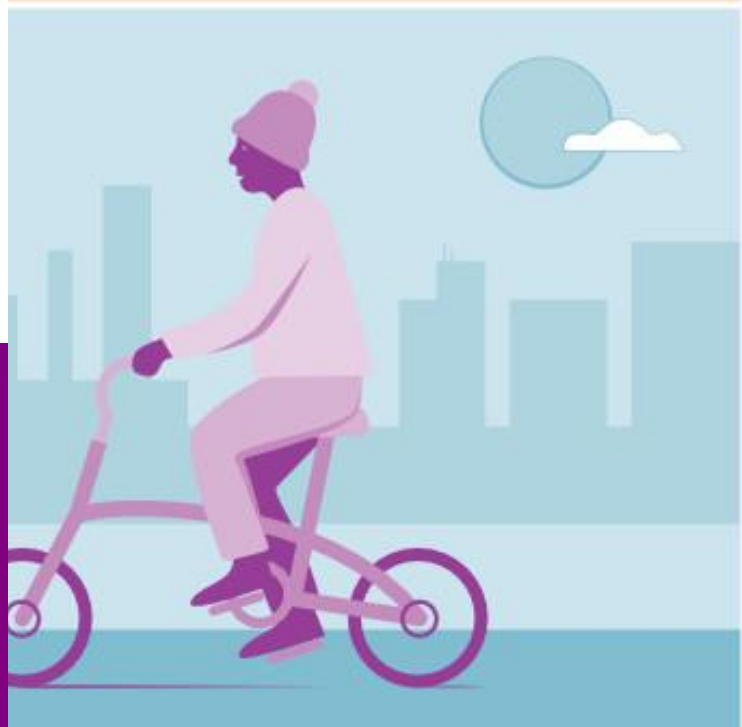




**The Health and
Social Care
Alliance
Scotland
(the ALLIANCE)**



**Proposed Commissioner for Older
People (Scotland) Bill**

20 October 2023

Introduction

The Health and Social Care Alliance Scotland (the ALLIANCE) welcomes the opportunity to respond to the consultation on the proposed Older People's Commissioner (Scotland) Bill.

The ALLIANCE have consistently called for public services to take a human rights based approach. An Older People's Commissioner would have the potential for upholding and further advancing the rights of older people in Scotland, if appropriately empowered to investigate and challenge public bodies and service providers that are failing in their duties.

Response

Aim and Approach

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

- Fully supportive

The ALLIANCE agrees with the aim of the proposed Bill to promote and safeguard the rights and interests of older people and to challenge discrimination. Similarly, the ALLIANCE agrees with the justification of a commissioner to be a champion for older people who is specifically responsible for ensuring that the rights and interests are being observed and that any policies or government legislation takes account of their views and lived experience.

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.

For the creation of an Older People's Commissioner, which would ensure that there is a champion for older people who is specifically responsible for ensuring that their rights and interests are being observed as set out in the bill, legislation is required.



The ALLIANCE supports the creation of an Older People’s Commissioner; however, we also acknowledge proposals for alternative options set out by the Scottish Human Rights Commission (SHRC) in their paper ‘At a crossroads- which way now for the human rights system in Scotland?’ These options set out proposed changes to the SHRC to allow for alternative commissioner structures. For example, Option D, outlined in the paper, sets out that instead of a proposed new commissioning body, there could be a rapporteurship structure which would entail a series of small teams within a National Human Rights Institution (NHRI) focused on particular groups of people and/or particular human rights treaties. This could be another way for the proposed Bill’s aims to be achieved.

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

Fully supportive

The ALLIANCE support the need for a specific, dedicated Commissioner focusing solely on older people’s rights and interests.

Like many countries, Scotland has an ageing population. This is a positive development, as it means more people are living longer lives. As we age, everyone should be confident that they will have all the support they need to live life to the full. One of the ways to ensure this is to uphold and inform people about their rights.

An independent Scottish Commissioner for Older People would be a specific champion for the rights of older people. They would review relevant laws, policy, and practice, highlight and advocate for change where needed, commission research, and carry out investigations when older people’s rights may have been breached.

The Commissioner would embrace the opportunities as well as respond to the challenges of an ageing population. By recognising the value of older



people in our society and helping them to realise their rights, we can ensure everyone continues to play an active role.

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

The ALLIANCE supports the age range of the proposed Commissioner’s remit covering all those in Scotland aged 60 and over.

