Commissioner for Older People (Scotland) Bill

Consultation Paper

October 2004

Alex Neil MSP
**Bill Proposal**

The text of the proposal for a Bill for a Commissioner for Older People that Alex Neil MSP lodged is as follows:

*Commissioner for Older People (Scotland) Bill*

Proposal for a Bill to establish a Commissioner for Older People with duties to protect and further their rights and interests
**Foreword**

I lodged my proposal for the Commissioner for Older People (Scotland) Bill on 19 May 2004. The proposal has achieved the necessary level of support from MSPs across the parties in the Scottish Parliament enabling me to now seek to introduce the Bill.

The Bill’s aim is broadly to create an older people’s champion in the shape of a Commissioner to specifically ensure that their rights are being observed and that government legislation, whether current or planned; or the policies of other agencies and organisations take account of their views and interests.

Before I finalise my Bill I am keen to hear as wide an array of opinion on the idea as is possible. This consultation paper sets out the background to my proposal; why a Commissioner is needed; and what role a Commissioner could play, including their proposed areas of responsibility. More importantly, it seeks out your opinion and views on the issues and on the measures which may be included in the forthcoming Bill. These responses will assist me in refining my policy and putting together the best Bill that is possible.

I am inviting written responses to this consultation by **14 January 2005**. Please send any submission to me either by post to **Alex Neil MSP, Scottish Parliament, Edinburgh EH99 1SP** or by e-mail to **alex.neil.msp@scottish.parliament.uk**

If it is possible, e-mail contributions would be preferable.

If you have any queries then please do not hesitate to get in touch with my office on either **0131-348-5702** or **0131-348-5703**.

Alex Neil MSP
1. Background

To help better shape responses to this consultation paper, it is perhaps necessary to set out the current situation for older people in Scotland. This section sets out much of the background for the consideration of any Bill to create a Commissioner for Older People and will hopefully aide you in the compilation of a response to this paper.

It is far from comprehensive, but does go some way to explaining the current situation.

1.1 United Nations Principles

The UN has an agreed set of principles for older people. These were passed in resolution 46/91 by the UN General Assembly on 16th December 1991. They aim to ensure that priority attention will be given to the situation of older persons. The principles address the independence, participation, care, self-fulfilment and dignity of older persons. Governments are encouraged by the UN to incorporate these principles into their national programmes.

Examples of the principles under their specific headings:

- **Independence** - older persons should be able to reside at home as long as possible.
- **Participation** - older persons should be able to form movements or associations of older persons.
- **Care** - older persons should have access to social and legal services to enhance their autonomy, protection and care.
- **Self-fulfilment** - older persons should have access to the educational, cultural, spiritual and recreational resources of society.
- **Dignity** - older persons should be able to live in dignity and security and be free of exploitation and physical or mental abuse

Further information on these principles can be accessed on the internet at [http://www.aoa.gov/prof/international/resources/resources_rights_int_01_pf.asp](http://www.aoa.gov/prof/international/resources/resources_rights_int_01_pf.asp)

1.2 Ageing Population

The United Nations has stated that within a few generations the proportion of older persons across the planet aged 60 years and above will rise from approximately 1 in 14 to 1 in 4.

In Scotland this trend is already in train. Indeed we are going to have a higher proportion of older people as a percentage of the overall population than the international trend. It has been estimated that by 2040 around 40% of the Scottish population will be aged 65 or older.
1.3 Older People’s Organisations

There exist in Scotland a number of major organisations that represent the interests of older people, such as Help the Aged and Age Concern Scotland. They lobby government and governmental agencies on behalf of older people doing work such as responding to legislative consultations, not wholly dissimilar to this consultation. Examples of these groups can be found in Annex A of this document.

1.4 Abuse of Older People

There have been a number of high profile stories in the media recently concerning the abuse of older people at a number of care homes. Since 2001 Age Concern Scotland has been highlighting the extent of the issue through a project aimed at reducing the level of abuse of older people; and ensuring access to appropriate support and legal remedies for victims of abuse.

This project has uncovered abuse of older people by family members, care workers and others who are in a position of trust and has dealt with cases of neglect as well as psychological, physical, financial and sexual abuse. Age Concern Scotland has figures which suggests that between 5% and 9% of all older people living in their own homes suffer at least one form of abuse, and that over 40% of victims experience more than one kind of abuse.

The *Daily Record* earlier this year focussed on some of these issues, and reported in its 4th May 2004 edition that the residents of one care home were barred from going to their own rooms or even to the toilet by members of the care home staff. In their 6th May 2004 edition they further reported the story of a woman who felt sufficiently angered at the treatment of her mother by the care home she was resident in that she had arranged for the transfer of her mother to another care home and was considering legal action.

