

A

**Commissioner
for Ageing and
Older Persons -
the missing
piece.**

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AgeAction
Age Equality

CONTENTS

Summary	1
The Role of a Commissioner for Ageing and Older Persons	2
Independent Voice Against Ageism	3
Best Practice	3
All of Government Remit	4
Research and Analysis	4
The Impact of the Absence of a Commissioner for Ageing and Older Persons	6
An Ageing Population	6
COVID-19	7
Nursing Homes	9
Home Care	11
Assisted Decision Making	12
International Law	12
Poverty and Deprivation	14
People Ageing in Adverse Circumstances	15
Creating a Commissioner for Ageing and Older Persons	17
Legal Form	17
Budget	18
Impact	18
Comparison with other jurisdictions	19
The Remit and Scope	20
What do we Mean by Age Equality	23
About Age Action	24

SUMMARY

Establishing a Commissioner for Ageing and Older Persons, with a supporting legal framework and an independent budget, would ensure that we are all treated with respect and on an equal basis with the rest of the population in older age.

A Commissioner would provide an opportunity to improve the efficiency and effectiveness of society's approach to an ageing population by bringing an appropriate level of insight, representation and transparency to policy on ageing. A Commissioner would provide an independent voice to Government on the needs of current and future older people, and promote cohesive, efficient, best-practice Government policy and services for the growing number of older persons.

A Commissioner would support existing legislation, and complement and cooperate with the powers of existing public and publicly-funded bodies to help address the many issues that fall outside the scope of other state institutions, as well as to address gaps that clearly exist, particularly for issues that are complex, cross-sectoral, long-term or below the level of an immediate risk of harm/rights violation but which still severely impact people's lives and ability to make choices.

The role of a Commissioner for Ageing and Older Persons can be summarised as an independent authority that:

- investigates systemic issues affecting older people, including by funding research and analysis to fill gaps where there is inadequate evidence to inform public policy
- reviews the adequacy of policy, legislation and services affecting older people
- advises Government on matters concerning older people, including by reference to international best practice.

There are over 720,000 people aged 65 or older in Ireland, and more than one million aged 60 or older (one in four adults). The number of people aged 80+ is set to double by 2035, and the incidence of dementia is expected to at least double. When we are older, we need strong institutions to promote and enforce our rights, and to ensure our voices are heard.

For example, one action for the Commissioner would be to participate in the necessary independent investigation into the negative experiences of many nursing home residents during lockdown.

More than a third of deaths from COVID-19 occurred in nursing homes, and an investigation is needed to establish the circumstances of each and every death in nursing homes and how response measures did or did not support the equality and rights of all residents in nursing homes.

Based on comparison with similar organisations, including the existing Commissioners in Wales and Northern Ireland, a substantive and professional office of a Commissioner for Ageing and Older Persons could be established on an annual budget of €2 million.

In order to quickly establish a Commissioner, not least to assist with the ongoing issues arising from COVID-19, a distinct office of a Commissioner for Ageing and Older Persons could be cost-effectively created as an independent unit within the Ombudsman's office.

Subsequently, the Commissioner for Ageing and Older Persons should be established under enabling legislation to ensure it is fully independent in its functions.

THE ROLE OF A COMMISSIONER FOR AGEING AND OLDER PERSONS

The need for a Commissioner for Ageing and Older Persons does not stem from any one single public policy problem, but it is a requirement to address issues of rights or discrimination that arise systemically across a wide range of Government policies and responsibilities.

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- investigates systemic issues affecting older people, including by funding research and analysis to fill gaps where there is inadequate evidence to inform public policy;
- reviews the adequacy of policy, legislation and services affecting older people;
- advises Government on matters concerning older people, including by reference to international best practice.

Independent Voice Against Ageism

In the World Health Organisation's (WHO) seminal Global Report on Ageism, ageism is defined as arising "when age is used to categorize and divide people in ways that lead to harm, disadvantage and injustice and erode solidarity across generations."^[1]

It can manifest in institutional settings, interpersonal dynamics, or be self-directed.^[2]

Ageism has been identified as a global concern by the UN and World Health Organisation (WHO). In the Global Report on Ageism, published to mark the start of the UN Decade of Healthy Ageing, the WHO linked ageism to poorer physical and mental health, social isolation, and earlier death.

The first task of the Commissioner for Ageing and Older Persons should be to raise public awareness of ageism, to take steps to break down negative or demeaning stereotypes of ageing and older people, and to recommend actions to counteract institutional policies and practices that perpetuate ageism.

Best Practice

As outlined in more detail below, Commissioners in other jurisdictions have established themselves as centres for best practice in relation to safeguarding the rights and equality of older people. They have done this through public information campaigns, the provision of toolkits, casework assistance, engagement with government departments and public authorities, issuing of formal guidance, and conducting reviews.

[1] <https://www.who.int/teams/social-determinants-of-health/demographic-change-and-healthy-ageing/combating-ageism/global-report-on-ageism>

[2] <https://www.who.int/teams/social-determinants-of-health/demographic-change-and-healthy-ageing/combating-ageism/global-report-on-ageism>

All-of-Government Remit

Part of the challenge for policies affecting older people is that many of the issues, such as the cost of living, healthy ageing, disability or assisted decision making, are of necessity cross-departmental issues where no one government minister can be in charge of all aspects of policy.