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

- Fully supportive

In our previous response to the consultation on a proposal for a member’s Bill which would create a Disability Commissioner for Scotland¹ the ALLIANCE stated that the powers of investigation for commissioners are important for two reasons. These points remain true when thinking about the Older People’s Commissioner.

Firstly, although the Older People’s Commissioner may have limited scope in enforcing recommendations on service providers which are not Scottish public bodies, to be able to ‘name and shame’ providers that have breached the rights of groups is likely to encourage change.

Also, by having these rights, the role is more likely to be perceived well by those they represent as well as the public in general. If the Commissioner lacked the power to investigate possible breaches of older people’s rights, the role may not be seen as having any real impact or ability to effect positive change.

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?

- Tend to agree

The ALLIANCE understands that it will be possible for the proposed Commissioner's work to avoid duplication with existing officeholders. The ALLIANCE welcomes the information provided in the consultation response around ensuring complementary working between Commissioners. The ALLIANCE as previously stated finds that there are other ways in which the proposed aims of the commissioner could be reached, and so not only should the legislation avoid duplication of work, but it should also review whether the work can be achieved by existing bodies.

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

- Fully supportive

The ALLIANCE is fully supportive of the proposed Commissioner being independent of government, in fact, the independence of the Commissioner will be essential to its efficiency. Without being fully independent, the Commissioner would lack any real legitimacy within those they are trying to represent and also within those they are trying to impact.

Financial Implications

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?

- some increase in costs

The creation of a new Commissioner post will have financial consequences, particularly in terms of salaries for the Commissioner, their staff, inclusive communications, and other administrative expenditure. However, relative to overall public expenditure in Scotland, only a very



modest sum would be required for the Older People's Commissioner, and it is unlikely to have any wider financial implications.

An increase in overall investment in older people would be a very positive move for older people in Scotland. The ALLIANCE disagree with the idea that this money would need to be taken from other spending on older people.

Equalities

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.

The creation of an Older People's Commissioner is intended by its nature to have a positive impact on older people and their rights. The ALLIANCE agree that the role is likely to have an overall positive equalities impact by raising awareness of the rights of disabled people and offering a mechanism by which breaches of those rights can be highlighted, challenged, and addressed.

The ALLIANCE feels strongly that the Commissioner must take equality and intersectionality into account when fulfilling their role. This would ensure that there is a focus on older people whose rights are most at risk, which could be those with intersecting identities including sex, gender identity, sexual orientation, religion and faith, ethnicity, etc.



Sustainability

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? 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?

There is no clear sustainability impact arising from this Bill. This Bill could lead to positive impacts on the environment by creating a sustainable economy and creating a strong, healthy, and just society for future generations.

About the ALLIANCE

The Health and Social Care Alliance Scotland (the ALLIANCE) is the national third sector intermediary for health and social care, bringing together a diverse range of people and organisations who share our vision, which is a Scotland where everyone has a strong voice and enjoys their right to live well with dignity and respect.

We are a strategic partner of the Scottish Government and have close working relationships with many NHS Boards, academic institutions and key organisations spanning health, social care, housing and digital technology.

Our purpose is to improve the wellbeing of people and communities across Scotland. We bring together the expertise of people with lived experience, the third sector, and organisations across health and social care to inform policy, practice and service delivery. Together our voice is stronger and we use it to make meaningful change at the local and national level.



The ALLIANCE has a strong and diverse membership of over 3,300 organisations and individuals. Our broad range of programmes and activities deliver support, research and policy development, digital innovation, and knowledge sharing. We manage funding and spotlight innovative projects; working with our members and partners to ensure lived experience and third sector expertise is listened to and acted upon by informing national policy and campaigns and putting people at the centre of designing support and services.

We aim to:

- Ensure disabled people, people with long term conditions and unpaid carers voices, expertise and rights drive policy and sit at the heart of design, delivery and improvement of support and services.
- Support transformational change that works with individual and community assets, helping people to live well, supporting human rights, self-management, co-production and independent living.
- Champion and support the third sector as a vital strategic and delivery partner and foster cross-sector understanding and partnership.

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¹ ALLIANCE response to Consultation on the Proposed Disability Commissioner (Scotland) Bill, 2 August 2022. Available at <https://www.alliance-scotland.org.uk/blog/resources/alliance-response-to-disability-commissioner-consultation/>

