

Consultation of RCPsychiS Members – Views on Proposed Commissioner for Older People (Scotland) Bill

Submission date: 23 October 2023

Question 1: Which of the following best expresses your view of the proposed Bill?

- **Fully supportive**

Please explain the reasons for your response.

Older people's mental health services have been under increasing pressure from multiple directions: demographic changes leading to increased demand, medical and nursing staffing shortages, and a lack of dedicated funding to develop older people's mental health services. These pressures, combined with a drive for efficiency savings, have led to significant decreases in older adult mental health inpatient bed numbers at precisely the time that they should have been increasing.

Consequently, there is increased use of waiting lists for urgent inpatient care, with no additional resources for already very stretched community teams to manage. Increasingly, patients are now cared for in inappropriate settings such as general hospital wards when they need specialist mental health treatment. Delays in the provision of urgently needed social care have resulted in significant burden of stress for those in the community and delays in discharge for those in hospital who are fit for discharge.

Older adults have been disproportionately affected by the COVID-19 pandemic and this continues, not just for mental healthcare alone, but for physical healthcare. For example, patients are often waiting longer for treatment which, in turn, contributes to poorer mental health and quality of life.

This Bill should be able to highlight more effectively where older people remain disadvantaged and exert a degree of pressure on organisations to

take action to reduce these inequalities. Older people need support to have a stronger voice to advocate for better health and social care services.

Question 2: Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

The RCPsych in Scotland believes that legislation is required as non-legislative measures have failed to make an impact. Without robust legislation, a Commissioner will not have the power and influence necessary to make the desperately needed improvements.

The same arguments that merit a Children and Young People's Commissioner apply in older age: discrimination by age as a protected characteristic, higher levels of poverty, higher health needs with greater difficulties in accessing healthcare, social exclusion, vulnerable population, and the lack of voice for older people.

Question 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**

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.

The RCPsych in Scotland would recommend consideration of how this post might interact with the Mental Welfare Commission with regard to the investigation of individual cases.

The RCPsych in Scotland would also recommend the creation of an Advice and Assistance team, as exists in Wales. Consideration should be given as to how this team can offer support to those who lack capacity and may not be able to approach the team themselves.

Lastly, there is concern amongst members of the RCPsych in Scotland that the Equality Act is not always adhered to. With this in mind, the role of the Commissioner in post legislative scrutiny will be crucial.

Question 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**

Please explain the reasons for your response.

Although there is a risk of the dilution of core issues affecting older people by including those in the 60-65 group, there may be adequate protection in including in the remit that the issues dealt with are related to ageing. For example, tackling age discrimination in workplaces in the 60-65 year group may allow people to remain in work longer into their old age, which has health and social benefits.

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

- **Partially supportive**

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

Further clarity is required in terms of the Commissioner's powers of investigation, as there is potential for overlap with the Mental Welfare Commission.

Question 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?

- **Neutral (neither agree nor disagree)**

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.

There may be overlap in roles, as would be the case for the Children and Young Peoples' Commissioner.

However, a clearly defined remit and good working relationships with other departments and bodies should help to avoid unnecessary duplication.

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

- **Fully supportive**

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

The RCPsych in Scotland believes that this role should be independent of government, with the Commissioner free to scrutinise government policy when required.

As a starting point, the governance arrangements of the Mental Welfare Commission should be considered.

Question 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?

- **No overall change in costs**

Please explain the reasons for your response, 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.

Comparable costs have not been excessive in Wales and Northern Ireland.

Furthermore, the costs that have been outlined in the draft proposal do not seem excessive.

If this role was able to help improve the provision of social care and better health care, then it is possible that cost savings could be made. For example, access to early and effective treatment for a health condition can prevent the need for hospital admission later.

Question 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?

Please explain the reasons for your response and if there are any ways you think the proposal could avoid negative impacts on particular people.

This law will directly address inequalities relating to age. However, as outlined in the draft proposal, the Commissioner would have to consider other identities that intersect with age such as the protected characteristics of the Equality Act.

Evidence in Wales and Northern Ireland suggests that, following the introduction of a Commissioner for Older People, there has been a positive wider impact on other groups with protected characteristics.

The RCPsych in Scotland does not believe that there are any obvious potential negative impacts on other protected groups.

Question 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?

Please explain the reasons for your response, 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?

This proposal could help to promote the retention of valuable older members of the workforce, who will contribute positively to the economy and society. It could also reduce discrimination against older people, through highlighting their value and roles in society, and through promoting cross-generational projects which have benefits for all.

In terms of a wider impact, working towards equality for one group benefits all in society. Equal access to health and social care for older adults will benefit younger carers, for example. Supporting people in the workplace or as active members in their community will have a wider benefit.

Question 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?

Consideration should be given as to how to best support and protect those who cannot speak for themselves, for example people with advanced dementia. Those who cannot speak for themselves are often the most discriminated against. They are not able to participate in consultation exercises such as this one, which often means that they are excluded from the service design process, leading to disproportionate emphasis being placed on other areas of ageing.