assistance;
 - specify the types of cases, which may be examined by the Commissioner and the circumstances in which an examination may be made;
 - make provision for the conduct of an examination and the provision of information to the Commissioner in connection with an examination and the attendance of witnesses before the Commissioner;
 - make further provision about the Commissioner's relationship with older people in Wales;
 - make provision for specific reports and action to follow them up, and as to annual reports and publication of reports.

Risk Assessment

2. Research indicates that many older people in Wales face problems such as discrimination, poor housing, poverty, poor nutrition, lack of opportunity for employment and education, inadequate transport services and dissatisfaction with health and welfare provision.
3. It is intended that the Commissioner will be an independent champion for older people whose role will be to safeguard and promote awareness of the interests of older people and to tackle many of the difficulties that older people in Wales face. If these Regulations are not implemented then it will not be possible to have a Commissioner with the full range of powers necessary to help articulate the needs and preferences of older people and to tackle ageism and discrimination against them.

Options

Option 1: Do Nothing

4. If these Regulations are not made then the Commissioner's powers would be confined to those that are set out in the Act and do not require further secondary legislation. This will severely restrict his/her ability to act on behalf of older people in Wales and to ensure that their interests are effectively safeguarded and promoted.

Option 2: Make the Legislation

5. These Regulations will confer strategic and administrative functions on the Commissioner, such as the power to examine individual cases and to issue specific and annual reports.

Benefits

6. These Regulations will be of direct benefit to older people. They provide for a powerful Commissioner who will have the full range of powers and functions necessary to help to raise the profile of older people and to raise awareness about the services they receive and the needs they have.

Costs

7. The cost of setting up the office of the Commissioner for Older People in Wales is estimated at £500,000, with running costs of £1.5m in the first full year of operation. This will be funded from the Older People's Strategy Budget Expenditure Line in the Older People's Services Spending Programme Allocation in the Health and Social Services Main Expenditure Group. These figures are based on the knowledge and experience of establishing and running the office of the Children's Commissioner for Wales, which has a similar size client group.
8. It is estimated that any extra costs to prescribed bodies (currently those in Schedule 2 and 3 of the Act, and providers of regulated services in Wales) will be negligible as the information, explanations and assistance will already be required to be available in most cases, whether as part of existing complaints/representation systems operated by those bodies or public access to information in line with the principles of open government. The Regulations also make provision for the Commissioner to pay expenses and allowances to persons who attend or provide information for the purposes of his examination functions, which may be of particular importance for the voluntary sector and small businesses.

Consultation

With Stakeholders

9. A full twelve-week public consultation took place on these Regulations from 28 July 2006 to 20 October 2006. Over 1700 copies of the consultation were sent to stakeholders, interested parties and Assembly Members. A list of stakeholders is attached at Annex A. 40 responses were received to the consultation. The responses demonstrated that there was overwhelming support from key stakeholders for both the principle of

a Commissioner and the content of the Regulations. A summary of the consultation responses is attached at Annex B.

10. Several amendments to the Regulations were made following consultation. Minor revisions have also been made to formatting and grammar to aid the reader's comprehension. The rationale for the others is set out below.

(i) Recommendation from Vale of Glamorgan Older People's Strategy Forum: Regulation 14 to read 'not more than 3 months' in order to allow the Commissioner the flexibility to set a shorter time in cases of urgency

This recommendation relates to the Commissioner's ability to require information from a person in respect of whom he has made a recommendation in a report, in order to determine whether that recommendation has been complied with and, if not, the reason why. Whilst Regulation 14 as it was drafted would already allow the Commissioner to set a shorter timescale than 3 months if he or she felt it to be appropriate, the Assembly Government agreed that this point could be expressed more clearly. Regulation 15 (previously numbered 14) now includes the wording "in such reasonable period as the Commissioner may specify but in any event no later than 3 months of the date on which the person is sent a copy of the report" at 15 (1) and 15 (2).

(ii) Recommendation from the Board of Community Health Councils in Wales: There should be a new regulation 13(1)(a) which reads "The Commissioner must take steps to ensure that, in keeping with section 9(1)(c) and (d) of the Act, the people of Wales are made aware of the existence, nature, purpose and relevance for them of the office of Commissioner for Older People in Wales".