There is a need for holistic, joined up approaches to making policies that affect older people. A positive example in relation to health promotion is the recognition by the Government of the requirement for partnerships between Government departments and all sectors of society. The Healthy Ireland Strategic Action Plan provides a roadmap built on a cross-society approach “involving Government Departments, local authorities, public bodies, schools and education institutions, businesses and employers, sports, cultural, creative and voluntary groups, communities, families and individuals.”[3] Another example, from the Housing for All strategy, is the requirement for all local authorities to “consider the needs of older people in the wider planning process”.

A Commissioner for Ageing and Older Persons, as an authority with a remit across all the diverse issues relating to older age, would be perfectly placed to draw together the implications of different departmental policies and to ensure that they are proofed with respect to their impact on people as they age.

Research and Analysis

A key function of an independent Commissioner for Ageing and Older Persons would be to commission research and analysis on issues where there is a lack of evidence to inform public policy.

A range of examples highlight the need for an independent Commissioner to ensure adequacy of public policies and actions in relation to the growing population of older people in Ireland:

- The need to investigate COVID-19 response measures in nursing homes in order to learn lessons, and to rebuild trust and confidence in the sector.
- The current crisis in adequately delivering homecare supports for older persons.

[3] <https://www.gov.ie/en/publication/441c8-healthy-ireland-strategic-action-plan-2021-2025/>

- A lack of comprehensive action, implementation or resourcing of the National Positive Ageing Strategy 2013, even following attention drawn to it with the unanimous recommendation of the 2017 Citizens Assembly that the Government urgently prioritise the implementation of the 2013 Strategy.
- Ongoing lack of sustainably funded health and pension budgets, and continued reliance on tax receipts to fund spending overruns such as the ongoing overruns in health spending averaging €500 million annually in recent years despite warnings by the Fiscal Advisory Council.[4]
- Increasing exclusion of those not using the Internet. Without adequate representation of those not online, it has effectively resulted in a large proportion of the older population being prevented from participating on matters related to public policy, retaining control over their affairs, accessing cheaper goods or services, or having access to basic or improved public services such as driver licencing appointments or telehealth healthcare options.

Additional indicative issues requiring research include energy poverty, the lack of a national dementia registry to provide accurate statistics, the lack of a national care strategy, and the situation of older people in the private rented sector.

A Commissioner for Ageing and Older Persons would fill a gap in research that used to be occupied by the National Council on Ageing and Older People (1997-2009), which published on a range of issues including healthy ageing, healthcare, care and home help, sheltered housing, dementia, return migration of older people to Ireland, social isolation, income, and much more. The NCAOP previously existed as the the National Council for the Aged (1981-1990) and the National Council for the Elderly (1990-1997). A Commissioner would also replace some of the research into issues affecting older people that was lost when the Combat Poverty Agency was abolished in 2009 and when the National Economic and Social Forum (NESF) was absorbed into NESC in 2010.

[4]The Irish Fiscal Advisory Council has noted that this could undermine Government's ability to implement policy (2015) and undermine the sustainability of public finances (2019) as we move to a greater percentage of the population aged over 65. The National Risk Assessment has also noted the financial risks associated with health and pensions since 2017. See Irish Fiscal Advisory Council (2019). Fiscal Assessment Report. Available at <https://www.fiscalcouncil.ie>. <https://www.gov.ie/en/publication/441c8-healthy-ireland-strategic-action-plan-2021-2025/>

THE IMPACT OF THE ABSENCE OF A COMMISSIONER FOR AGEING AND OLDER PERSONS

There is a persistent gap in the institutions of the state which points to the need for a Commissioner for Ageing and Older Persons. A Commissioner would provide an independent voice to Government on the needs and rights of older people and of everyone as we age, to promote efficient, best practice policies and to assist individuals and groups to overcome barriers to the realisation of their rights.

Most of Ireland's 720,000 older people (aged 65+) do not have access to representative bodies or state resolution mechanisms that are available to employees or business owners. A Commissioner would address this gap by bringing representation and transparency to issues relevant to older people. A Commissioner for Ageing and Older Persons could also support the programme for government's pledge to make Ireland age-friendly, not least by providing an authoritative voice for the rights and equality of older people.

The Constitution of Ireland recognises the state's duty to safeguard the interests of people when they reach old age or if they are affected by disability. Age discrimination has been recognised in the Employment Equality Acts since 1998 and in the Equal Status Acts since 2000.

Yet there is a lack of infrastructure to ensure that the rights of older people with respect to their age are respected, protected and fulfilled. For example, there has been an Ombudsman for Children since 2004 alongside a full Government Minister for Children and Youth Affairs since 2011, but there is no equivalent independent authority tasked with promoting the rights, equality and welfare of older people.

In Age Action's 2022 pre-budget survey of older people, 92.3% agreed with the proposal of establishing a Commissioner for Ageing and Older Persons, including two-thirds (65.7%) who strongly agreed.

