



**Commissioner for Older People
for Northern Ireland**

Northern Ireland Bill of Rights

**Written Response from the
Commissioner for Older People
for Northern Ireland**

February 2021

Introduction

- 1.1 The Office of the Commissioner for Older People for Northern Ireland is an independent public body established under the Commissioner for Older People Act (Northern Ireland) 2011 (“the COPNI Act”). This is a statutory role, at arms-length of government which takes an active role in safeguarding and promoting the interests of older people in Northern Ireland. The Commissioner has an extensive range of general powers and duties which provide the statutory remit for the exercise of the functions of the office. In addition, the Commissioner may provide advice or information on any matter concerning the interests of older people.
- 1.2 In accordance with the Commissioner’s obligations under this duty, the Commissioner has set out advice in response on a proposed Bill of Rights for Northern Ireland.
- 1.3 The UK’s withdrawal from the European Union, together with other legislative and constitutional requirements, including the Belfast (Good Friday) Agreement 1998, will add additional layers of complexity to the implementation and structure of any proposed Bill of Rights in Northern Ireland. The Commissioner will highlight the issues required to protect and enhance the rights of older people for Committee members to consider for appropriate inclusion rather than focusing on the potential legislative and broader constitutional issues of introducing a Bill of Rights in the Northern Ireland context.
- 1.4 The Commissioner for Older People for Northern Ireland was established with the United Nations Principles for Older Persons at its core. These principles underpin the work of the office and should be reflected in all legislative or policy instruments involving the rights of individuals.
- 1.5 A Bill of Rights, whilst providing universal protection, should also reflect and incorporate the United Nations Principles for Older Persons.¹ or similar provisions, for the protection of rights at a total population level. The UN Principles for Older Persons expressly set out the rights of older persons and are designed to influence the development of national policies. It serves as a framework against which national policies can be assessed. There are 18 principles centred on five areas:
 - **The right to independence**
 - **The right of active participation**

¹ United Nations (1991) United Nations Principles for Older Persons

- **The right to adequate care**
- **The right to self-fulfilment**
- **The right to dignity**

- 1.6 The only current example of where the UN Principles have been directly incorporated into Northern Ireland legislation to date is in The Commissioner for Older People Act (Northern Ireland) 2011.²
- 1.7 A Bill of Rights for Northern Ireland should promote the Executive's Active Ageing Strategy vision of an age friendly Northern Ireland in which people, '*as they grow older, are valued and supported to live actively to their fullest potential; with their rights respected and their dignity protected.*'³

Social and Economic Rights

- 2.1 Whilst the scope of a potential Bill of Rights may be limited in content, if social and economic rights are to be included in detail there are many areas that directly impact the rights of older persons in Northern Ireland. Incorporating these rights for older people into a Bill of Rights should provide accountability and ensure that older people feel valued for their contribution to society.
- 2.2 The NISRA statistics for Northern Ireland demonstrate that The Northern Ireland population continues to age with an increasing population amongst the older ages. In the year to mid-2019, the number of people aged 65 or more increased by 2.1 per cent to 314,700 people. "*By mid-2019, one in six people in Northern Ireland were aged 65 and over. The proportion of the population aged 65 or more has increased from 13.0 per cent in mid-1994 to 16.6 per cent in mid-2019.*"⁴
- 2.2 Older people are at risk of having their human rights denied particularly when they are dependent on care provision. The infringements of human rights of older people in Northern Ireland can include abuse and degrading treatment and unwarranted deprivation of liberty in care homes; loss of autonomy; lack of protection for family and private life; and age discrimination across a range of

² [Commissioner for Older People Act \(Northern Ireland\) 2011 \(legislation.gov.uk\)](#)

³ [Active Ageing Strategy 2016-2022 | Department for Communities \(communities-ni.gov.uk\)](#)

⁴ [2019 Mid-year Population Estimates - statistical bulletin \(nisra.gov.uk\)](#)

services. Often human rights breaches for older persons are not recognised and not adequately addressed.

Right to Adequate Care for Older People

- 3.1 In accordance with the UN Principles older people have the right to be healthy and have the right to care. There must be clear and transparent accountability for the delivery of adequate, effective, and safe care for older people.
- 3.2 The rights of older people must be enforced by legislation and through effective and transparent regulation. Protections must be available for older people by ensuring that all providers of regulated care services are regarded as public authorities for the purposes of human rights legislation, regardless of who is funding the service provided.
- 3.3 In June 2018 COPNI published the Home Truths Report⁵ on the investigation into failings at Dunmurry Manor Care Home. The Commissioner's recommendations highlighted the serious and systemic failures that had permitted inhuman and degrading treatment of older people. The introduction of the Adult Protection Bill will hopefully address many of the recommendations in practice; however, a Bill of Rights provides a further opportunity to legislate for the fundamental right for older people to be protected from abuse and to ensure their dignity and human rights are respected.
- 3.4 Older people in Northern Ireland do not have adequate protections where a care provider fails to meet the required standards of care. There are no current remedies for contractual issues arising with care homes. Complaints about standards of care do not resolve in financial recourse where care providers fail to meet the required standards. Individual contracts vary resulting in a lack of financial recourse being available⁶.
- 3.5 The issues for the provision of health care for older people have been further exacerbated by the Covid-19 outbreak. Changes have been introduced for logistical reasons to meet emerging needs for older people including access to visiting in care homes, inquests into coronavirus deaths, and changes to the DNA-CPR procedures. Subsequent review of actions after the pandemic may reveal human rights breaches that require addressing.