This recommendation is in respect of the Commissioner's relationship with older people, which will be a key factor in his or her success. Whilst what is being proposed in the recommendation can be seen as implicit within the meaning of Regulation 13, the Assembly Government agreed that this could be made more explicit. Regulation 13 (1) has, therefore, been amended to include a new subparagraph (a), reading: "[The Commissioner must take reasonable steps to ensure that...] older people in Wales are made aware of the existence and functions of the Commissioner's office".

(iii) Regulation 16 (General Regulations): Reports to the Assembly – the Assembly Government has amended Regulation 16 to enable the Commissioner to make reports to the Assembly in connection with his general functions under section 2 of the Act. This will give the Commissioner more flexibility in undertaking his or her functions and will ensure that he or she is able to issue such reports as are deemed necessary. Therefore, Regulation 16 now includes a new subparagraph at 16(1), which reads "The Commissioner may make a

report to the Assembly in connection with the exercise of any of his or her general functions pursuant to section 2 of the Act”.

With Subject Committee

11. These Regulations were notified to the Health & Social Services Committee, via the list of forthcoming legislation, on 23 November 2005 (HSS(2)-12-05 (p.1), item no: HSS 53 (05)). The Regulations were identified for detailed scrutiny at the Committee meeting on 19 January 2006.
12. The Regulations were considered by the Health and Social Services Committee on 30 November 2006 (HSS(2)-17-06(p.3)). One amendment was made to the Regulations: the Commissioner will be required to report annually to the Assembly, rather than to the First Minister. No further points of clarification were raised and the Regulations were agreed as amended. A transcript of the discussion is attached at Annex C to the Regulatory Appraisal.

Monitoring and Review

13. The National Assembly and the Auditor General for Wales (AGW) will monitor and review the operation of the office of the Commissioner for Older People in Wales. The AGW will be able to carry out examinations into the economy, efficiency and effectiveness with which the Commissioner has used the resources at his/her disposal in discharging his/her functions as provided for in the Regulations. The Regulations provide that the Commissioner will be required to submit an annual report to the Assembly containing a summary of action taken in the exercise of his/her functions and a review of the issues relevant to the interests of older people in Wales. He/she will also be able to make periodic, subject-specific reports, as considered necessary. The Commissioner's work programme will be agreed with the Assembly Government as part of the annual report and budget setting process.

Summary

14. The potential benefits expected from the establishment of a Commissioner for Older People in Wales, whose aim is to promote and safeguard the interests of older people, are likely greatly to exceed the costs associated with the proposed Regulations, all of which will be met from within the Assembly Government's budget.

Annex A – List of Stakeholders

List of Consultees

Chief Executives of Local Authorities
Chairs of Local Authorities
Chairs of NHS Trusts
Chief Executives of Local Health Boards
Chief Executives of NHS Trusts
Chairs of Community Health Councils
County Voluntary Councils
Directors of Transport
Directors of Environment
Directors of Housing
Directors of Leisure and Libraries
Directors of Social Services
Community and Town Councils
Local Authority Older People's Champions
Local Authority Strategy Co-ordinators
Housing Associations
Assembly Members
Assembly Officials AWFPC
Abbeyfield Society Wales
ACIB (Wales)
Action on Elder Abuse
Age Alliance Wales
Age Concern Cymru
Age Concern Gwent
Alzheimer's Disease Society
Alzheimers' Society for Wales
Arthritis Care in Wales
Arts Disability Wales
Association of Chief Police Officers
Association of Crossroads
Association of Train Operating Companies
Association of Voluntary Organisations in Wrexham
ATCO
BAFF (Wales) Centre
Barnardos
Base Wales
Basic Skills Agency
BASW Cymru
Better Government for Older People
Blaenos Nursing Home
BMA Wales
Brecon Beacons National Park Authority
British Deaf Association
British Institute of Learning
Caeman Day Centre
Campaign for the Protection of Rural Wales

