



Commissioner for Older People Act (Northern Ireland) 2011

2011 CHAPTER 1

An Act to provide for the appointment and functions of the Commissioner for Older People for Northern Ireland. [25th January 2011]

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

The Commissioner

The Commissioner for Older People for Northern Ireland

1.—(1) There is to be an officer known as the Commissioner for Older People for Northern Ireland.

(2) The Commissioner is to be appointed by the First Minister and deputy First Minister acting jointly.

(3) The appointment of the Commissioner under subsection (2) may be made only after taking account of the views of persons aged 60 or over in accordance with arrangements made by [^{F1}the Executive Office] .

(4) Schedule 1 has effect in relation to the Commissioner.

Textual Amendments

- F1** Words in s. 1(3) substituted (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 6 para. 12](#) (with art. 9(2))

Modifications etc. (not altering text)

- C1** S. 1(1)-(2): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))
- C2** S. 1(4): transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

Principal aim of the Commissioner

2.—(1) The principal aim of the Commissioner in exercising the functions of the Commissioner under this Act is to safeguard and promote the interests of older persons.

(2) In determining whether and, if so, how to exercise the functions of the Commissioner under this Act in relation to any particular older person the Commissioner's paramount consideration must be the interests of that older person but, in the Commissioner's dealings with any body or person under this Act, the Commissioner must at all times have regard to any statutory provision or rule of law which authorises or requires that body or person to act in a particular manner or authorises or requires that body or person to have regard to any consideration other than that mentioned above.

(3) In—

- (a) considering, for the purposes of this Act, what constitutes the interests of older persons, and
- (b) determining whether and, if so, how to exercise the functions of the Commissioner under this Act,

the Commissioner must have regard to the United Nations Principles for Older Persons adopted by the General Assembly of the United Nations on 16 December 1991.

Modifications etc. (not altering text)

- C3** Ss. 2-29: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

Commencement Information

- I1** S. 2 in operation at 1.12.2012 by [S.R. 2012/388](#), **art. 2(a)**

Functions of the Commissioner

Duties of the Commissioner

3.—(1) The Commissioner must promote an awareness of matters relating to the interests of older persons and of the need to safeguard those interests.

(2) The Commissioner must keep under review the adequacy and effectiveness of law and practice relating to the interests of older persons.

(3) The Commissioner must keep under review the adequacy and effectiveness of services provided for older persons by relevant authorities.

(4) The Commissioner must promote the provision of opportunities for, and the elimination of discrimination against, older persons.

(5) The Commissioner must encourage best practice in the treatment of older persons.

(6) The Commissioner must promote positive attitudes towards older persons and encourage participation by older persons in public life.

(7) The Commissioner must advise the Secretary of State, the Executive Committee of the Assembly and a relevant authority on matters concerning the interests of older persons—

- (a) as soon as reasonably practicable after receipt of a request for advice; and
- (b) on such other occasions as the Commissioner thinks appropriate.

(8) The Commissioner must take reasonable steps to ensure that—

- (a) older persons are made aware of—
 - (i) the functions of the Commissioner;
 - (ii) the location of the Commissioner's office; and
 - (iii) the ways in which they may communicate with the Commissioner;
- (b) older persons are encouraged to communicate with the Commissioner;
- (c) the views of older persons are sought concerning the exercise by the Commissioner of the Commissioner's functions;
- (d) the services of the Commissioner are, so far as practicable, made available to older persons in the locality in which they live.

Modifications etc. (not altering text)

- C3** Ss. 2-29: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))
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Commencement Information

- I2** [S. 3](#) in operation at 1.12.2012 by [S.R. 2012/388](#), **art. 2(b)**

General powers of the Commissioner

4.—(1) The Commissioner may undertake, commission or provide financial or other assistance for research or educational activities concerning the interests of older persons or the exercise of the Commissioner's functions.

(2) The Commissioner may, after consultation with such bodies or persons as the Commissioner thinks appropriate, issue guidance on best practice in relation to any matter concerning the interests of older persons.

(3) The Commissioner may, for the purposes of any of the Commissioner's functions, conduct such investigations as the Commissioner considers necessary or expedient.

(4) If the Commissioner so determines, Schedule 2 is to apply in relation to an investigation conducted by the Commissioner for the purposes of the Commissioner's functions under section 3(2) or (3).

(5) The Commissioner may—

- (a) compile information concerning the interests of older persons;
- (b) provide advice or information on any matter concerning the interests of older persons;
- (c) publish any matter concerning the interests of older persons, including—
 - (i) the outcome of any research or activities mentioned in subsection (1);
 - (ii) the outcome of any investigations conducted under subsection (3);
 - (iii) any advice provided by the Commissioner.

(6) The Commissioner may make representations or recommendations to any body or person about any matter concerning the interests of older persons.

Modifications etc. (not altering text)

C3 Ss. 2-29: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 1 Pt. 2** (with art. 9(2))

Commencement Information

I3 [S. 4](#) in operation at 1.12.2012 by [S.R. 2012/388](#), **art. 2(c)**

General review of advocacy, complaint, inspection and whistle-blowing arrangements of relevant authorities

5.—(1) This section and section 6 apply to the following arrangements of a relevant authority—

- (a) advocacy arrangements, that is to say arrangements for making persons available—
 - (i) to represent the views, wishes and interests of older persons in relation to whom any functions of the authority are exercisable; and
 - (ii) to provide such older persons—
 - (A) with information, advice and support to enable or assist them to express their views and wishes to the authority; and

- (B) with advice about their interests;
- (b) complaint arrangements, that is to say arrangements for dealing with complaints made to the authority by older persons about actions taken in relation to them by that or another relevant authority;
- (c) inspection arrangements, that is to say arrangements for examining the state and management of, and the treatment of older persons on, any premises managed by that or another relevant authority in which—
- (i) an older person is living or being looked after;
 - (ii) an older person is being detained whether under any statutory provision or otherwise; or
 - (iii) health, welfare or any other services are provided for older persons; and
- (d) whistle-blowing arrangements, that is to say arrangements for ensuring that proper action is taken in response to any disclosure of information which may tend to show—
- (i) that a criminal offence has been committed;
 - (ii) that a person has failed to comply with any legal obligation to which that person is subject;
 - (iii) that the health and safety of any older person has been endangered;
 - (iv) that the rights of any older person have been infringed; or
 - (v) that any matter falling within one of the preceding paragraphs has been deliberately concealed,
- in the course of, or in connection with, the exercise by the relevant authority of any of its functions in relation to older persons.
- (2) Subject to subsections (3) and (4), the Commissioner may review the operation of any arrangements to which this section applies for the purpose of ascertaining whether, and to what extent, the arrangements are effective in safeguarding and promoting the interests of older persons.
- (3) The Commissioner may not exercise the Commissioner's power under subsection (2) in relation to any arrangements made by a relevant authority unless the Commissioner has reasonable grounds to believe that—
- (a) the arrangements in question are ineffective in safeguarding and promoting the interests of older persons; or
 - (b) those arrangements have not been operated, or have been operated incorrectly.
- (4) The Commissioner may not review the operation of the inspection arrangements made by a relevant authority unless it appears to the Commissioner that there is no other body or person likely to review those arrangements.