

COMMISSIONER FOR OLDER PEOPLE (WALES) ACT 2006

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. The Act addresses the policy of the Government and the National Assembly for Wales ("the Assembly") on establishing a Commissioner for Older People in Wales. This policy is based on the recommendation of the Welsh Assembly Government's Advisory Group on a Strategy for Older People in Wales. Their report "*When I'm 64 ... and More*", which was published in May 2002, was set against the background of an increasingly higher concentration of older people in Wales compared to the rest of the UK.
4. A further Advisory Group was established to consider this recommendation. The "*Report and Recommendations of the Welsh Assembly Government's Advisory Group on a Commissioner for Older People in Wales*" was published in March 2004 and was the subject of a wide-ranging consultation. The Act has been produced in the light of the proposals of the Advisory Group and the outcomes of the consultation.
5. The Act creates the office of the Commissioner for Older People in Wales or Comisiynydd Pobl Hŷn Cymru (referred to here as "the Commissioner") whose role will be, in general, to ensure that the interests of older people in Wales are safeguarded and promoted.
6. The Commissioner's range of functions will enable him to:
 - (a) promote awareness of the interests of older people in Wales and of the need to safeguard those interests;
 - (b) promote the provision of opportunities for, and the elimination of discrimination against, older people in Wales;
 - (c) encourage best practice in the treatment of older people in Wales;
 - (d) keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales;
 - (e) consider, and make representations to the Assembly about, any matter relating to the interests of older people in Wales;
 - (f) undertake, commission or provide assistance for another to undertake or commission research or educational activities in connection with any of his functions;
 - ((g) make reports to the Assembly on the exercise of his functions;
 - (h) make reports generally following the discharge of his functions;
 - ((i) review the effect on older people in Wales of the discharge of or failure to discharge functions by the Assembly or by persons listed in Schedule 2 to the Act;

*These notes refer to the Commissioner for Older People (Wales)
Act 2006 (c.30) which received Royal Assent on 25 July 2006*

- ((j) review arrangements made by certain bodies for dealing with advocacy, complaints and responses to the disclosure of potentially adverse information in relation to the body (“whistle blowing”) to ascertain whether, and to what extent, the arrangements are effective in safeguarding and promoting the interests of older people in Wales; and
 - ((k) enter any premises, other than a private dwelling, to interview an older person, with their consent and in connection with his powers to review arrangements and the discharge of functions.
7. The Commissioner’s function of reviewing complaints and whistle-blowing arrangements will apply in relation to the providers of regulated services (in essence, certain care services) in Wales, persons listed in Schedule 3 to the Act and persons who provide services in Wales on their behalf. The bodies listed in Schedule 3 are public sector bodies, or persons providing services on behalf of public sector health bodies, that provide services to or in respect of older people in Wales. They include local authorities, providers of health and social services, and education and training providers. The Assembly will also be one of the bodies subject to the Commissioner’s function of reviewing arrangements. The Commissioner will also be able to review the arrangements of any person for providing advocacy services to persons in respect of whom regulated services are provided in Wales or to whom services are provided in Wales by or on behalf of a person mentioned in Schedule 3.
 8. The Assembly is given a power to make regulations, which may confer a power on the Commissioner to give assistance, including financial assistance, to a person who is or who has been (i.e. because they have moved out of Wales) an older person in Wales in making complaints or representations in certain circumstances. Regulations may also make provision for the Commissioner to examine, in certain circumstances, the cases of particular older people in Wales. Where both the Commissioner and the Public Services Ombudsman for Wales are entitled to examine a particular case of an older person in Wales, provision is made to enable them to work jointly. Where a case gives rise to a matter which the Commissioner is entitled to examine and the case also relates to or raises another matter which the Public Services Ombudsman for Wales or the Children’s Commissioner for Wales would be entitled to examine, provision is made to enable them to work collaboratively.