Cardiff & Vale Mental Health Development Project
Cardiff & Vale Parents Federation
Care & Repair
Care Council for Wales
Care Forum Wales
Care & Lifestyle Villages
Carers Wales
Carers Wales Association
Catholic Children & Family Care Society (Wales)
CBI Wales
CEHR Transition Team
Centre for Mental Health Services Foundation
Chartered Society of Physiotherapy
Children's Commissioner
Churches Housing Coalition in Wales
Citizens Advice Bureaux
Civil Services Pensioners Alliance
College of Occupational Therapists
Commission for Integrated Transport
Community Transport Association
Confederation of Passenger Transport (Wales)
Contact the Elderly Wales
Council of Christian Community Work in Wales
Council of Christian Work in Wales
Council of Museums in Wales
Countryside Council for Wales
Crossroads Wales
CRE Wales
Cruse Bereavement Care
Cruse Cymru
CSV National Network
Cyclist Touring Club
Cymdeithas Caer Las
Cymorth Cymru
Cyngor Tref Porthmadog
Daybreak (Wales)
Dean of Medicine, University of Wales College of Medicine
Dean of Faculty of Health Care, University College of North Wales
Department of Nursing, Midwifery and Health Care, University of Wales
Swansea
Department of Trade and Industry
Department of Work and Pensions
Depression Alliance Cymru
Disability Rights Commission

Disability Wales
Disabled Persons Transport Advisory Committee
Downs Syndrome Association
University of Wales, Bangor
Eaga Partnership
ELWa
Energy Saving Trust
Energy Watch Partnership
EOC Wales
Foundation Housing / Tai Sylfaen
Freight Transport Association
Friends of the Earth Cymru
Gerontology Practitioners Network
GMB
GMC
Gwent Association for the Blind
Hafal
Health Professions Wales
Health Visitors Association UK
Help the Aged
Henry Burton's Almshouse Charity
Home Start UK
HOMES
Housing Concern
Interlink
Letitia Cornwallis Almshouse Charity
Living Streets
Llewellyn Almshouses
Long Distance Bus/ Coach Strategy
Manic Depression Fellowship
Mantell Gwynedd
Mencap
Mencap in Wales
Mind Cymru
Montgomery CHC
Motor Neurone Disease Association
NAIRO
Nation Union of Rail, Maritime & Transport Workers
National Autistic Society
National Care Homes Association Ltd
National Federation of Bus Users
National Federation of PO and BT Pensioners
National Federation of Women's Institute - Wales
National Museums & Galleries of Wales
National Old Age Pensioners Association Wales
National Partnership Forum for Wales

National Pensioners Convention Wales
National Public Health Service
NEA Cymru
Network Rail
NIACE Dysgu Cymru
North East Wales Institute Nursing Division
NSF Wales
NTO Cymru
Parkinson's Disease Society
PAVS
Pembrokeshire Advocacy
Pembrokeshire Coast National Park Authority
Pensioners Forum Wales
People First Wales
Phab Wales
Pontypool Support for Active Seniors
Professor Teresa Rees, Cardiff University
Public Services Ombudsman Wales
Rail Passengers Committee
Ramblers Association Wales
Registered Nursing Homes Association (UK)
Registered Nursing Homes Association (Wales)
Rethink
Richard Commission
RNIB Cymru
RNID Cymru
Royal College of Midwives
Royal College of Nursing
Royal Institute for Deaf People
RSVP Cymru
School of Education, University of Wales
School of Nursing and Midwifery, University of Glamorgan
SCOPE
SCOVO
SENSE Cymru
Shelter Cymru
Snowdonia National Park Authority
Society of Chief Librarians
South East Wales College of Nursing & Midwifery
Sports Council for Wales
Stonewall Cymru
Strategic Rail Authority
Sustrans
Swansea Young Single Homeless Project
T & GWU
TCA
Tenant Participation Advisory Service

Annex B – Summary of consultation responses

COMMISSIONER FOR OLDER PEOPLE IN WALES REGULATIONS

CONSULTATION REPORT

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Background

The Commissioner for Older People (Wales) Act 2006 received Royal Assent on 25 July 2006. It gives the National Assembly powers to establish an independent Commissioner whose role will be to help promote and safeguard the interests of older people, who are aged 60 or over, and to speak up on their behalf.

The Act provides a framework under which power is to be conferred on the National Assembly for Wales to make secondary legislation and to issue directions. It is intended that there will be two sets of regulations: one set dealing with arrangements for the appointment and term of office of the Commissioner (the Commissioner for Older People in Wales (Appointment) Regulations) and another set dealing with the administrative and wider strategic functions (the Commissioner for Older People in Wales Regulations).

