

# PROPOSED COMMISSIONER FOR OLDER PEOPLE (SCOTLAND) BILL

## A COMMON WEAL RESPONSE

### INTRODUCTION

We welcome the opportunity to provide views on the proposal for an Older People's Commissioner or Scotland as another way to share our views on the need for the Scottish Government and Parliament to address the matter of Scotland's ageing population and the issues for the current tranche of older people (The 2019 Scottish Government report 'A Fairer Scotland for Older People' defined older people as those aged 50 and above). We are not satisfied that the current status quo is satisfactory, particularly in terms of the inclusion of older people's voices in policy and decision-making fora, the piecemeal approach to policy and over-reliance on a deficit model of ageing to shape decisions.

A specific feature of our approach is to highlight the need to address ageing as an ongoing aspect of Scottish society requiring not only mitigation of current pressures but anticipation and action to secure a better future for all our ageing population, both those who are already older and those who shall become older with time – a need that was a core prompt for the book 'All of Our Futures' written by the authors of this submission, Craig Dalzell and Bill Johnston, and published by Common Weal. Therefore, our support

for a Commissioner is qualified by the overriding concern to ensure benefits to current and future citizens in a civic context where the role is subject to democratic accountability and parliamentary scrutiny.

Our key values and policy perspectives informing our view on the proposed Commissioner are:

- Work on ageing and older peoples' issues must be grounded in respect for the human rights of senior citizens and referenced to international standards and norms.
- An end to ageism in the media, public policy, organisational behaviour, and civic life in general.
- Prioritisation of strategies and well-resourced services for healthy ageing, including a focus on supporting citizens to plan and self-manage the various stages of the lifecourse.
- Introduction of stronger measures to reform labour markets and employment practice to take account of the option of longer working lives and to ensure an end to age-based discrimination in the workplace.
- Inclusion of age sensitive housing practices in all programmes for housing development.
- The right to retirement with a sustainable pension, Universal Basic Income or other means of guaranteed support.

These areas are relevant to all of us and particularly the present cohorts of younger older people now in their 40s and 50s as they look ahead to 60s, 70s and beyond.

Consequently, we are partially supportive of the proposal for a commissioner qualified by our preference for a Minister for Older People (a post previously held from 2018 -2023 by Christina McKelvie MSP) to provide clear democratic accountability and strong governmental leadership.

Equalities Act it should have a powerful voice in government, particularly so given Scotland's ageing demographic. However, as FM Humza Yousaf removed the ministerial post from the Cabinet and relocated responsibility for older people to Emma Roddick's equalities portfolio it is necessary to consider the proposal for a Commissioner. A situation whereby a Minister and a Commissioner could both exist should be considered, with a clear recognition that we need long-term strategies for an ageing demographic that encompass older people's rights and issues.

## OUR VIEWS ON THE PROPOSAL - QUESTIONS

**Q2. 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 contend that Legislation is required to give substance and accountability to the proposed post as well as to ensure that the Scottish Parliament has oversight of both appointments and of the process by which appointments are made.

In addition, we suggest that the office of Commissioner would be strengthened if it were aligned to a network of independent Senior's Forums comprised of older people but allied to other groups in society. Such Forums would be a practical means of fostering inclusiveness, sharing perspectives, developing intergenerational understanding, ensuring that policy aims stayed relevant, and that actions are effective and monitored by citizens with a direct interest in the outcomes.

It may also be beneficial to apply the mechanism of a citizen's assembly to the substance of demographic ageing and the need to develop comprehensive strategies for the coming decades.

It is our view that the office of a Commissioner should be one that enjoys the confidence of the Scottish Parliament and therefore as with similar roles such as the Children's Commissioner, should be appointed by the Crown on the advice of Parliament and held only while such confidence is retained by Parliament.

**Q4. 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? Please explain the reasons for your response.**

We are not supportive of the proposed age 60 as a means of defining the Commissioner's remit. Our major qualification is that it is the process of becoming older that needs focused awareness and actions and not simply the needs of the over 60s at any given date (or even of those over the age of 50 as per the definition given above). Consequently, there is a need to anticipate changes in the life course and make provisions for younger age groups to better prepare for later life. This is common practice for many financial matters and to an extent for health care, but there needs to be a more holistic approach linked to greater opportunity and support for forward planning as the population ages.

This approach can encompass major policy areas such as improving pension systems, countering ageism, improving workplace conditions, delivering age sensitive housing and local area plans, and fostering healthy ageing. All these areas need government policy, planning, resourcing, and crucially longer-term planning.

It is conceivable that a policy change (such as a change to pensions) could have a dramatic and foreseeable impact on older people but may take years or decades to feed in and actually affect any single person thus would have a limited impact on any older person currently living.

In short, the remit of the Commissioner should cover issues that affect older people, even and perhaps especially if the people who will be affected by them are not yet themselves older people.

**Q5. Which of the following best expresses your view on whether the proposed Commissioner should hold powers of investigation?**

We are fully supportive of the Commissioner having powers of investigation, unless there is a better mechanism the Commissioner needs specific investigative powers. Parliament should develop a mechanism whereby the results of investigations are discussed and debated in the chamber.