The *Daily Record* is on the back of these stories running a campaign to secure better protection for older people from abuse. As part of the campaign the newspaper reported in its edition of 20th May 2004 that it supported Alex Neil’s proposed Bill for the creation of an Older People’s Commissioner.

1.5 Other Commissioners

There are a number of other Commissioners in Scotland with various responsibilities, including the Commissioner for Children and Young People, created by the *Commissioner for Children and Young People (Scotland) Act 2003*. More information on each of the relevant Commissioners can be found in Annex B of this document.

1.6 Other Bills for a Commissioner for Older People

Ian Lucas MP is currently attempting to advance a Private Members Bill at Westminster that would see the creation of Commissioners for Older People for England and Wales. The Bill’s aim was “to establish Older People’s
Commissioners for England and Wales; to make provision for the Commissioners’ duties in respect of the protection of the rights and interests of older people; and for connected purposes”. It received its first reading in the House of Commons on 7th January of this year (http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040107/debtext/40107-05.htm), and is provisionally set for a second reading in October 2004.

Previously David Taylor MP had tried to introduce a Private Members Bill to create an Older People’s Rights Commissioner. This Bill attempted to “make provision for the establishment of an older people’s rights commissioner to promote and protect the human rights of older people, to make provision in respect of the recognition of such rights by public and private bodies, to assist older people in respect of such rights, to make provision for the powers and duties of the commissioner and for related purposes”. This Bill was read at the first stage on 17th June 2003 (http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo030617/debtext/30617-06.htm#column_213), but fell before it achieved its second reading.

1.7 Welsh Assembly

The Welsh Assembly government established an advisory group to consider the possibility of the creation of a Commissioner for Older People for Wales. They published their findings in March 2004 in a report entitled A Commissioner for Older People in Wales.

This report received all-party support and the provisions for creating a Commissioner are being advanced. Currently the report is out for public consultation.

Amongst the recommendations the report makes are that the mandate for the establishment of a Commissioner should be drawn from, among other things:

- the United Nations Principles on Older People;
- the Commissioner should be able to investigate private, as well as public, provision of care;
- their duties should cover the influencing of policy and service delivery, championing and empowering older people, acting as a source of information, advocacy and support, safeguarding, enforcing, enhancing and promoting rights, and investigating complaints;
- that the Commissioner should be statutorily independent and should have equal status with the Children’s Commissioners in Wales and Northern Ireland;
- that there is a distinctive role for the Commissioner in non-devolved issues and that they should be able to make representations to the United Kingdom Government on key matters;
- that the Commissioner should be appointed by the Welsh First Minister;
- that the Commissioner should be required to publish an Annual Report, submitting this to the First Minister, and;
- that the Commissioner’s budget should be set annually by negotiation with the Welsh Assembly.
A full list of the Welsh Assembly advisory group’s recommendations can be seen in Annex C to this document.

1.8 Legislation already in place

Virtually all Acts of Parliament (both at Westminster and through the Scottish Parliament) will impact on the lives of older people, some more so than others. It will be important to ensure that in the establishment of the Commissioner for Older People there is no duplication of responsibility. However, a vital role for the Commissioner shall be ensuring that responsibilities towards older people that have been established through legislation are met.

Examples of types of legislation that affect older people can be found in Annex D of this consultation paper.

1.9 Better Government for Older People

A “Better Government for Older People” programme was put in place by the UK government in the late 1990s. It was somewhat limited in Scotland, but more information on this can be found in Annex E of this consultation paper.
2. The need for a Commissioner and the role they will play

Any Bill that will be brought forward to create a Commissioner for Older People will only happen after extensive consultation has taken place (hence this document). However, Alex Neil already has some thoughts on the need for a Commissioner and the role they would play.

2.1 Introduction

Older people’s rights have recently and quite rightly come to the fore again in Scotland. In terms of the Scottish Parliament’s remit, it is Alex Neil’s intention that this debate should centre round the proposal to create a Commissioner for Older People so as to ensure a tangible outcome, for the benefit of older people as a consequence.

Moreover, Scotland’s population continues to get older. As already stated, the proportion of people of pensionable age will have reached around 40% of the Scottish population by 2040. As older people make up an ever larger share of our population it is absolutely vital that their rights and interests are safeguarded.

Question One – What rights and interests of older people do you consider are not adequately covered by current legislation?

There are of course a number of initiatives already in place to try and secure greater protection for older people. There is a Care Commission which has been created to look out for those in care homes, and an Older People’s Consultative Forum was created by the Scottish Executive encompassing various older people’s interest groups to come together to discuss issues affecting older people. More information on these bodies can be found in the annexes of this document.