Copies of both sets of Regulations were issued in draft for public consultation on 28 July 2006. The closing date for responses was Friday 20 October. Over 1,700 organisations and individuals were consulted, and these are listed at Page 3. 40 responses were received, all of which have been considered and summarised in the body of this report. A list of respondents is on Page 7.

All except two of the respondents expressed their support for the establishment of the Commissioner and welcomed the draft regulations. A number of recommendations for specific changes were made and these are summarised at Annex 1. Most of the comments made were about the general regulations, and so all numbered references in the Summary and Annex 1 to regulations are in respect of the Commissioner for Older People in Wales Regulations unless otherwise stated.

List of Respondents

Age Alliance Wales
Age Concern Cymru
Blaenau Gwent Social Services
Board of Community Health Councils in Wales
Bro Morgannwg NHS Trust
Caerphilly Local Health Board
Care Forum Wales
Care & Repair Cymru
Carmarthen Town Council
Chief Executive, Torfaen Borough Council
City & County of Swansea's Network 50+
Cyngor Cymuned Beulah
Dissert and Trecoed Community Council
Ewenny Community Council
Flintshire County Council
Gwenda Thomas AM
Gwersyllt Community Council
Help the Aged
Henllys Community Council
Llanelli Rural Council
Llanelli Town Council
Llangernyw Community Council
MJ Cousins – Community Councillor
National Partnership Forum for Older People in Wales
Neath Port Talbot CBC
Neath Port Talbot Council for Voluntary Service
Newport City Council
Newport Town Council
Nick Hawksworth - Royal Council of Ophthalmologists Council Member for Wales
Northern Ireland Commissioner for Children and Young People
Pembrokeshire Coast National Park Authority
Pembrokeshire & Derwen NHS Trust
Pontardawe Town Council
Powys Local Health Board
Royal College of Nursing Wales
Sue Lambert - OPAN Cymru
Vale of Glamorgan Older People's Strategy Forum
Wales Council for Voluntary Action
Welsh Language Board
Wrexham County Borough Council

Summary of Responses

Definition of older people

Nigel Hawksworth, Royal Council of Ophthalmologists Council Member for Wales felt that the word “old” should have been used instead of “older”. He thought that “older” was a relative term and a little too vague. He noted that any definition of the term “older” was not prominent enough and suggested that the term “old” could be more readily defined. He also queried who the definition of an ‘older person’ was intended to capture.

Bro Morgannwg NHS Trust felt that a full definition of ‘older person’, as set out in the Act, should be included in regulation 1.

Review of Arrangements

Bro Morgannwg NHS Trust suggested that regulations 2 and 3 be amended to reflect the fact that the Regulations apply to a range of different organisations that have differing functions.

Swansea 50+Forum asked how the Commissioner’s powers to request information would interact with the Data Protection Act and the Freedom of Information Act.

Provision of Assistance

The National Partnership Forum for Older People agreed that the Commissioner should be able to provide financial assistance to an older person and that conditions for doing so should be set out in the regulations. It felt that given the Commissioner’s limited budget it would be essential for him or her to make strategic choices about funding court cases for example.

City and County of Swansea’s Network 50+ felt that the provision allowing the Commissioner to recover ‘reasonable costs’ was unfair as it might mean that an older person could end up out of pocket.

Help the Aged in Wales was supportive of the discretion that the regulations give to the Commissioner about whether to provide assistance to an older person. With the limited budget available it felt that funds needed to be allocated in the most appropriate manner. It also felt that any conditions regarding assistance should be made clear to the person seeking that assistance and suggested that this might take the form of a written acceptance of the offer of assistance and acknowledgement of any conditions.

Examination of cases

Dr Sue Lambert, OPAN Cymru welcomed the ability of the Commissioner to examine cases but wondered how far back in time the Commissioner could go when it came to examining cases.

Vale of Glamorgan Older People's Strategy Forum was uneasy about the mention of examining individual cases, as it did not want the Commissioner to be seen as an older people's ombudsman. It felt that it needed to be made clear to the public that the Commissioner was not a court of appeal for individual grievances.