⁵ Home Truths <https://www.copni.org/media/1444/copni-home-truths-summary-report-web.pdf>

⁶ Changing the Culture of Care Protection in Northern Ireland Commissioner's Advice to the Minister 2014
https://www.copni.org/media/1122/changing_the_culture_of_care_provision_in_northern_ireland_pdf.pdf

Age Discrimination

- 4.1 Inherent discrimination on the basis of age is prevalent in many policies and decisions about the provision and funding of services for older people. Negative attitudes to older people have been brought into greater focus across society as a result of the pandemic. The media narrative openly described an ageing population draining public resources and health provision, which feeds the existing wider public perceptions and attitudes that older people are a burden as opposed to valued members of our society.
- 4.2 This is highlighted in research during the pandemic. The World Economic Forum in 2020 emphasised that *“Ageism tends to paint all older adults as the same. The reality is that older persons are diverse and have several different identities. They are more than their age”*.⁷
- 4.3 Age discrimination legislation is required to protect older people in relation to the provision of goods, facilities and services. The Executive paper New Decade, New Approach states: *‘an Age, Goods, Facilities and Services Bill should also be brought forward by the Executive as basis for ensuring that no one is discriminated against because of their age.’* No legislation is currently in place.⁸
- 4.4 Older people should have the right to remain in employment for as long as they wish or need to. This promotes the UN Principle of self-fulfilment. For many older women, this is relevant for gender equality. The Northern Ireland Annual Survey of Hours and Earnings 2020 provided by NISRA shows that males and females have *‘similar median hourly earnings (excluding overtime) for all age groups under 40. However, males earned over £2 per hour more in the 40 to 49 and 60+ age groups, and £1.40 per hour more in the 50 to 59 age group.’*⁹ The right to equal pay has impacted historically on the levels of pension available for older women. As pension benefits are often earnings-related, the differences in career profiles between men and women can lead to large gender disparities in pension payments.
- 4.5 Research demonstrates that older women may have spent more time caring for children or relatives and contributed less to pension funds. They are therefore more likely to receive smaller or minimum pension payments. Despite the positive move in recent years towards more equal pay in Northern Ireland, existing inequalities remain which will be exacerbated by the recent changes to the State Pension age.

⁷ COVID-19 worsened ageism. Here’s how to help older adults. | World Economic Forum ([weforum.org](https://www.weforum.org))

⁸ [2020-01-08_a_new_decade_a_new_approach.pdf](#) (publishing.service.gov.uk)

⁹ [NI-ASHE-Bulletin-2020.PDF](#) ([nisra.gov.uk](https://www.nisra.gov.uk))

Right to Independence

- 5.1 The UN Principles requires that older people should be able to live independently for as long as they can, free from poverty and in suitable, safe homes. This promotes the international human right for everyone to have adequate standards of living.
- 5.2 The Office of the United Nations High Commissioner for Human Rights recommends that the right to adequate housing should include:¹⁰ security of tenure, housing, land and property restitution, equal and non-discriminatory access to adequate housing, participation in housing-related decision-making at national and community levels.
- 5.3 Older people also require adequate standards of living, including access to heating and other utilities. The NISRA report, Excess Winter Mortality (EWM) in Northern Ireland¹¹ for 2019 shows that in the last 10 winters, *'EWM has ranged from approximately 560 to 1,620. In 2019/20, 60.0 per cent (360) of the estimated 600 excess winter deaths involved people aged 75 and over, with 23.3% (140) being in the 85 and over age group. The impact of Covid-19 will have contributed to this finding, as the largest number of Covid-19 related deaths in Northern Ireland at 30th October 2020 are those in the 85 and over age group.'*
- 5.4 Since the start of the pandemic, older people *'have experienced a higher risk of mortality and faced isolation due to restrictions on visits from family members, resulting in deterioration in mental and physical health'*.¹² Public and community service provision for older people across most sectors has been reduced, modified or halted entirely. Older people, the section of society most isolated during the pandemic, will need to be supported to re-integrate into community networks; and enabled to live dignified lives in adequate accommodation. The disproportionate, negative impacts experienced by older people during this crisis emphasis the need for commensurate interventions and protections being in place to tackle the consequences upon this section of society.

Right to Participation

- 6.1 The internet and technology are rapidly becoming an intrinsic part of life. However, some older people are excluded from receiving government information, having social interactions, or from getting the best deals on goods

¹⁰ [FS21_rev_1_Housing_en.pdf \(ohchr.org\)](#)

¹¹ [Weekly Deaths in Northern Ireland \(nisra.gov.uk\)](#)

¹² *How Coronavirus has Affected Equality and Human Rights*, Equality and Human Rights Commission, 2020, p.6

and services as they do not have digital access. The Commissioner remains concerned that a “digital by default” approach may be creating challenges for older people and excludes those with no access, or capacity to use the internet or those living with disabilities. Access to access information, essential services and information should be accessible by alternative means and not solely via the internet.

Conclusion

- 7.1 Due regard must be given to the rights of older people within a Bill of Rights for Northern Ireland. Older people’s contribution to Northern Ireland society must be recognised and valued. The themes of the UN Principles can guide the drafting of the Bill of Rights to protect older people’s independence, participation, care, self-fulfilment and dignity.
- 7.2 To meet the vision of the Northern Ireland Executive of *‘being an age friendly region in which people, as they grow older, are valued and supported to live actively to their fullest potential; with their rights respected and their dignity protected’* the Bill of Rights must include protections and provide suitable standards to promote for the fundamental rights of older people.