An Ageing Population

Older people are identified by the UN and other international organisations as a category that deserves special recognition. The Developmental Welfare State report by NESC also recognises older people as a distinct category.[5]

There are already over one million people aged 60 or older in Ireland, representing one in four adults. The number of people aged over 65 is projected to reach 1.1 million by 2035, of whom the number aged over 80 will double to 340,000. [6]

[5] <https://www.nesc.ie/publications/the-developmental-welfare-state/>

[6] CSO population projections, <https://data.cso.ie/table/PEB07>

Life expectancy at birth is now an average of 79.6 years for men and 83.4 years for women. For those who reach age 65, life expectancy is on average 83.3 years for men and 86 years for women.[7] A large part of the improvement in life expectancy is the reduction in premature deaths through improvements in the prevention, detection and treatment of disease, and through health and safety policies.

The state needs to guarantee older people's rights to security, health and overall dignity in older age. Older persons have long been subject to inadequate protection of their human rights and overlooked in national policies and programmes.

COVID-19

The experience of COVID-19 demonstrated how ageism can shape public policy to the detriment of older people. The equality and human rights impacts of COVID-19 have been significant and felt acutely and disproportionately by older people.[8]

As of 7 June 2022, a total of 7,383 people in Ireland have died of COVID-19.[9] Between March 2020 and November 2021, 37% of COVID-19 deaths were found to be “excess mortality”, that is people who would not otherwise have been expected to die.[10] 82% of these excess deaths were of people aged 65 or older.[11] The vast majority of deaths (90.2%) have occurred among people aged 65 or older, and 59.2% of deaths have been of people aged 80 or older.[12] While public policy during the pandemic successfully prevented a much greater number of deaths among older people, the way in which policy was implemented had the unnecessary side-effect of reinforcing ageism and discrimination against older people.

The overall narrative that older people were “vulnerable” reinforced ageist stereotypes and public information clearly reduced the rights and freedoms of older people who were instructed to “cocoon” during the pandemic lockdown.

[7] <https://www.cso.ie/en/releasesandpublications/er/ilt/irishlifetablesno172015-2017/>

[8] Scottish Human Rights Commission (22 July 2020) Submission to the Equalities and Human Rights Committee, Inquiry COVID-19. Available at <https://www.scottishhumanrights.com/media/2063/covid-19-ehric-submission.pdf>.

[9] <https://covid19ireland-geohive.hub.arcgis.com>

[10] <https://www.hiqa.ie/reports-and-publications/health-technology-assessment/descriptive-analysis-covid-19-epidemiological>

[11] <https://www.hiqa.ie/reports-and-publications/health-technology-assessment/descriptive-analysis-covid-19-epidemiological>

[12] <https://www.cso.ie/en/releasesandpublications/br/b-cdc/covid-19deathsandcasesseries38/>

One in seven people (14%) aged 65+ (regardless of employment status) had their employment affected by COVID-19.[13] As most people aged 65+ are not working, the implication is that the vast majority of working older people were adversely affected. While eligible for wage subsidy schemes, older people who lost their jobs were not allowed to access the Pandemic Unemployment Payment (PUP).

Less visible effects of COVID-19 on older people include a lack of access to healthcare for non-COVID-19 conditions (and the risk of “excess mortality” from non-COVID causes due to delays in treatment), risk of neglect and abuse in institutions and care facilities, an increase in poverty, income insecurity and unemployment, the impact of cocooning on wellbeing and mental health, and the impact of stigma and discrimination.[14]

“
I seemed to lose my rights....Go to your room, keep your head down and your mouth shut
”

Many older persons are now enduring ongoing symptoms, a phenomenon known as “Long COVID”, which may affect 10% of those infected by COVID-19.[15] Many older people saw their care support threatened by COVID-19 due to changes to home care services or by living in high-risk environments such as institutions.[16] This persisted despite international evidence at an early stage in the pandemic that showed the potential risks to older age groups.

The effects of COVID-19 on older people have highlighted issues such as lack of planning, inadequate services and limitations in older people’s access to rights, all of which existed prior to the pandemic.

“
Older people were frightened into staying in their homes during the first lockdown, contributing to social isolation
”

Respondents to Age Action Lived Experience of Older Persons Pre-Budget Survey 2022

[13] CSO, Employment and Life Effects of COVID-19, April 2020.

<https://www.cso.ie/en/releasesandpublications/er/elec19/employmentandlifeeffectsofcovid-19/>

[14] See <https://www.un.org/development/desa/ageing/news/2020/05/covid-19-older-persons>

[15] Crowley, P. and Hughes, A. (2021) The impact of COVID-19 pandemic and the societal restrictions on the health and wellbeing of the population, and on the health service capacity and delivery: A plan for healthcare and population health recovery, Version 2 (May 2021). Dublin: National QI Team, Health Service Executive <https://www.hse.ie/eng/about/who/qid/covid-19-qi-learning/qi-resources-to-support-learning-from-covid19/covid-19-pandemic-impact-paper-2021.pdf>

[16] OHCHR (27 March 2020) ‘Unacceptable’ – UN expert urges better protection of older persons facing the highest risk of the COVID-19 pandemic’. Available at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25748>.

Nursing Homes

The Commissioner for Ageing would be expected to strengthen measures to safeguard residents of nursing homes and other communal residences and to support their capacity to make decisions for themselves. Those living in a communal setting are also particularly at risk in terms of contagious diseases like COVID-19.

Around 29,000 people (of any age) lived in nursing homes as of Census 2016. At any one time, about 4% of older people (predominantly those 80+) will live in a nursing home. In 2019, 20.2% of deaths of people aged 65+ occurred in a nursing home setting, and an additional proportion of deaths in hospitals are likely to be of people resident in nursing homes. [17] As such, at least one in five people can expect to spend their final years in a nursing home.