City & County of Swansea's Network 50+ felt that the Commissioner should be "sitting above" existing agencies and bodies and thus offering strategic direction to organisations involved with older people as well as responding to individuals. However there was some concern about how the Commissioner would exercise both of these roles. It also felt that only taking up cases of a general application could be unfair and that the Commissioner should be allowed to take a very broad interpretation of "general interest". It asked whether there was any time limit on the Commissioner being able to take up individuals' cases and whether a body or service provider acting in an advocate role could approach the Commissioner on behalf of an older person.

Age Concern Cymru was happy that the Commissioner could examine cases for people who are or who have been older people in Wales. In the examination of all cases its primary concern was the protection of vulnerable older people and any witnesses who may be presenting at a hearing. It stressed the importance of independent advocates in supporting vulnerable older people.

Help the Aged in Wales believed that significant groups of older people in Wales will be left beyond the remit of the Commissioner in respect of his power to examine individual cases, and that the Assembly should actively lobby Westminster to widen the span of the Commissioner's reach in order to encompass cases that could slip through the net, for example, where an older person is in receipt of services outside Wales. It also felt that there needed to be a clear statement as to the extent the information shared with the Commissioner was private, and if it was not, to whom and in what circumstances the information would be released or published. The issue of representation needed to be clarified, so that people had a clear understanding of their rights in that regard.

Bro Morgannwg NHS Trust felt that people who were required to appear before the Commissioner as witnesses should have a right to be represented. This was not something that should be subject to the Commissioner's discretion.

Reports

Dr Sue Lambert, OPAN Cymru welcomed the requirement on the Commissioner to issue reports following the exercise of his/her functions and also to issue annual reports, but queried whether the Commissioner would

have the power to ensure that any recommendations made had been acted upon.

Wrexham County Borough Council believed that regulation 15 should be strengthened to ensure that annual reports are widely available to older people and other interested bodies. It felt also that annual reports should be included in regulation 16. Finally, its opinion was that the annual report should include performance indicators for the following year and a measurement against the performance indicators of the year being reported on.

Vale of Glamorgan Older People's Strategy Forum queried whether it would be more appropriate for regulation 14 to read 'not more than 3 months', in order to allow the Commissioner to set a shorter time in cases of urgency. It also wondered whether the Commissioner should have any sanction available in the event of a recommendation not being actioned, apart from 'naming and shaming.' Finally, it asked if there was an appeal mechanism available against a decision of the Commissioner.

City & County of Swansea's Network 50+ felt that the 3 month time limit for responding to recommendations could be a long time, and that the time limit should be decided by the Commissioner on a case by case basis. It also believed that the Commissioner's reports should receive a much more widespread distribution than outlined in the regulations and should be made available in public libraries, in Council offices and via press releases in local papers.

Care Forum Wales' view was that, when the Commissioner published a report in relation to a failure to respond to a requirement or request, that report should include the explanation given by the service provider as to why the requirement or request had not been carried out.

Help the Aged in Wales felt that the Commissioner should be required to take steps to ensure that the results of any examination and any other reports are made widely available. It thought that in respect of distribution of reports the regulations appeared narrow. It believed that the Commissioner should engage with older people at an early stage following appointment to determine their preferred options in respect of reports under regulations 14 and 15. The Commissioner should also have greater sanction when it came to further action.

Board of Community Health Councils in Wales believed that 3 months was a long period of time for relevant information to be returned, and a long time for an older person to wait before getting a reply or result.

Appointment of the Commissioner

Dr Sue Lambert, OPAN Cymru felt that the role of older people in the appointments process should be clarified in the regulations.

Age Alliance Wales felt that the appointment process was of vital importance and that it must ensure that as diverse a group of older people as possible were involved in it.

Vale of Glamorgan Older People's Strategy Forum welcomed the fact that the views of older people were to be taken into consideration, but wondered how the views were to be canvassed. It hoped that bodies like theirs would be encouraged to make their views known, and that the job description and process of appointment would be sufficiently publicised in advance to allow comment.

Care & Repair Cymru pointed out that older people in Wales are a diverse group, with a wide range of needs and aspirations. Care needed to be exercised, so that when engaging with and selecting 'relevant older people', they were a true representation of all older people in Wales.

Age Concern Cymru was pleased that the Public Appointments process would be used and that older people themselves would also be involved in the interview process. It felt that the meaningful involvement of a diverse group of older people would be key to ensuring that the right person is employed in what will be a high profile position.

