

Date: Wednesday 14th January 2004

Venue: Committee Room 3, National Assembly for Wales

Title: Commissioner for Older People

Purpose

1. This paper provides an early opportunity for the Committee to **comment** on the emerging conclusions of the Advisory Group which has been established to consider the proposal to establish a Commissioner for Older People. Members from the Advisory Group will attend the Committee meeting.

Background

2. The Labour Manifesto for the 2003 Assembly Elections included the commitment to establish a Commissioner for Older People in Wales. The proposal to establish a Commissioner was also one of the recommendations made in the Report "When I'm 64...and more".

3. I established this Advisory Group as a Task and Finish Group in summer 2003, with the following remit:

"To consider the status, powers, role and responsibilities of the Commissioner for Older People in Wales and to make recommendations to the Minister for Health and Social Services by March 2004"

It is chaired by John Griffiths, and the full membership of the Group is listed at Annex A.

4. A series of five meetings is currently underway, with the final one due to take place in March 2004. The Advisory Group will submit its report and recommendations to me in March. A public consultation will follow in spring/early summer and there will also be an opportunity for Plenary discussion of the Advisory Group's report. It is planned that the new National Partnership Forum for Older People could consider the report, and the analysis of responses to the public consultation, in autumn 2004.

Consideration

5. In general terms, the Advisory Group considers that the Commissioner should be an independent champion for older people, whose role should include both greater empowerment of older people and enforcement of their legal rights. It is likely to recommend an overall **aim** for the Commissioner along the lines of: *to promote and safeguard the rights and dignity of older people in Wales and to challenge discrimination against older people.*

6. The Group has discussed in detail the Commissioner's **duties and responsibilities**. Whilst members have not reached a conclusive view on what these should be, they are likely to cover the following areas:

- Influencing policy and service delivery
- Championing and empowerment
- Source of information, advocacy and support
- Safeguarding and enhancing rights
- Investigating complaints

7. The detail of these duties and responsibilities is likely to include:

A: Influencing policy and service delivery

- Ensuring that the UN Principles on Older People are taken into account by public bodies in their work, as well as by the Commissioner him/herself
- Reviewing the impact of policies and issues of concern to older people in Wales; identifying areas for development or change; commenting on priorities for investment; and offering advice to the relevant elected bodies (including the Assembly Government, the NHS and local government) on his/her own initiative
- Producing regular, published reviews of the impact of services on older people in Wales and reports on the status and well-being of older people
- Producing publications and policy statements about issues impacting on older people
- Publishing an annual report on the commissioner's own activities, using a variety of media in accordance with the needs of older people

B: Championing and empowerment

- Publicising the arrangements by which older people can contact the Commissioner and taking reasonable steps to ensure that access arrangements maximise his/her availability to all individuals and groups of older people in Wales

- Actively seeking the opinions and priorities of older people and making sure that their views are heard and understood about issues that affect them
- Ensuring that the voices of marginalised older people are heard and their views acted on
- Influencing the culture of Wales to reflect a positive view of older people and of ageing, and promoting greater understanding and respect between the generations
- Examining the contextual inhibitors which can create barriers to older people making a full contribution to society, and highlighting the issues which need to be addressed
- Empowering older people from vulnerable and potentially marginalised groups to enable them to participate effectively as citizens and as service users
- Consulting with organisations and individuals to broaden participation in policy making, the planning of services, and the way they are delivered – and acting on the results of that consultation

C: Source of information, advocacy and support

- Signposting and, where appropriate, providing directly: information, advice and advocacy services for older people; and acting as an advocate on their behalf if they choose
- Monitoring the sources of advice and information which are available to older people and promoting better co-ordination between them; sharing and exchanging information
- Raising the awareness of older people of both their rights and of the role of the Commissioner in asserting and protecting those rights
- Listening – receiving information and reports from local fora and via the OPC website, and by any other means of communication
- Publishing, promoting and commissioning research on older people's rights and needs and promoting examples of best practice

D: Safeguarding and enhancing rights

- Supporting and enabling older people as they assert their legal rights, and as they draw on the UN Principles on Older People; and protecting those rights on their behalf
- Challenging age discrimination and ageism in Wales