As of the 7th of May 2022, almost 2,500 COVID-19 deaths in Ireland occurred in nursing homes, representing over a third of all COVID-19 deaths.[18] Only 53 nursing homes in Ireland had avoided COVID-19 up to the end of 2021. In 2021, 91% of nursing homes reported at least one confirmed case of COVID-19.[19]

In August 2020, the Government published the COVID-19 Nursing Homes Expert Panel: Final Report, [20] which made recommendations to help safeguard residents in nursing homes. This urgent review was commissioned due to failures that had become evident in how nursing homes dealt with the outbreak of the pandemic. The Oireachtas Special Committee on COVID-19 Response also made a number of recommendations in relation to nursing homes and the effect of COVID-19 on older persons (Recommendations 1, 2, 4, 5, 6, 7 and 10).[21]



A proper wide-ranging Terms of Reference for a public enquiry into Government handling of COVID-19. The transfer of hospital patients to nursing homes without COVID testing cost hundreds of questionable deaths! Should be questioned legally as a potentially criminal act of medical neglect



Respondent to Age Action Lived Experience of Older Persons Pre-Budget Survey 2022

[17] <https://data.cso.ie/table/VSD36>

[18] <https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/surveillance/covid-19outbreaksclustersinireland/nursinghomecovid-19outbreaksreport2022>

[19] <https://www.hiqa.ie/sites/default/files/2022-06/HIQA-Annual-Report-2021.pdf>

[20] <https://www.gov.ie/en/publication/3af5a-covid-19-nursing-homes-expert-panel-final-report/#>

[21]

https://data.oireachtas.ie/ie/oireachtas/committee/dail/33/special_committee_on_covid_19_response/reports/2020/2020-10-10-09_final-report-of-the-special-committee-on-covid-19-response-sccr004_en.pdf

People living in nursing homes were reliant on managers and staff to keep them safe, and there is a pressing need for an open and transparent process to give both nursing home residents and bereaved families accountability and closure in relation to what occurred in nursing homes during the pandemic. The Coroners Society of Ireland and the Irish Association of Social Workers (IASW) have called for a wide-ranging inquiry into COVID-19-related deaths that occurred in nursing homes.[22]

Age Action has called on the Government to fund a focused inquiry into nursing homes' response to COVID-19 as soon as the pandemic is sufficiently controlled to allow this to happen. The investigation should not be allowed to run for years as a sprawling tribunal, but should be a properly resourced, clinical and human rights investigation, designed to deliver definitive findings in a reasonable time period. The voices of diverse older people must be actively sought as part of this process. The fundamental rationale of an inquiry into COVID-19 deaths, especially in nursing homes, is to identify what went wrong and to implement recommendations to ensure that the same problems never recur and to point us to a system of long-term care based on human rights and equality standards.

A Commissioner for Ageing and Older Persons ought to have a central role in the process of reviewing what went wrong in nursing homes policy, and in ensuring that lessons are learned and that recommendations are fully implemented.

Prior to COVID-19, there have already been a number of high profile cases of abuse that occurred in nursing homes (such as Leas Cross). A Commissioner should have an important role in the national conversation on nursing home and wider care policy in line with upholding the rights of older persons. As an independent authority, a Commissioner would also provide a repository of best practice and an independent complaints mechanism for those who are concerned about their own care or the care of relatives. The Older People's Commissioner for Wales has had such a role and has conducted significant reviews of care homes.[23]

“

That there is a comprehensive investigation into why so many older persons died in nursing homes

”

Respondent to Age Action Lived Experience of Older Persons Pre-Budget Survey 2022

[22] The Irish Examiner, 15 June 2021, Group backs call for 'wide-ranging inquiry' into Covid deaths in nursing homes (irishexaminer.com)

[23] https://www.olderpeoplewales.com/en/reviews/residential_care_review.aspx

Home Care

Oversights in planning for the needs of an ageing population, and guaranteeing the rights of older persons, are demonstrated in the example of home care. The impact of this has been brought to the fore in the COVID-19 pandemic. Failures to adequately plan for the home care needs of older people include:

- Failure to introduce legislation to provide for a statutory right to home care following at least 34 years of recommendations from within and outside Government that this was required, that failure to implement it would result in more people in residential care, and that there should be equality of entitlement to residential or community care. [24]
- Failure to regulate home care despite at least 17 years of recommendations from within and outside government that this was required, including advice that institutional abuse is also possible in community care.[25]

Government reports resulting from review of the disproportionate impact of COVID-19 on older people

in residential care have again resulted in calls to establish home care on a statutory footing and to regulate it (e.g. from the Oireachtas Special Committee on COVID-19 response and the Nursing Homes Expert Panel). It was clear from deliberations that these reports and testimonies simply repeated to Government what it already knew, and that certain impacts could have been prevented or mitigated if successive governments had acted on the many warnings given over decades of the need for quality and regulated supports as well as the consequences of their absence.