The National Partnership Forum for Older People in Wales felt that setting the Commissioner's term of office at four years, renewable once, was appropriate and was pleased that older people would be involved in the appointment process. It hoped that the job description and person specification would ensure that applicants have experience in a variety of areas affecting older people in Wales.

City and County of Swansea's Network 50+ felt strongly that the appointment process should be open, visible and accountable and that any committee advising on the appointment should be made up in the main of lay older people from a wide range of backgrounds and experience and across the 60+ age range. Concern was expressed that the regulations did not cover removal of the Commissioner from office if he or she was assessed as "not doing a good job".

Relationship with older people in Wales

Bro Morgannwg NHS Trust wanted to amend regulation 12, to emphasise the need to educate and inform the people of Wales about the Commissioner and that the responsibility for this should rest largely with the Commissioner.

Help the Aged in Wales felt that it would be reasonable to expect the Commissioner to engage effectively with older people's forums and groups as well as the wider voluntary sector throughout Wales. This would be an effective way for the Commissioner to make his or her team available to older people.

Board of Community Health Councils in Wales mentioned the issue of awareness of the Commissioner's office and gave practical ideas on how to achieve this. It stressed that information on how to contact the Commissioner should be in language that is easily understood and user friendly.

Newport Town Council noted that the regulations required the Commissioner to be accessible to older people but that they did not stipulate how this was to be achieved.

Wrexham County Borough Council emphasised the importance of the Commissioner having an office base in North Wales as well as South Wales as this would be essential to the achievement of regulation 12(1)(d), which requires the Commissioner and his or her staff to make themselves available to older people in their locality.

Royal College of Nursing thought that regulation 12 was particularly important as the success of the role of Commissioner would be dependent upon the active engagement of older people in Wales. It suggested that it might be appropriate to make explicit provision about the need to communicate in both English and Welsh as there was evidence that Welsh speaking older people were often disadvantaged in the services they received.

Other Matters

Age Alliance Wales expressed concern about what the budget allocated to deliver the office of the Commissioner would be.

The National Partnership Forum for Older People in Wales thought that the regulations on the role of the Commissioner were fair and adequate. It felt that they set a clear framework for the work that the Commissioner will undertake whilst allowing sufficient flexibility for him or her to develop the post as they saw fit to best suit the needs of older people in Wales. It wanted to see the principle of 'safeguarding dignity' given a greater emphasis within the Commissioner's role and felt that the relationship between the Commissioner for Older People, the Children's Commissioner, the Public Services Ombudsman and bodies such as the Care Standards Inspectorate for Wales would be essential to the effective protection of vulnerable older people. It also wished the Commissioner or a representative of his office to be given observer status on the Forum.

Royal College of Nursing believed that professionals across the spectrum of health and social care should be engaged early in the process of determining the working priorities and processes of the office of Commissioner.

Help the Aged in Wales had some concerns about the extent of the budget of the Commissioner given that we have an ageing population and the size of the constituency that the Commissioner will represent will continue to grow. It felt that the Commissioner must be able to appropriately resource the office from the outset, both in terms of staff and equipment.

Age Concern Cymru felt that communication and public relations would be an important part of the Commissioner's work, particularly in the first year of operation. It also thought that it would be essential for the Commissioner to be able to manage expectations and expressed concern about the extent to which he or she would be able to represent older people's view in non – devolved areas.

General messages of support

The National Partnership Forum for Older People in Wales – “has always supported the plans to establish the post of a Commissioner for Older People in Wales and believes that the Commissioner will provide much needed support and protection for vulnerable older people in Wales.”

Caerphilly Local Health Board – “...is supportive of the concept of a Commissioner for Older People in Wales and views the establishment of such a role as a positive development in the advancement of older people's rights in Wales.”

Torfaen County Borough Council – “the Welsh Assembly Government have made several policy decisions to value and respect older people across modern society...we feel that the functions and responsibilities will further promote actions at national and local levels to enhance progress in providing increased quality of services for our older citizens.”

Wrexham County Borough Council – “are broadly in agreement with the proposals and welcome the initiative.”

Powys Local Health Board – “sees the establishment of the Older People's Commissioner as a very positive step in providing an independent voice for older people in Wales. Just as the establishment of a children's commissioner has been a great success we look forward to similar results for older people.”