However, despite these bodies being in existence currently is there still a need for additional provision? For example, the Care Commission is not focussed wholly on older people’s issues, whilst the Consultative Forum only assists in the development of a strategy for older people and to provide feedback on policy initiatives. So whilst it would be unfair to describe this body as toothless, as it does play an important role, is there not still a need for a more powerful, independent and focussed agent acting on behalf of the interests of Scotland’s older people? A specific Commissioner could fulfil this role, without competing with those organisations in existence but rather complementing them.

Question Two – How should an Older People’s Commissioner interact and work with bodies already in place to represent the interests of older people?

The experience of what is happening elsewhere may be helpful here as there are already a number of similar type appointments planned or in existence. For example, in Wales, as already stated, the Welsh Assembly is currently
seeking to establish a Commissioner for Older People – this following the attempt of Ian Lucas MP to introduce a Private Members Bill to create a Commissioner for Older People for both England and Wales.

In the United States there are a number of similar appointees already in place. In New York City there is a Commissioner of the Department for the Aging; whilst in Boston there is a Commissioner of Elderly Affairs; and in Southeast Idaho there is an Ombudsman for the Elderly; whilst Pennsylvania had at one time a Commissioner on Aging.

These different appointments do different tasks. For example, New York’s Commissioner directs a Department for the Aging, which is tasked with planning, co-ordinating and funding services for the 1.3 million older people in the city. The New York Department of Aging website can be accessed at http://www.nyc.gov/html/dfta/home.html and more information on the Commissioner can be accessed there. Southeast Idaho’s Ombudsman for the Elderly on the other hand is described as an advocate and problem solver for those aged 60 or older in care homes or receiving long-term care at home. More information can be found at the Southeast Idaho Council of Governments Website (http://sicog.org/index.html) in the section on their Area Agency on Aging.

Furthermore, there are already in Scotland a number of Commissioners for specific areas (more detail about them can be found in Annex B of this document). There is a Commissioner for Information; Parliamentary Standards; the Water Industry; Public Appointments; and a Public Services Ombudsman. However, the best comparator for an Older People’s Commissioner is the recently created Commissioner for Children and Young People.

It was right that a Children’s Commissioner was created. Children are a vulnerable group in our society and their rights and interests deserve that extra level of protection. Alex Neil would argue that equally, older people form a vulnerable group and that their rights and interests deserve a similar level of protection. Of course the two groups can not be equated entirely equally. Older people are adults and have certain rights that children do not – not least amongst them the right to vote and influence government policy. Nonetheless, the fact remains that many older people are amongst the most vulnerable in our society and a Commissioner designed to specifically look out for their interests would go a long way to helping them as well as those bodies and agencies with whom the Commissioner would deal.

One issue that must be resolved is at what age should people be defined as “older” and falling into the competence of the Commissioner. The Welsh Assembly’s report into a Commissioner for Older People made three recommendations (all of which are listed as Annex C) that the Welsh Assembly Government should consult on. The first is to make the age 65; the second is to make it 50; and the third is to make it 65 but allow the Commissioner to have dispensation for competence over those aged over 50 in certain circumstances.
Question Three – At what age should people be defined as “older” and coming within the competence of the Older People’s Commissioner?

2.2 Areas for the Commissioner to deal with

The specific remit of the Commissioner is something that will be defined after extensive consultation but broadly Alex Neil envisions that they will work with other bodies that exist to promote the rights and interests of older people (including non-governmental bodies such as Age Concern Scotland and Help the Aged).

2.2.1 Age Discrimination

Another area the Commissioner could be responsible for would be ensuring that there was no form of discrimination being perpetuated against older people on grounds of their age. From October 2006 the European Framework Directive will make age discrimination in employment and vocational training illegal in this country, and the British Government is currently consulting on whether or not to create a Commission for Equality and Human Rights (see Annex F), which would have responsibility for this area. The Commissioner could assume responsibility for ensuring that this directive is adhered to in Scotland, as well as working with any Commission for Equality and Human Rights to ensure there is no discrimination on the basis of age against older people.

Question Four – What role, if any, should the Older People’s Commissioner have in investigating age discrimination?

2.2.2 Protection of Older People From Abuse

Alex Neil also views as part of the Commissioner’s role being able to step in to address issues around the horrendous abuse that have highlighted by some, including the *Daily Record* newspaper. Some have argued that the Care Commission should form this role, but the problem here is that they have themselves admitted that they are fairly toothless in certain circumstances; particularly outwith the care home situation. Also, the Care Commission should be dealing with individual instances, whilst a Commissioner for Older People could look at the issue of abuse in a wider context. Moreover, the Care Commission has not been established to specifically focus on older people the way a separate Commissioner would be.

Question Five – Should the Older People’s Commissioner be focussed solely on older people who are vulnerable, or should they have a broader remit for all older people?

2.2.3 Working With Other Bodies

The Commissioner could also work closely with the Scottish Older People’s Advisory Group that have existed as part of the *Better Government for Older...*
People programme (see Annex E) and the Older People’s Consultative Forum, established by the Scottish Executive. The bodies include organisations such as Help the Aged and Age Concern Scotland.