Currently, the Department of Health is drafting primary and secondary legislation to establish a statutory home care scheme and they are conducting targeted and public consultations on foot of that. This is welcome, but long overdue, having left many people in precarious and unsafe situations for so long. In 2016, 38% of persons aged over 65 who needed home care did not receive it. At the end of March 2022, 5,744 people have been assessed for and granted home support but are waiting either for funding or for a carer to be assigned.[26]

[24] For example, 1988 The Years Ahead: A policy for the Elderly [Interdepartmental taskforce]; 2002 Implementing Equality for Older People [Equality Authority]; 2006 Report of the Interdepartmental Group on Long Term Care; 2016 Report of Forum on Long Term Care for Older People [Sage Advocacy]; 2017 Recommendations of the Citizens Assembly on Ageing Population; 2018 Improving Home Care Services in Ireland Consultation Report [Institute of Public Health in Ireland]; 2019 Report on the Provision of Homecare Services [Oireachtas Joint Committee on Health].

[25] See 2005 Care for Older People [National Economic and Social Forum]; 2009 Legal Aspects of Carers [Law Reform Commission]; 2011 Legal Aspects of Professional Home Care [Law Reform Commission]; 2012 Quality and Standards in Human Services in Ireland [National Economic and Social Council]; 2013 Government commitment to regulate home care [Minister of State Kathleen Lynch]; 2016 Safeguarding – Everyone’s Responsibility [Health Information and Quality Authority]; 2017 HIQA calls for regulation of homecare sector.

[26] https://www.oireachtas.ie/en/debates/question/2022-05-26/378/#pq_378

The year 2022 marks 20 years since the adoption of the Madrid International Plan of Action on Ageing and the Political Declaration of the Second World Assembly on Ageing (April 2002),^[30] where Ireland, as a UN member state, committed to “recognise that persons, as they age, should enjoy a life of fulfilment, health, security and active participation in the economic, social, cultural and political life of their societies.” Ireland also endorsed the commitment that “We are determined to enhance the recognition of the dignity of older persons and to eliminate all forms of neglect, abuse and violence”.

The existence of a Commissioner for Older People in Northern Ireland contributes to the equality and rights envisioned under the Belfast Good Friday Agreement, and the establishment of a similar office in Ireland would strengthen our shared equality and rights agenda.

While recent years have seen welcome moves to introduce policies such as the National Positive Ageing Strategy and the appointment of a Minister of State for Older People, it is clear that these are not sufficient to prevent gaps in action and policy that disproportionately affect older people.

For example, the strategy was not fully implemented although it did establish principles to guide policy. The establishment of a Commissioner for Ageing and Older Persons would be a contribution to the current UN Decade of Healthy Ageing (2021-30)^[31] and a tangible response to the UN Global Campaign Against Ageism.^[32]

Supporting these initiatives through establishing a Commissioner would send a strong signal to reaffirm Ireland’s commitment to the global equality and rights agenda at both the UN Security Council and the Human Rights Council.

[30] <https://www.un.org/development/desa/ageing/madrid-plan-of-action-and-its-implementation.html>

[31] <https://www.who.int/initiatives/decade-of-healthy-ageing>

[32] <https://www.who.int/publications/m/item/global-campaign-to-combat-ageism-toolkit>

Assisted Decision Making

The Assisted Decision-Making (Capacity) Act 2015 was an important step towards tightening the legal protections for people who are unable to make decisions for themselves. However, as the Government has recognised, there is a need to amend the law. The Assisted Decision-Making (Capacity) (Amendment) Bill 2022 is currently before the Dáil in its third stage.[27]

In addition to people with an intellectual disability, another large cohort of people who are directly affected by the law include the approximately 64,000 people in Ireland who suffer from dementia. That number is expected to more than double to 150,000 by 2045.[28]

Many people affected by dementia remain quite capable of making decisions for themselves, and a rights-based approach to this condition must assume capacity and enable people to make autonomous decisions to the greatest extent possible. A Commissioner for Ageing and Older Persons should have a major role in promoting best practice and awareness in relation to supporting the autonomous decision-making by older persons affected by dementia and other neurological or cognitive illnesses, and ensuring strong safeguards are in place when people need assistance to make decisions.

[27] <https://www.oireachtas.ie/en/bills/bill/2022/59/>

[28] <https://www.rte.ie/brainstorm/2021/0513/1221379-ireland-dementia-data/>

[29] Strengthening Older People's Rights: Towards a UN Convention, A resource for promoting dialogue on creating a new UN Convention on the Rights of Older Persons. See http://www.inpea.net/images/Strengthening_Rights_-_low_res_-_FINAL.pdf

International Law

It is clear that as our population ages, greater numbers of people will be affected by age-related discrimination or ageism. The absence of a dedicated entity or person with responsibility to safeguard and promote the interests of ageing in line with normative human rights standards means that nobody is tasked with ensuring that gaps in policy and inaction that disproportionately impact older people are monitored and remedied.

Unlike other cohorts (such as those under 18 or people with disabilities), older people have only more recently been recognised explicitly under international human rights law, with recent momentum towards an international convention on the rights of older people and against age discrimination.[29]

A Commissioner for Ageing and Older Persons – supported by a legal framework – would ensure that the mandate, guidance and support is available in Ireland to ensure that the rights of all of us as we age can be realised. As a member of the UN Security Council and an active supporter of international human rights norms in its foreign policy, Ireland should be at the forefront of championing greater international recognition of the human rights of older people.

Poverty and Deprivation

An important role for the Commissioner on Ageing and Older Persons would be to highlight the material living conditions of older people, in a similar way to how the Ombudsman for Children has addressed child poverty and food poverty among children. Commissioners for older persons in other jurisdictions have also engaged with the issues surrounding poverty.