Royal College of Nursing – “the establishment of a Commissioner for Older People in Wales is an important achievement. As with the establishment of the Children's Commissioner this will lead the way in the UK, sending a clear signal that Older People are valued members of our society and providing the support they need to ensure that their rights are addressed.”

Vale of Glamorgan Older People's Forum – “welcomes the creation of the role of Commissioner for Older People and the commitment shown by the Assembly to older people's concerns.”

Neath Port Talbot Council for Voluntary Service – “feel the commitment shown from the Welsh Assembly to create a Commissioner for Older People in Wales is a very positive step. Older people will be supported and encouraged to be active in influencing service provision focusing on person centred approaches. The Commissioner will act as an honest broker channelling all the views and issues relating to older people into public services and Assembly Government.”

Care & Repair Cymru “support the Regulations that will ensure the terms of office and the appointment of a Commissioner for Older People in Wales, along with the administrative and strategic functions of the Commissioner.”

Help The Aged – “has been a consistent advocate regarding the need to establish a Commissioner for Older People in Wales in order to combat age discrimination and to provide protection to those older people in society that are at their most vulnerable and in need of support.”

Bro Morgannwg NHS Trust – “welcomes the creation of the post...as a critical component in the process of safeguarding and promoting the interests of older people in Wales.”

General messages of opposition

M.J. Cousins, a Community Councillor, thought that the whole exercise appeared to be an unnecessary use of public time and money. He believed that it duplicated many services already available.

Board of Community Health Councils in Wales – “is there a need for a separate “Commissioner for Older People in Wales?” It is suggested that organisations such as Help the Aged, or Age Concern could accept the responsibility. Many elderly people relate to these organisations which are already known and trusted.”

Annex 1

Recommendations

RECOMMENDATION	PROPOSED BY
<p>Definition of Older People</p> <p>Use term “old” instead of “older” as this is more readily defined. Alternatively, ensure definition of “older people” is prominent enough.</p> <p>Add to regulation 1(3): “As with the Act, for the purposes of these regulations (1) “Older person” means a person aged 60 or over (2) “Older person in Wales” means an older person – (a) who is ordinarily resident in Wales (b) to or in respect of whom regulated services in Wales are provided, or (c) to or in respect of whom relevant services (within the meaning of section 6(4)) are provided by or on behalf of, or under arrangements with, a person mentioned in Schedule 3.”</p>	<p>Nigel Hawksworth – Royal Council of Ophthalmologists Council Member for Wales</p> <p>Bro Morgannwg NHS Trust</p>
<p>Review of Arrangements</p> <p>At the end of regulation 2 add “Such advice and support to be relevant to the functions of the person making the arrangements.”</p> <p>In regulation 3(1) insert “(relevant to the functions of the person)” between “information” and “recorded”</p>	<p>Bro Morgannwg NHS Trust</p> <p>Bro Morgannwg NHS Trust</p>
<p>Provision of Assistance</p> <p>If a case is taken up in the public interest by the Commissioner then his/her office should bear the cost.</p> <p>Any conditions attached to the giving of assistance should be made clear to the person seeking that assistance in the form of a written acceptance and acknowledgement of any</p>	<p>City & County of Swansea’s Network 50+</p> <p>Help the Aged</p>

<p>conditions.</p>	
<p>Examination of cases</p> <p>Determine how far back in time the Commissioner can go with regards to the examination of a case.</p> <p>Regulation 10 to read "In connection with such attendance in person, the Commissioner may, subject to 10(7) and (8) of the Act, issue witness summonses and administer oaths or affirmations and, if the person so wishes, must permit him or her to be represented before the Commissioner."</p> <p>There needs to be a clear statement as to the extent the information shared with the Commissioner is private, and if it is not, to whom and in what circumstances the information will be released or published.</p> <p>The regulations appear to assume a right to representation for the persons being examined. This needs to be clarified so that people have a clear understanding of their rights in this regard.</p>	<p>Dr Sue Lambert – OPAN Cymru</p> <p>Bro Morgannwg NHS Trust</p> <p>Help the Aged in Wales</p> <p>Help the Aged in Wales</p>
<p>Reports</p> <p>Regulation 14 to read 'not more than 3 months' in order to allow the Commissioner the flexibility to set a shorter time in cases of urgency</p> <p>The time limit for reply should be decided by the Commissioner on a case by case basis</p> <p>When the Commissioner publishes a report in relation to a failure to respond to a requirement or request, that report should include the explanation given by the service provider as to why the requirement or request has not been carried out</p>	<p>Vale of Glamorgan Older People's Strategy Forum</p> <p>City & County of Swansea's Network 50+</p> <p>Care Forum Wales</p> <p>Care Forum Wales</p>