2.2.4 Commenting on Legislation and Best Practice

The Commissioner could also be responsible for acting as a source of comment on current and planned legislation in so far as it will impact on Scotland’s older people.

Question Six – What role, if any, should the Older People’s Commissioner have in the policy making process as it affects older people?

Alex Neil also envisages that the Commissioner would have responsibility for the promotion of best practice with service providers, covering public, private and voluntary organisations.

Question Seven – Do you agree that the Older People’s Commissioner should promote best practice amongst service providers?

2.3 Individual Cases

One role that many may argue for is for the Commissioner to be able to step in to resolve individual cases. Alex Neil does not envisage this as being part of the role of any Commissioner. Such a duty would probably result in this being virtually all the Commissioner had time to undertake to the exclusion of the remainder of their responsibilities. This issue was discussed during the consultation period for the bill to create a Commissioner for Children and Young People and a similar conclusion was reached.

Rather, it should be the role of a Commissioner for Older People to investigate wider issues. That is not to say an issue such as abuse in care homes would not be for the consideration of the Commissioner. It could be considered, provided it is dealing with a wider issue and not an individual case. Individual cases can at present be investigated by the Care Commission (more information on which can be found in Annex G of this consultation document), and it is not the intention behind the creation of an Older People’s Commissioner to create an overlap in responsibility. Moreover, individuals and their families at present already have recourse to legal action in such instances where circumstances warrant.

Alex Neil envisages the investigatory role that any Commissioner would play would not be directed towards resolving individual cases, but towards developing strategies and solutions to dealing with wider issues. Involved in this would be allowing for the Commissioner to undertake research programmes to further the development of these strategies.
Question Eight – Should the Older People’s Commissioner focus on undertaking, commissioning, and publishing research; and on dealing with wider issues rather than handling individual cases?

Because Alex Neil believes that to make it part of the Commissioner’s role would mean that they would be unable to undertake their key responsibilities adequately he does not believe that the Commissioner should have a role in the investigation of individual cases. However, the consultation period does provide for individuals and groups to make the case for such if they so disagree.

2.4 Appointment and Cost Implications

Alex Neil envisages that the Commissioner for Older People would be appointed in a similar fashion to the Commissioner for Children and Young People; that is, that they will be a Parliamentary appointee, and not an appointee of the Scottish Executive. This is important as it allows for the full breadth of political opinion that exists in Scotland, and which is expressed through the composition of the Scottish Parliament, to play a role in that appointment and goes a long way towards ensuring the independence of the Commissioner.

An appointment by the Scottish Executive would mean it would be a much narrower scope of opinion, as well as a smaller base of selectors who would be making the decision. Appointment by this process can also lead to allegations of it having been a political appointment, immediately undermining the post – something Alex Neil desperately wants to avoid.

It is for these reasons that he believes it should be the Scottish Parliament as a whole rather than just the Scottish Executive which should appoint the Commissioner for Older People. However, the consultation period provides for respondents to make clear their views as to how exactly the Commissioner should be appointed.

Question Nine – How should the Older People’s Commissioner be appointed?

An associated issue to do with the appointment of the Commissioner is how should they report their work and research. As Alex Neil believes that they should be a Parliamentary appointee he feels they should be responsible for preparing an annual written report, to be presented to Parliament; and that the findings of any research projects they undertake should also be presented to Parliament.

Question Ten – How should the Older People’s Commissioner report their work and findings?

As for the cost implications for the creation of a Commissioner for Older People, it is envisaged that these would be similar to those for the Commissioner for Children and Young People. These costs were £1,216,875.
per year, with an additional start up cost of £323,125 giving a first year cost of £1,540,000. These figures cover all costs including staff wages (including the Commissioners own remuneration); training costs; office costs; and research and publications.

These figures can be found in the explanatory notes accompanying the Commissioner for Children and Young People (Scotland) Bill. These can be accessed at [http://www.scottish.parliament.uk/S1/parl_bus/legis.html#71](http://www.scottish.parliament.uk/S1/parl_bus/legis.html#71) in the “Accompanying Documents” section therein.

There should be no cost implication to local government, businesses or any other body outwith the Scottish Block Grant that the Scottish Executive receives annually.

### 2.5 Summary

All in all, Alex Neil believes that now is the time to create a Commissioner for Older People. The most recently created Commissioner, as has been stated, is that for Children and Young People; and it is right that those at the other end of the age scale have a similar degree of protection for their rights and interests. Of course it has to be accepted that older people are not in the same category as children and are as a group better equipped to look after their own interests. So whilst not all older people will require the services of a Commissioner or feel they need such a post to look out for their interests. However, there are many cases of older people who will find that they could do with the presence of a champion for older people. Older people make up a huge proportion of the vulnerable in our society. We can and must do more to protect them – this is Alex Neil’s intention behind the creation of a Commissioner for Older People.

