

Response from the Royal College of Physicians of Edinburgh to the consultation on the Proposed Commissioner for Older People (Scotland) Bill

Aim and approach

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

- Fully supportive
- Partially supportive
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed

Please explain the reasons for your response.

The Royal College of Physicians of Edinburgh (“the College”) sought the views of Fellows and Members on this call for views and in addition we received input from members of the College’s Lay Advisory Committee.

The responses were generally fully supportive of the proposed Bill. Fellows stated that the proposal was consistent with the position in the other devolved nations where equivalent Commissioners were in place. Some said that there was a gap in terms of representing the voices of older people and that a strong champion at a national level was extremely important, not least given the continuing demographic trends in Scotland. They argued that older people’s views and perspectives needed to be considered as core considerations and the Commissioner role would support and advocate for this.

A number of Fellows and Committee members highlighted the substantial number of issues that the Commissioner may potentially wish to engage with, from access to healthcare, delayed discharge in hospital, diet and obesity and older people (with colleagues in Obesity Action Scotland highlighting obesity in older people as a significant issue) and the impact of climate change on older people where the elderly can be more at risk due to a reduced ability to auto-regulate at extreme temperatures, for example.

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.

The RCPE agrees that the legislative approach is the best one as it gives the Commissioner an authority and credibility as they have been established on a statutory basis with the support of Parliament, as has been the case when other Commissioners have been established.

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

- Fully supportive**
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

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.

We are supportive of the need for a dedicated Commissioner to speak up for the rights of older people and examine key issues of concern to older people. We consider that the proposed functions are generally appropriate.

Some Fellows suggested that the sentence "Encourage best practice in the treatment of older people in Scotland" could be clarified to define what is meant by "treatment". Others said they would welcome more information about the Commissioner's envisaged role in investigating cases given the established powers of the Scottish Public Services Ombudsman and how these organisations might work together.

In relation to the proposed functions, the College would welcome specific engagement with experts in older people's health including the medical professional body specialising in care of older people, namely the Scottish branch of the British Geriatrics Society.

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

- Fully supportive
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

Please explain the reasons for your response.

Fellows and Lay Committee members had a range of views on the Commissioner's remit covering all those aged 60 and over. Some argued that the challenges faced by older people are not directly related to years lived but to other factors like reduced mobility, cognition and illness and challenges in participating in decision making.

There was an acceptance that an age limit applying to the Commissioner was necessary and therefore that 60 was probably the best choice. Fellows understood that this would capture the vast majority of people living with frailty but would also include a huge number of well, fit and active people; the Commissioner may have a useful role in promoting the prevention of frailty among this group.

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

- Fully supportive
- Partially supportive**
- Neutral (neither support nor oppose)
- Partially opposed
- Fully opposed
- Do not wish to express a view

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

Most Fellows and Lay Committee members supported the Commissioner having these powers as they were considered important power and gave the Commissioner extra status and influence. Some did question whether they were necessary when other bodies like the Scottish Public Services Ombudsman (SPSO) may be able to exercise these instead and indeed some Fellows suggested that the Commissioner might be able to ask for others to investigate and then comment on these investigations. Assuming the powers were to be given to the Commissioner, it would be important for them to work closely with bodies like the SPSO to avoid duplication and it was considered appropriate for the powers of investigation to operate in a similar way as the SPSO.

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?

- Strongly agree
- Tend to agree**
- Neutral (neither agree nor disagree)
- Tend to disagree
- Strongly disagree
- Do not wish to express a view

Please explain the reasons for your response, including any views on how the Commissioner and existing officeholders can operate to ensure they do not replicate each other's work.

The College considers that any legislation must set out very clearly the responsibilities of the Commissioner in order to avoid confusion and duplication. Close cooperation between relevant organisations and consistent advice to the public from all relevant

organisations will also be essential. Assuming this is done effectively, it should be possible to avoid duplication with existing officeholders.

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

- Fully supportive**
 Partially supportive
 Neutral (neither support nor oppose)
 Partially opposed
 Fully opposed
 Do not wish to express a view

Please explain the reasons for your response, including any views on what the accountability and governance arrangements should be for the Commissioner.

The College considers it essential that the proposed Commissioner should be independent of government and appointed on that basis. This independence is essential to maintain public confidence in the Commissioner. It is also in line with other established Commissioners.

Accountability and governance arrangements could follow those established for the other existing Commissioners.

Financial implications

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

- a significant increase in costs
 some increase in costs
 no overall change in costs
 some reduction in costs
 a significant reduction in costs
 skip to next question

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

Fellows and Lay Committee members had a range of views on the possible costs of this legislation. There was an acceptance that there would be some start up and running costs. Some running costs could be minimised if some back room functions and potentially office space and staff could be shared between the various Commissioners.

Some Fellows noted that if the Commissioner was successful in advocating overall better outcomes for older people, including physical and mental health, exercise and employment, then the overall economy is likely to benefit and this would be a significant positive.

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.

We consider that this legislation could be beneficial in relation to equalities, obviously in relation to age in particular, and we do not envisage negative impacts on particular people.

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?
If you do not have a view then skip to next question.

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

We consider that this legislation could be beneficial in relation to sustainability, especially in relation to creating a stronger, healthier and more just society by potentially improving the health and welfare of older people.

General

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

Given that Commissioners are in existence in Wales and Northern Ireland, we would be keen for the Commissioner in Scotland both to learn from their experiences and best practice there and to consider joint working where that may be appropriate.

Some of the College's Lay Committee members were keen to understand more about how the impact and effectiveness of the Commissioner would be evaluated and reported.

The College would wish to emphasise that the need for ongoing and comprehensive evaluation of the effectiveness of the role is extremely important and must not be a tick box exercise.