The Survey on Income and Living Conditions 2020 identifies that one in eight people aged 65+ (11.9%) is at risk of poverty, and one in seven (15.2%) is after rent and mortgage interest.[33]

One in twelve aged 65+ (8.4%) suffers material deprivation.[34] In 2019, the most common form of deprivation was that nearly 90,000 individuals aged 65+ (12.4%) were unable to afford meat/fish or equivalent every second day. Around 30,000 (4.3%) older people were unable to afford a warm waterproof coat and just under 30,000 (4.1%) went without heating at some stage in the year due to the expense.[35] The lack of basics such as a protein-rich diet and warmth is associated with negative health outcomes, which are not only detrimental to the people affected but which also carry a cost in terms of public spending on healthcare.

“

The cost of living has gone up in every way over the last year and no increase in our pension. It is so hard to try to pay all the bills even without food bills especially in wintertime when the heating is on all day

”

“

I am also a carer and need a car for the person I am caring for. My motor insurance is astronomical

”

“

I find it's very expensive to heat my home and I cannot afford to upgrade or insulate home

”

[33] <https://data.cso.ie/table/SIA101>

[34] See Table 3.1, <https://www.cso.ie/en/releasesandpublications/ep/p-silc/surveyonincomeandlivingconditionssilc2021/povertyanddeprivation/>

[35] Data from SILC 2019. <https://data.cso.ie/table/SIA13> The detail on deprivation experienced by older people was supplied directly to Age Action by the CSO.

People Ageing in Adverse Circumstances

The diverse examples that follow indicate why a Commissioner for Ageing and Older Persons is essential, as a single authority to advise on how to meet the human rights of older people and as a voice promoting older people's rights, including and especially those people who are ageing in adverse circumstances.

Everyone is entitled to have their human rights respected, protected and fulfilled. There are thousands of people in Ireland who are ageing in particularly difficult circumstances, who are equally entitled to benefit from the Public Sector Equality and Human Rights Duty and who have particular need of assistance to help them to overcome the challenges associated with ageing in their situation. For example, this includes people who are ageing in homeless emergency accommodation, people who are ageing in Direct Provision accommodation or who are living abroad while waiting for permission to be reunited with family in Ireland, people who are ageing in prison, people who are ageing in substandard housing, including Travellers who are ageing in poorly serviced halting sites, and people for whom poor English language skills pose a barrier to accessing services or support.

There were 119 people aged over 65 living in emergency homeless accommodation in February 2018, which represented an increase of 40% in just two years, including up to ten older people who are vulnerable to sleeping rough.[36] There were 17 occasions in the period 2016-2020 when one or more persons aged 65+ sought asylum in Ireland.[37] In 2015 alone, RTÉ reported 14 asylum seekers aged 65+ living in Ireland, and a further 50 aged 56-65.[38] An unknown number of older people living at risk abroad are seeking to reunify with family members who have been granted refugee status in Ireland.

As of May 2021, there are 114 men aged 65-79 in prison, with varying sentence lengths, including 26 sentences for 10+ years and 14 sentenced for life. There are also five men aged 80+, two of whom are jailed for life. The 119 people aged 65+ in prison constitute 4% of all sentenced committals of men. There are no current committals of women over the age of 65.[39] These figures do not include people who may be detained on remand (pre-trial) or under immigration law.[40] It is acknowledged that imprisonment is associated with faster onset of physiological ageing, and growing numbers of prisoners will require both medical treatment and palliative care in a prison environment.[41]

[36] <https://www.focusireland.ie/press-release/focus-ireland-launches-campaign-as-number-of-people-aged-65-who-are-homeless-has-shot-up-40-in-the-last-two-years/>

[37] Eurostat rounds all low figures to '5' to preserve anonymity in statistics. Statistics | Eurostat (europa.eu)

[38] RTÉ Investigations Unit - Seeking Asylum in Ireland (rte.ie)

[39] Figures for May 2021 supplied to Age Action by the Prison Service.

[40] Irish Prison Reform Trust (IPRT).

[41] See, for example, Ageing and dying in the contemporary neoliberal prison system: Exploring the 'double burden' for older prisoners - ScienceDirect

The Council of Europe's committee of social rights have highlighted inadequate housing conditions for Travellers and for some local authority tenants.[42] In addition, some private housing can be in very poor condition, affecting tenants and owner occupiers alike. Poor quality housing is associated with a range of negative health effects. It is also well-established that the life expectancy of Travellers is much lower than in the settled population. [43] It is likely that hundreds of people are affected by extremely poor housing conditions and many more are affected by substandard housing.

For those aged 65+, 3,209 people report their ability to speak English as "not well" or "not at all". While this is a relatively small number in the context of the overall population of older people, it highlights the issue that some thousands of older people may face language barriers (and consequently a loss of autonomy or privacy) when seeking medical treatment or when seeking to access public services. Language may also be a barrier to full social inclusion and participation. The linguistic diversity among older people will increase significantly in just a few years based on inward migration and the number of languages currently spoken in Ireland.

Around 49,000 people aged 50-64 speak a language other than English or Irish at home and 13,270 of them report that they speak English "not well" or "not at all".