The next part of the process of bringing the Bill to create the Commissioner for Older People is to consult widely and gather as much opinion on the matter as is possible. It is hoped that this document will assist the process and that once the consultation period closes (on 14th January 2005) the Bill itself can be introduced and the first Commissioner for Older People for Scotland can be appointed as soon as is practically possible.
3. Summary of Questions

Now that Alex Neil's proposal has achieved enough support from his fellow MSPs (names can be viewed in Annex H) to allow him to bring forward a Members Bill he is seeking views on what the remit and responsibilities of a Commissioner for Older People should be. To help develop the Bill there are a number of specific questions listed to which responses would be helpful.

You do not need to limit yourself to answering only these questions. If there are areas or matters you feel not covered, please feel free to offer your opinions on them. Equally, do not feel that you must answer each and every question.

• **Question One** - What rights and interests of older people do you consider are not adequately covered by current legislation?

• **Question Two** - How should an Older People's Commissioner interact and work with bodies already in place to represent the interests of older people?

• **Question Three** - At what age should people be defined as “older” and coming within the competence of the Older People’s Commissioner?

• **Question Four** – What role, if any, should the Older People’s Commissioner have in investigating age discrimination?

• **Question Five** - Should the Older People’s Commissioner be focussed solely on older people who are vulnerable, or should they have a broader remit for all older people?

• **Question Six** – What role, if any, should the Older People’s Commissioner have in the policy making process as it affects older people?

• **Question Seven** - Do you agree that the Older People’s Commissioner should promote best practice amongst service providers? Please provide reasons explaining your response.
• **Question Eight** - Should the Older People’s Commissioner focus on undertaking, commissioning, and publishing research; and on dealing with wider issues rather than handling individual cases? Please provide reasons explaining your response.

• **Question Nine** - How should the Older People’s Commissioner be appointed?

• **Question Ten** - How should the Older People’s Commissioner report their work and findings?

• **Question Eleven** - Is there anything else you believe is of importance in considering a Bill for the creation of the Older People’s Commissioner?
4. How to take part

Please send all responses to Alex Neil MSP. E-mailed responses are preferable, but if you have no access to e-mail then please post your response. Alex Neil is also keen to meet with interested groups to hear their thoughts on the proposed Bill, so if you are interested in doing so please do not hesitate to get in touch with us to arrange this.

Please feel free to pass this paper onto other individuals and organisations who you think might be interested in participating in the consultation process.

Confidential Responses

To help inform debate on the matters covered by this paper and in the interests of openness, the responses submitted on this consultation document will be made public. It is assumed that responses can be made public unless the respondent indicates that his or her response is confidential.

Confidential responses will nevertheless be included in any summary or statistical analysis, which does not identify individual responses.

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5. Annexes

Annex A: EXAMPLES OF OLDER PEOPLE’S ORGANISATIONS IN SCOTLAND

A.1 Age Concern Scotland

Age Concern Scotland’s website describes the organisation as being “an independent, recognised charity working throughout Scotland to help make the lives of older people more secure, comfortable, dignified and enjoyable”. They have been in existence for over 60 years, although they have only been known as Age Concern Scotland since 1974. Their principle objectives are to ensure that older people in Scotland have their rights upheld; their needs addressed; their voices heard; and choice and control over all aspects of their lives.

The organisation is made up of around 500 member bodies and individuals and currently campaigns specifically for an adequate retirement income; affordable, accessible and available transport; the improvement of older people’s housing conditions; an end to age discrimination; and an end to the abuse of older people.

Age Concern Scotland also runs the Scottish Helpline for Older People, an advisory service over the telephone available throughout the week, from Monday to Friday (10am to 4pm). They run this service in conjunction with a number of other bodies, including Help the Aged, the Scottish Pensions Association, the Scottish Pensioners Forum, and Alzheimer Scotland.

Website: http://www.ageconcernscotland.org.uk/

A.2 Help the Aged

Help the Aged is an organisation that is similar to Age Concern Scotland, although they offer specific services to older people such as fitting older people’s homes with extra safety devices, such as door chains and extra locks. They also try to increase older people’s access to special vehicles and local transport schemes to aide their mobility. Their Community Service Programme also offer grants and advice to a variety of older people’s projects, as well as offering a wide variety of paid or services such as insurance advice, funeral plans as well as care fees advice.

Website: http://www.helptheaged.org.uk/ founations/sc/default.htm

A.3 Scottish Pensions Association

Unlike Age Concern Scotland or Help the Aged this body has no members of staff and is run entirely by a number of volunteers. It has its roots in the Scottish Old Age Pensions Association, which was formed in Edinburgh in 1937. The organisation has 72 local branches and roughly 6,000 members and holds an annual conference.
Broadly, they exist to try and ensure that all pensioners in Scotland are getting the maximum support they are entitled to. They also campaign for the state pension being re-linked to earnings.