<p>When the Commissioner publishes a report in relation to a failure to respond to a supplementary notice, that report should include the explanation given by the service provider as to why the supplementary notice has not been implemented.</p> <p>Give the Commissioner power to ensure that recommendations he or she has made, are carried out.</p> <p>The Commissioner to have a sanction available in the event of a recommendation not being actioned, apart from ‘naming and shaming.’</p> <p>The Commissioner to have a greater sanction when it comes to further action following a recommendation</p> <p>Regulation 15 to be strengthened so as to ensure that annual reports are widely available to older people and other interested bodies</p> <p>Annual report should include performance indicators for the following year and a measurement against the performance indicators of the year being reported on.</p> <p>Annual reports should be included in regulation 16, as well as individual reports</p> <p>The Commissioner should be required to take steps to ensure that the results of any examination and any other reports that are published are made widely available. The Commissioner should engage with older people at an early stage following their appointment to determine their preferred options in respect of reports under regulation 14 and 15.</p> <p>Each report should be given Assembly time for consideration</p> <p>The Commissioner’s reports should be made available to the public, for example, on the internet, in libraries and through the local press. The reports would need to be available in different formats and in other languages.</p>	<p>Dr Sue Lambert - OPAN Cymru</p> <p>Vale of Glamorgan Older People’s Strategy Forum</p> <p>Help the Aged</p> <p>Wrexham County Borough Council</p> <p>Wrexham County Borough Council</p> <p>Wrexham County Borough Council</p> <p>Help the Aged in Wales</p> <p>City & County of Swansea’s Network 50+</p> <p>City & County of Swansea’s Network 50+</p>
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<p>Appointment</p> <p>Ensure that as diverse a group as possible are involved in the appointment process</p> <p>Clarify the role of older people in the appointments process.</p> <p>The appointment panel should be composed of a majority of lay older people. The process should also contain representatives of organisations which work with older people in Wales.</p> <p>Short listed candidates to provide information for discussion by groups in local forums, with representatives reporting back to the advisory committee</p>	<p>Age Alliance Wales</p> <p>Dr Sue Lambert - OPAN Cymru</p> <p>City & County of Swansea's Network 50+</p> <p>City & County of Swansea's Network 50+</p>
<p>Relationship with older people in Wales</p> <p>To raise awareness of the Commissioner's office, notice boards in health service and local authority locations to be used.</p> <p>Information on contacting the Commissioner to be easily understood and user friendly. There should be a new regulation 12(1)a, which reads:</p> <p><i>The Commissioner must take reasonable steps to ensure that</i></p> <p>"In keeping with Section 9(1) c & d of the Act, the people of Wales are made aware of the existence, nature, purpose and relevance for them of the Office of Commissioner for Older People in Wales".</p> <p>Older people should be involved in shaping the Commissioner's work programme, and forums should be a key element in such consultation</p> <p>Commissioner to work closely with local appointees either employed by key stakeholders or by the Second Tier Authorities, with appropriate funding, who would act as local conduits to and from the older citizen.</p> <p>Commissioner to be bilingual</p>	<p>Board of Community Health Councils in Wales</p> <p>Board of Community Health Councils in Wales</p> <p>Bro Morgannwg NHS Trust</p> <p>Vale of Glamorgan Older People's Strategy Forum</p> <p>Newport Town Council</p> <p>Beulah Community Council Ceredigion</p>

<p>The Commissioner must be geographically accessible to older people</p> <p>Commissioner to have both an urban and rural background.</p> <p>Commissioner to have a base in North Wales as well as South</p> <p>The Commissioner should be named under section 6 of the Welsh Language Act, so that a statutory language scheme can be prepared and implemented</p>	<p>Help the Aged in Wales</p> <p>Beulah Community Council Ceredigion</p> <p>Wrexham County Borough Council</p> <p>Welsh Language Board</p>
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