**Q6. 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?**

**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.**

We are not particularly concerned if work is replicated across various commissioners as many policy areas intersect across interest groups (e.g. housing policy can be improved by thinking about how the policy affects both children and older people) and many different interest groups will have similar issues regarding any particular area of policy. Different approaches to a similar problem can lead to the diversity and strengthening of ideas.

It may be useful to keep open clear channels of communication between Commissioners or to organise regular meetings between them so that they can inform each other of their work.

We do call for clearer guidance on the legal status and framework for commissioners and this should be regularised across all of them.

It is important to note that the above only applies

to work being duplicated between commissioners and should not apply to work being duplicated between commissioners and other bodies – public or not. We would expect, for instance, both the Commissioner for Older People and the Minister for Older People to work on similar and overlapping projects either as a matter of course or even at the same time and in response to a particular need. Especially when a Commissioner and a Minister are working on overlapping areas, it is important that the democratic process is maintained and that work independent of Government is not unduly influenced by Government.

**Q7. Which of the following best expresses your view on whether the proposed Commissioner should be independent of Government?**

We prefer not to express a preference as the form of this question and the range of options does not identify the degree of independence from government that would be possible. A completely independent commissioner might be seen as a purely advisory commentator with little or no influence. A more integrated relationship might on the other hand be criticised as too much under the influence of government. We believe these qualifications require discussion and clarification to achieve the best result. In addition, if there was to be a Minister for Older People in government, which we advocate, that would create a different context for a commissioner, and should be considered.

As with the previous question, this highlights the need for the framework of the role of Commissioners to be reviewed and regularised with more clearly published guidance on how Commissioners are appointed, what their length of tenure is, how they are resourced and how their reports are published and made accessible as well as issues such as how Parliament can oversee their role.

**Q8. 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?**

**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.**

We would expect that the role of Commissioner would attract a salary (The Children's Commissioner appointed in April 2023 attracted a salary of £77,000) thus a new Commissioner would create a new cost to the public purse. We would expect that effective policies would also have cost implications both up (for delivery of new services needed but currently lacking) or down (due to savings created by fixing problems such as protecting older people from adverse health implications of policy failures in housing, work, care etc.). These cost implications are more difficult to quantify therefore it is impossible to say if the net implication will be positive or negative on the public purse.

It maybe possible that a Minister for Older People could deliver the outcomes more cheaply (the additional salary for a junior minister who is already an MSP is currently around £32,000, and the additional salary for a hypothetical Cabinet Secretary for Older People would be around £51,000) however this "cost saving" would be negated if, as we advocate, both a Minister and a Commissioner were to be created.

## EQUALITIES

**Q9. 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.**

This question highlights the matter of perceived and actual 'hierarchies' within the equalities territory. For example, ageism is often cited as the least discussed of the various 'isms' associated with equality legislation and practices. Consequently, ageist stereotyping, bias and discrimination can receive less attention than other more obviously prejudiced approaches to gender, sex, ethnicity etc. despite being equal in law to other Protected Characteristics. One disturbing result occurs when protected groups are set against each other in popular and political discourse. Thus, older people can be ignored or de-prioritised in relation to other groups which are seen to be more at risk of discrimination.

Equally disturbing is the incidence of intergenerational conflict fostered in popular discourse, where older people are positioned as directly harming the economic and other interests of younger people, such as property ownership. There is also the well-rehearsed argument that older people are 'a burden' on the welfare state and therefore draining the public purse of funds for other priorities.

Our aim is to challenge such negativity and achieve a greater degree of understanding, empathy, and solidarity across the various groups of citizens within the framework of protected characteristics described in the 2010 Act. Achieving this aim would be a requirement of the role of Commissioner.

## SUSTAINABILITY

**Q10. 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 think the proposal could impact the areas identified and the relationships need to be specified and provisions made for coordinated efforts to achieve sustainability.

If we are serious about improving the prospects for 'all our futures', then a coherent strategy is needed. One important focal issue is the use of common timelines for areas like demographic ageing and climate change. For example, how would plans and interventions for apparently separate aspects of society/economy such as climate change and population demographics relate along identified timelines? We contend, for example, that the urgency of climate change and demographic ageing call for policy integration in terms of economic, social, and technological strategies as opposed to separate and short-term policy trajectories. More examples may be found in the book All of Our Futures.

## GENERAL

**Q11. 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)?**

We generally welcome initiatives that will bring great attention to issues affecting older people therefore this Bill will receive our qualified support. However, we do have concerns that increasing use of Commissioners to inform and lobby government is a potential pathway to the erosion of democracy in favour of a kind of groupthink-prone technocratic government or, at its worst, a nepotistic form of sinecure towards favoured voices. It is absolutely vital that the role of commissioners around government is regularised and that control over their appointment and governance is strictly maintained by Parliament. On the whole, we would prefer that a Minister for Older People be the main advocate in government on these issues though we see advantages for both a Minister and a Commissioner acting as a check against each other.

In terms of the role itself, the Commissioner should not limit themselves to issues currently affecting older people at the present time but should be prepared to scrutinise all policies emanating from government based on how they may affect both older people now and older people in the future.

**- Dr Craig Dalzell, Head of Policy and Research, Common Weal**

Response on behalf of Common Weal.