Website: http://www.greypower.org.uk/spa/index.htm

A.4 Scottish Pensioners’ Forum

The Scottish Pensioners’ Forum was established in 1992 as an umbrella group in Scotland for all the groups and individuals working to promote the rights and welfare of the elderly. The Forum is made up of both individual members and a wide variety of organisations including elderly forums, trades unions, churches, tenants associations and retirement clubs. National organisations such as Age Concern Scotland; Help the Aged; and the National League of the Blind and Disabled are affiliated to the Forum. The Forum is essentially a campaigning organisation, which strives to bring together older people and their supporters to allow them to present a strong and united voice on the issues, which concern them.

The Forum employs an Administrator on a part time basis only and the activities of the Forum are obviously limited to some extent by the lack of support staff. Since the establishment of the Scottish Parliament, the workload of the Forum and Administrator has increased substantially. Representatives meet with Ministers and MSPs to campaign on issues such as free personal care, concessionary travel and pensions and have lobbied at Westminster on various issues, alongside other pensioners’ groups.

The Forum holds an annual conference and produces an annual report and regular newsletter.

Website: http://www.scottishpensioners.org.uk

A.5 Alzheimer Scotland – Action on Dementia

Alzheimer Scotland work closely with many older people. The full name of the organisation is Alzheimer Scotland – Action on Dementia, taken by the merger in 1994 of Alzheimer Scotland (formed in 1988) and Scotland Action on Dementia (formed within Age Concern Scotland in 1985). They provide services to assist people with dementia, as well as the families and carers of those with dementia.

They also run a 24 hour telephone helpline and provide local services at 60 sites around Scotland. They also have 14 volunteer-run branches which campaign and provide services locally as well as employing approximately 600 full and part-time staff, and having about 700 volunteers.

Website: http://www.alzscot.org/

A.6 Confederation of Scotland’s Elderly
In October 1996, a meeting of 350 delegates from 87 pensioners’ organisations from across Scotland decided to create a mechanism by which Scottish pensioners could exert their influence over decisions which affect their lives and welfare. This evolved into the Confederation of Scotland’s Elderly in 2000 after a meeting in Glasgow.

They campaign to seek wider representation of older people with the Scottish government; for the restoration of the link between the Basic State Pension and earnings; and for the establishment of a Scottish Pensioners’ Convention which will in turn affiliate to the UK wide National Pensioners’ Convention (more information on which can be read below).

Website: [http://www.greypower.org.uk/cose/](http://www.greypower.org.uk/cose/)

A.7 West of Scotland Seniors’ Forum

Formerly the Strathclyde Elderly Forum, the West of Scotland Senior’s Forum was formed in 1985 and operates across 12 local authority areas in Western Scotland. It is an umbrella body for 90 local seniors’ forums. They provide advice, training, information and support to new and established seniors’ forums. They also work towards raising awareness of issues affecting older people and ensuring that decision-makers and service providers are informed about older people’s needs and views on service provision and other matters affecting them.

Website: [http://www.wssf.org.uk/](http://www.wssf.org.uk/)

A.8 National Pensioners’ Convention

The National Pensioners’ Convention (NPC) is a UK wide body that holds an annual three day conference, called the Pensioners Parliament. These meetings can attract up to 2,000 people in attendance. The NPC is made up of various pensioners groups and currently has over 250 affiliated bodies. It has been active since 1979 and its main objective is to promote the welfare and interests of all pensioners, as a way of securing dignity, respect and financial security in retirement.

Website: [www.natpencon.org.uk/](http://www.natpencon.org.uk/)

A.9 Older People’s Consultative Forum

The Older People’s Consultative Forum is a creation of the Scottish Executive. The forum’s role includes assisting in developing and monitoring an ongoing strategy for older people in Scotland and to provide feedback on policy initiatives and ideas to do with older people. It is chaired by the Deputy Minister for Health and Community Care and meets four times a year.

Membership of the Forum is the Scottish Pensioners’ Forum; the Scottish Pensions Association; the Black and Minority Ethnic Elders Group; the
Annex B: RESPONSIBILITIES OF VARIOUS COMMISSIONERS

B.1 Public Services Ombudsman

The post of Ombudsman was created by the Scottish Public Services Ombudsman Act 2002 to replace three existing ombudsmen, the Scottish Parliamentary and Health Service Ombudsman; the Local Government Ombudsman for Scotland; and the Housing Association Ombudsman for Scotland. The current Public Services Ombudsman is Professor Alice Brown, who has responsibility for dealing with complaints referred to her by members of the public about public services in general that are to do with administrative failures; a failure to provide a service; or a failure in a service provided.