There is a need for a review of the lived experience of all people ageing in adverse circumstances to provide clarity on the numbers of people affected and their needs. Such a review is a necessary first step to ensure that people are accessing services that could support them, and to identify where there may be gaps in services or barriers to accessing support.

[42] Rights of local authority tenants and Travellers violated, European body says (irishtimes.com)

[43] Ageing for Travellers redefined as 40+ years due to low life expectancy Pavée Point

CREATING A COMMISSIONER FOR AGEING AND OLDER PERSONS

It is time to take a step forward by establishing a Commissioner for Ageing and Older Persons, to acknowledge and address the gaps and risks associated with the current status quo. We need independent advocacy and oversight to ensure adequate planning to maintain the rights and dignity of all of us as we age.

A Commissioner for Ageing and Older Persons would safeguard and promote the interests of all of us as we age, both at a systemic and an individual level. At a minimum, a Commissioner for Ageing and Older Persons would champion the interests of older people, ensure that the interests of older people are safeguarded and promoted when bodies discharge their functions, while also providing assistance directly to older people in certain situations such as in making complaints to public bodies.

Legal Form

In order to quickly establish a Commissioner, not least to assist with the ongoing issues arising from COVID-19, a distinct office of a Commissioner for Ageing and Older Persons could be cost-effectively created as an independent unit within the Ombudsman's office. Subsequently, the Commissioner for Ageing and Older Persons should be established under enabling legislation to ensure it is fully independent in its functions.

Budget

The Commissioners for older persons in Wales and Northern Ireland operated on budgets of €1.9 million and €1.1 million respectively, for populations of 669,000 people aged 65+ in Wales and 315,000 people aged 65+ in Northern Ireland, compared to around 720,000 people aged 65 or older in Ireland.

In Ireland, the Ombudsman for Children operated with a budget of €2.9 million in 2020, which provided the necessary staff and resources to actively promote the rights of around one million children and young people.

These comparisons provide a basis to be confident that a substantive and professional office of a Commissioner for Ageing and Older Persons could be established on an annual budget of €2 million.

Impact

There are a number of illustrative examples that show the impact of the Northern Irish and Welsh Commissioners, not least their prominent role as a voice for older persons and in promoting best practice during the COVID-19 lockdowns.

In Northern Ireland, the Commissioner's office provided advice to government and information to older persons on a range of issues including COVID-19 risks for older people, advice on care homes, advice on vaccination, and ensuring the accurate and transparent reporting of outbreaks and deaths of care home residents.

Prior to COVID, the Commissioner conducted a major investigation into failures of care and treatment of older people in a residential setting and made 61 findings, leading to 59 recommendations made to seven authorities across the Health and Social Care system. The Commissioner also supports individuals who need advocacy or legal support that they cannot access elsewhere, and the office is dealing with a growing number of complex cases involving older persons (111 cases in the last three years), each of which involves dealing with multiple agencies across government departments.

The current Commissioner for Wales was also heavily involved in their government's response to COVID-19. The first Welsh Commissioner (2008-12) addressed dignity and respect in hospitals, protecting older people from abuse and took steps to ensure older people's voices were heard. The second Commissioner (2012-18) conducted Wales's largest ever review of older persons' experiences of living in care homes, and her recommendations led to a range of improvements in that sector. She also established the Ageing Well in Wales Programme and delivered a range of research projects. The current strategy of the Welsh Commissioner's office is based on not duplicating work being done by other organisations in order to deliver added value on topics where tangible progress can be achieved within a 3-4 year timeframe. The office has performance indicators under the headings of ending ageism and discrimination, stopping the abuse of older people, and enabling everyone to age well.

Comparison with Other Jurisdictions

Useful knowledge is available from other jurisdictions (especially the experience in Wales and Northern Ireland) in establishing the scope of the roles and responsibilities of a Commissioner. Looking at these neighbouring jurisdictions, some of the key functions of a Commissioner could include authority to:

- **Investigate** systemic issues affecting older people.
- **Review** the adequacy of policy, legislation and services affecting older people.
- **Undertake** best practice research and consultation.
- **Provide** advice and recommendations to Government on matters concerning older people.
- **Champion** the future proofing of policy, legislation and practice to support responsive policy planning.
- **Promote** the social, economic and cultural contribution of older people and challenge discriminatory attitudes.

The Older People's Commissioner for Wales has reported extensively on the impact of the office through her annual Impact and Reach Report and in other reports. This work demonstrates the effectiveness and scope of a Commissioner to enable and empower older people, provide a voice for older people to

Government, address systemic and social issues such as ageism, and embed older people's wellbeing at the heart of public services.

Examples of this work include:

- **Casework assistance** to older people and their families to help them understand and claim their rights. This includes helping people to challenge the decision-making and practice of public bodies and services, and to navigate what are often complex systems, policies and processes, often in difficult and distressing circumstances.
- **Campaigns, toolkits and training** to address and reduce ageism and discrimination.
- **Practical resources and toolkits** to help older people make their voices heard, to engage with local government and to influence and challenge decisions.
- **Follow-up** on Government and local authority failure to act on recommendations of a review report on care homes, under provisions for active follow-up and publication of Government responses in the enabling Commissioner legislation.
- **Formal guidance** to local authorities on wellbeing plans and to the police on understanding how to identify cases of neglect.
- **Review and report** to government on how effectively health boards are responding to new safeguarding legislation.