- Challenging inequality and inequity in older people's ability to access information and services, and in their experience of service delivery
- Campaigning to strengthen the law so that it works better to protect older people

E: Investigating complaints

- Taking reasonable steps to ensure that older people can complain effectively about public services and services provided by non-statutory organisations, and enabling them to do so
- Promoting "whistle-blowing" among those working with older people, where there are serious concerns, and undertaking reviews of whistleblowing, complaints and advocacy procedures
- Reviewing individuals' cases where other complaints procedures and investigative processes have been exhausted; and undertaking formal investigations as appropriate [with access to public and private institutions for older people and the power to call for persons and papers]
- Assisting older people, including financially, to undertake legal proceedings over alleged breaches of their rights in strategic or other appropriate cases
- Bringing legal proceedings in his/her own right involving the law, policy and practice relating to the protection of older people's rights generally or where the Commissioner believes that an older person's rights have been denied

8. The Advisory Group is clear that it believes that this remit is best fulfilled by an independent Commissioner, and understands that establishing a fully independent Commissioner would first require primary legislative **powers** to be put in place. It has considered in this context the functions and powers of the Children's Commissioner in Wales, as well as that in Northern Ireland, by way of a model for the Commissioner for Older People.

9. However, it has also examined the potential for appointing an interim Commissioner, who would to use existing powers on behalf of the Assembly . It has noted that certain a number of the matters areas of work that are headlined above could be dealt with in this way, in relation to Assembly functions. However,†This would give the opportunity for older people's views and concerns to be better championed in advance of any primary legislation being taken through Westminster.

10. The Group also recognises the importance of dovetailing the proposals for a Commissioner for Older People with existing arrangements for investigation, complaints and redress (including, for instance, the Disability Rights Commission, local government and NHS complaints procedures, the Parliamentary Commissioner for Administration and the Welsh Ombudsman) to ensure that the potential for duplication is minimised. Likewise, an appropriate role for the Commissioner will need to be set out

clearly regarding non-devolved issues. There will also need to be clear demarcation between the Commissioner and the proposed new Commission on Equality and Human Rights. These are all issues which the Advisory Group continues to consider and to develop its thinking on.

11. Finally, the Advisory Group is considering whether or not a lower age limit should be set to define in law the group of "older people" on whose behalf a Commissioner would act. On balance the Group is likely to propose that a lower age limit should be set, but to recommend that age 65 and age 50 should both be put forward as proposals for wider consultation.

Action

12. The Committee is invited to:

- i. discuss the emerging conclusions of the Advisory Group and
- ii. note that the Advisory Group's report and recommendations will be published in the spring and that public consultation will follow

Jane Hutt AM
Minister for Health and Social Services

Contact: Elizabeth Lockwood, Social Care Policy Division, tel 029 2082 1695

Annex A: Members of the Advisory Group on a Commissioner for Older People in Wales

Chair John Griffiths AM

**Welsh Local Government
Association**

Beverlea Frowen

**Society of Local Authority Chief
Executives (SOLACE)**

Ken Sawyers, (Chief Executive, Neath Port Talbot
County Borough Council)

or

Mark James (Chief Executive, Carmarthenshire County
Council)

Association of Directors of Social Services (ADSS)	Byron Williams (Director of Social Services, Isle of Anglesey County Council)
Local Health Board representative (Chief Executives' Group)	Andy Williams (Chief Executives' Group, Powys Local Health Board)
NHS Trust Chief Representative (Chief Executive's Group)	Martin Turner (Chief Executive, Gwent Health Care Trust)
Age Concern Cymru	Rob Taylor
Help the Aged	Ana Palazon
National Old Age Pensioners Association of Wales	Alun Davies
Wales Pensioners	Mrs Maureen Jenner
Pensioners Forum Wales	Mrs Nancy Davies Mrs Phyllis Preece
UK Government (Department for Work & Pensions)	Dave Snook (The Pension Service, Department for Work & Pensions, Pontypridd)
Office of the Children's Commissioner for Wales	Maria Battle (Deputy Children's Commissioner for Wales)
Disability Rights Commission in Wales	Amelia John (Head of Policy & Development, Disability Rights Commission (Wales))