Website: [http://www.scottishombudsman.org.uk/](http://www.scottishombudsman.org.uk/)

B.2 Information Commissioner

The post of Information Commissioner was created by the passing of the Freedom of Information (Scotland) Act 2002, with Kevin Dunion being appointed the first Commissioner. The Commissioner has two main responsibilities: to make sure that people are aware of their right to access information under the Freedom of Information (Scotland) Act and then to enforce this right to make sure that people get the information they are entitled to. From January 2005, anyone, anywhere in the world, will have the right to access information held by more than 9000 public authorities in Scotland and it will be the Commissioner’s responsibility to ensure that this right is observed.

Website: [http://www.itsspublicknowledge.info/](http://www.itsspublicknowledge.info/)

B.3 Parliamentary Standards Commissioner

This post was created by the passing of the Scottish Parliamentary Standards Commissioner Act 2002. The Commissioner has the responsibility to be an independent investigator into whether a Member of the Scottish Parliament has breached the Parliament’s Code of Conduct or the Parliament’s Member’s Interests Order.

B.4 Children’s Commissioner

The Commissioner for Children and Young People is, as stated above, the newest of the commissioners; the post being created by legislation enacted last year. An appointee of the Scottish Parliament, Kathleen Marshall was appointed in February 2004.
The general function of the Commissioner for Children & Young People in Scotland is to promote and safeguard the rights of children and young people. To achieve this, the Commissioner will generate widespread awareness and understanding of the rights of children and young people; consider and review the adequacy and effectiveness of any law, policy and practice as it relates to the rights of children and young people; promote best practice by service providers; and commission and undertake research on matters relating to the rights of children and young people.

B.5  Water Industry Commissioner

The post of the Water Commissioner was created by Part II of the 1999 Water Industry Act and has responsibility for the promotion of Scottish Water’s customers’ interests. These responsibilities include advising Scottish Ministers on the amount of revenue that Scottish Water needs to provide a sustainable service to customers and to fund its investment programme; the consideration and approval of the annual charges scheme of Scottish Water; the investigation of customer complaints not resolved by Scottish Water; advising Scottish Ministers on Scottish Water’s standards of service and customer relations; approval of Scottish Water’s Code of Practice; and the provision of advice, when requested by Scottish Ministers, on a range of matters relating to the impact of Scottish Water on its customers.

Website: http://www.watercommissioner.co.uk/

B.6  Public Appointments Commissioner

This is another recently created post with responsibility for ensuring transparency and openness in the appointment process to public bodies, such as Quangos. The post came into being by the passing of the Public Appointments and Public Bodies etc. (Scotland) Act 2003. Karen Carlton is the first Public Appointments Commissioner.

Annex C:  WELSH ASSEMBLY REPORT RECOMMENDATIONS

1.  The mandate for the establishment of a Commissioner for Older People should be drawn from:

   • The UN Principles on Older People.
   • The aims of the Strategy for Older People to promote citizenship for older people.
   • The Manifesto commitment of the Assembly Government.

The Assembly Government’s plans for a Commissioner should complement, and build on the United Nations Plan of Action on Ageing, as well as the European Union’s and the UK Government’s moves to improve anti-discrimination law and to support the human rights of older people within society.
2. An appropriate aim for the new post of Commissioner in the exercise of his or her functions would be:

“to promote and safeguard the rights and dignity of older people in Wales and to challenge discrimination against older people”.

3. The Welsh Assembly Government should consult on three options for a lower age limit for the legal definition of “older people” on whose behalf the Commissioner should act. These are age 65 and age 50, or 65 with discretion for the Commissioner to assist people aged 50 or more in certain circumstances.

4. The Commissioner should be able to exercise his functions “in Wales” on similar terms to the Children’s Commissioner, but he should also be able to look into the private, as well as public, provision of care.

5. The Commissioner’s duties and responsibilities should cover:

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

6. The Commissioner should be statutorily independent and should have at least parity of status with the Children’s Commissioner in Wales and in Northern Ireland.

7. In common with the Children’s Commissioner, the potential for duplication between the Commissioner and other bodies with similar remits should be reduced by:

- Specifying restrictions in the establishing legislation which would limit, in particular, the Commissioner’s powers of examination

and

- During the implementation phase of establishing the Commissioner, ensuring that memoranda of understanding are drawn up to govern the working relationships between the Commissioner and these bodies, and to specify the respective role of each.

8. The Commissioner should be invited to attend National Partnership Forum for Older People (NPF) Meetings as an Observer.

10. A “first-stage” Commissioner should be established in advance of primary legislation being progressed, and that the person in this role should be empowered to get things done. A remit is recommended which uses the Assembly’s current powers.