- **Research, consultation and recommendations** on topics including dementia respite care and access to advocacy services.
- **Numerous meetings and briefings** to Ministers and Parliament on debates affecting older people, expert responses to relevant government consultations, influencing legislation, and membership of boards and panels.

A simplified comparison of the scope of existing and proposed Commissioners for Ageing/Older People is given in the following pages, which outlines the remit and scope of the respective Commissioners in other jurisdictions.

The Remit and Scope of Commissioners in Other Jurisdictions - **Scope**

Location	Northern Ireland	Wales	Scotland	England	Australia (NSW)
Date est.	2011	2006	Draft Bill 2006	N/A	2019
Name	Commissioner for Older People	Commissioner for Older People	<i>Commissioner for Older People Bill 2006 (not enacted)</i> <i>2018/19 Campaign for Commissioner for Ageing</i>	<i>2013 Proposed Older People's Commissioner;</i> <i>2019 Campaign for Commissioner for Ageing</i>	Ageing and Disability Commissioner
Scope					
Safeguard interests	✓	✓	✓	✓	✓
Advise government on matters concerning older people	✓	✓	✓	✓	✓
Promote awareness	✓	✓	✓		✓
Encourage best practice	✓	✓	✓	✓	
Review adequacy of laws	✓	✓	✓		✓
Review adequacy of services	✓		✓		✓
Elimination of discrimination	✓	✓		✓	
Promote participation and positive attitudes	✓		✓	✓	
Complement existing regulatory and safeguarding bodies		✓		✓	✓
Actively engage with older people	✓	✓	✓		
Promote opportunities	✓	✓			
Champion future proofing				✓	

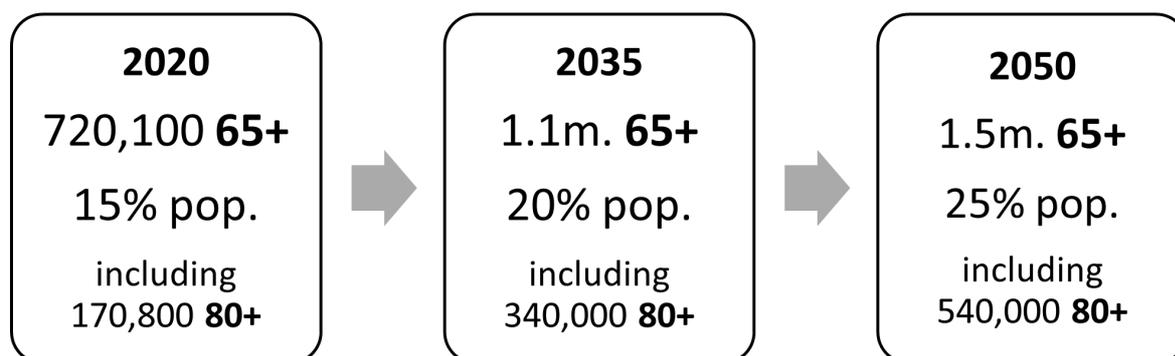
The Remit and Scope of Commissioners in Other Jurisdictions - **Functions**

Location	Northern Ireland	Wales	Scotland	England	Australia (NSW)
Functions					
Investigations	✓	✓	✓	✓	✓
Research	✓	✓	✓		
Enter premises other than private homes	✓	✓			✓
Legal proceedings	✓	✓			
Request response to recommendations	✓	✓			
Review advocacy, whistleblowing and complaints arrangements	✓	✓			

What do we mean by Age Equality?

Age Equality

The success story of longevity means that a greater proportion of people are living to retirement, and people are living longer in retirement.[44] As a result of this success, provision needs to be made for adequate public spending, which will naturally increase in a range of areas such as the State Pension, healthcare and social services.



The UN recognises that the environments in which we are born, grow, work and live strongly influence the opportunities available to each of us as we age. The WHO states that a significant proportion of the diversity in older age is due to the cumulative impact of health inequities across the life course, arising from people’s physical and social environments and the impact of these environments on their opportunities and health behaviour. [45]

720,100 people aged 65+ in 2020
 90.1% retired (649,050), 9.4% at work (67,300), 0.5% unemployed (3,750), 13% (93,859) engaged in care duties
 Two-thirds report their health is “good” or “very good” despite half having a long-term illness (e.g. high blood pressure, back pain, diabetes)
 One third (35%) have a disability or serious impairment (25% at age 65, 75% at age 90)
 One in ten (10.5%) at risk of poverty and one in nine (11.2%)

Barriers to Age Equality

- Ageism
- Inadequate income
- Health and disability
- Barriers to participation
- Lack of legal protections

[44] All data in this section is from the Central Statistics Office (CSO). Demographic projections for 2050 are taken from the middle of high to low estimates. Figures are rounded.

[45] <https://www.who.int/news-room/fact-sheets/detail/ageing-and-health>

About Age Action

Age Action is the leading advocacy organisation on ageing and older people in Ireland. Age Action works for a society that enables all older people to participate and to live full, independent lives, based on the realisation of their rights and equality, recognising the diversity of their experience and situation.

Age Action's mission is to to achieve fundamental change in the lives of all older people by empowering them to live full lives as actively engaged citizens and to secure their rights to comprehensive high-quality services according to their changing needs. To achieve this, Age Action supports and advocates for equality and human rights for all older people.

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