11. There should be consultation on how best to handle the practicalities of establishing a “first stage” Commissioner at arm’s length from the Assembly: and in particular on the proposals that this could be done either by making arrangements with an existing body to “host” the Commissioner or by appointing the Commissioner as, in effect, a “Director” within the Assembly. Consultation should also include the title to be given to the “first stage” Commissioner.

12. The Welsh Assembly Government should implement practical measures to lend weight to the status and operational authority of a “first-stage” Commissioner. It should consider seeking plenary endorsement by the Assembly of a package of responsibilities and duties, accountability arrangements and funding arrangements.

13. There is a distinctive role for the Commissioner in non-devolved issues and that he or she should be empowered to make representations direct to the UK Government on key matters.

14. The Commissioner should be appointed by the First Minister. The appointment process should ensure that the successful candidate has a real understanding of, and empathy with, the life of older people in Wales; and it should meaningfully involve older people in the selection.

15. The Welsh Assembly Government should consider a range of options for the term of office of the Commissioner and should consult the public on them.

16. The Commissioner should be required to publish an Annual Report and submit it to the First Minister and to Parliament.

17. The Commissioner’s budget should be set annually by negotiation with the Assembly. Audit should be provided by the Auditor General for Wales.

Annex D: OTHER LEGISLATION AFFECTING OLDER PEOPLE

Examples of legislation affecting older people include the Social Work (Scotland) Act 1968; Housing (Scotland) Act 2001; Homelessness etc. (Scotland) Act 2003; National Health Service (Scotland) Act 1978; Regulation of Care (Scotland) Act 2001; Community Care and Health (Scotland) Act 2002; Mental Health (Care and Treatment) (Scotland) 2003; Primary Medical Services (Scotland) Act 2004; Adults with Incapacity (Scotland) Act 2000; Protection from Abuse (Scotland) Act 2001; Vulnerable Witnesses (Scotland) Act 2004; and Transport (Scotland) Act 2001.
Annex E: BETTER GOVERNMENT FOR OLDER PEOPLE

The Better Government for Older People (BGOP) programme came about in the late 1990s as a result of a greater focus being placed on the need for changing policies to cater for the changing composition of the population which was, and is getting older as a whole. The BGOP programme was a Westminster initiative and was launched in June 1998 by Lord Callaghan, and whilst it was limited in Scotland, there has been a Scottish Older People’s Advisory Group created out of it.

There was a report about the BGOP programme published in February 2001, with a response from the Scottish Executive. It can be accessed through the internet, at the Scottish Executive website, at http://www.scotland.gov.uk/library3/society/bgop-00.asp and downloaded from there.

Scottish Older People’s Advisory Group

This was established out of the UK wide Older People’s Advisory Group (OPAG) which had been created as part of the BGOP programme. The Scottish Older People’s Advisory Group (SOPAG) contains members of various groups that campaign on behalf of, or take and interest in older people. At the same time the UK wide OPAG set up nine regional advisory groups in England, as well as one each for Wales and Northern Ireland. The UK wide OPAG now consists of a representative from each of these 12 groups across the UK, with OPAG in turn being allocated 4 seats on the Board of Management of the BGOP programme.

Annex F: THE COMMISSION FOR EQUALITY AND HUMAN RIGHTS

Currently the British Government are consulting on a proposal to bring together the three existing ‘equality’ commissions for race, gender and disability into a single Commission for Equality and Human Rights and give them the remit to cover sexuality, religion and age. If this proceeds it will obviously have implications for older people as age equality will be within the competence of the new commission.

Annex G: THE CARE COMMISSION

Another body that plays a role in the lives of Scotland’s older people is the recently created Commission for the Regulation of Care, more commonly known as the Care Commission. This was established by the passing of the Regulation of Care (Scotland) Act 2001. Before the commission was created the regulation of care services was undertaken by separate bodies acting for the 32 local authorities; as well as another 12 for the mainland health boards.
Each of these worked to their own standard, resulting in different levels of regulation across the country according to where people lived.

Their headquarters are based in Dundee and Mary Hartnoll is the Convenor of the board of the Care Commission. They employ around 500 staff, 350 of who are involved in registration and inspection activities with a further 150 providing administrative and technical support.

Website: http://www.carecommission.com/

Annex H:  MSP SUPPORT

Alex Neil MSP is grateful to the following 18 Members of the Scottish Parliament who pledged their support for his proposal to introduce a Members Bill to create a Commissioner for Older People for Scotland:

Ms Sandra White, Stewart Stevenson, Richard Lochhead, Shona Robison, Tricia Marwick, Campbell Martin, Bruce Crawford, Mr Jim Mather, Margo MacDonald, Christine Grahame, Mr Stewart Maxwell, Mike Pringle, John Farquhar Munro, John Swinburne, Dr Jean Turner, Carolyn Leckie, Rob Gibson, Tommy Sheridan