



Have your say: the constitutional future of Wales

July 2022

Introduction

The Commissioner welcomes the opportunity to contribute towards the work of the Independent Commission on the Constitutional Future of Wales.

The Commissioner believes that the discussions around the constitutional future of Wales must be focused on how change can improve the lives of all of Wales' citizens, including older people, and whether increased powers for the Senedd, over issues such as financial entitlements and justice, could enable improvements to be made in the quality of life of our citizens.

It is also important that Wales is governed in a way that can be easily understood by the public and that enables people to participate in the democratic process. The Covid-19 pandemic has increased recognition of devolved government in Wales and it is crucial that it is built upon to help the public to understand the decisions that are made in the Senedd that affect their lives and the importance of participating in our collective governance.

Engaging directly with older people to seek their views will also be a crucial part of the Commission's work, particularly in reaching diverse representation of older people, to ensure that the varying experiences of older people from different backgrounds are sufficiently represented and listened to.

It is important that the Commission considers how Wales is governed at all levels of government and should look to ensure that decisions are made as closely as possible to citizens, with engagement and representation as core drivers for decision-making.

In Wales' case, the Commission should consider not just the powers that are held in the Senedd and Westminster, but how local authorities can be empowered to transform their communities through increased autonomy.

Applying this principle to the Senedd should also mean increased powers being devolved from Westminster to Wales' national parliament, which is best placed to be able to legislate on the issues that affect people's everyday lives and should include additional levers to

administer financial entitlements, the devolution of justice, and greater flexibility to make the investments needed in our public services and to tackle deep seated inequalities.

Tackling Inequalities in the older population

The Covid-19 pandemic has exposed many inequalities in our society and in Wales' ageing population, with older people being disproportionately impacted by the pandemic and our responses to it. There are long-standing inequalities within the older population with significant gaps in life expectancy and healthy life expectancy between Wales's most affluent and most deprived areas. The Commissioner's *State of the Nation* report highlighted a gap of over 10 years between healthy life expectancy in Blaenau Gwent and Monmouthshire.

Without the necessary ability to make significant investments in tackling these disparities, Wales risks these inequalities continuing through future generations of older people. The latest available figures show that nearly 1 in 5 older people in Wales are living in relative income poverty, which will have been exacerbated by the current cost of living crisis. One way of helping to tackle this level of poverty is through the financial entitlements that are made available to support older people.

Whilst the Welsh Government does administer some financial entitlements, such as the Council Tax Reduction Scheme, the majority of the responsibility for this area resides in Westminster. Schemes available for older people and those who care for them include Pension Credit, Attendance Allowance, Warm Home Discount and Carers Allowance.

By devolving some of these entitlements, the Welsh Government would be empowered to improve the targeting and generosity of these schemes to ensure that a greater level of support is being provided to the older people who need it most. In Scotland, where there has been a partial devolution of some financial entitlements, a Charter has been established which sets out the principles of dignity, respect and human rights that underpin the approach to entitlements there. Wales would have a similar opportunity to refocus the approach of financial support for older people if further devolution was taken forward.

The devolution of financial entitlements in Scotland has also enabled the Scottish Government to enhance the offer that is made through the system, for example, by introducing the Carers Allowance Supplement and extending the eligibility for the Winter Fuel Payment.

As a starting point, there needs to be improved partnership working between the Welsh Government and Department for Work and Pensions to increase the take-up of entitlements such as Pension Credit (which goes unclaimed by nearly a third of those who are eligible) and to improve the sharing of data and expertise to help identify those who may be eligible for additional support.

Intergovernmental Relations

Working at that the cross section of devolved and non-devolved areas can sometimes be a challenge, and the statutory powers of the Commissioner are limited to fields in which functions are exercisable by Welsh Ministers, the First Minister of Wales or the Counsel General. However, the Commissioner is able to make representations to these individuals about any matter relating to the interests of older people in Wales.

Many of the issues affecting older people in Wales are within matters reserved to the UK Government and UK Parliament. Whilst the Commissioner's legal powers do not stretch to these matters, she is active in engaging with UK Ministers and members of the House of Commons and House of Lords on issues affecting older people.

Despite reserved matters being excluded from the Commissioner's powers, UK Ministers have usually been willing to engage on these issues, including during the passage of the Domestic Abuse Act 2021. The Commissioner met with the Minister sponsoring the Bill and engaged with Welsh members of the House of Lords to raise particular issues around the abuse of older people and the work underway in Wales.

In the case of domestic abuse, and abuse of older people more broadly, there are multiple interchanges of devolved and non-devolved responsibility, including safeguarding processes, the police, the criminal justice system, prisons and Welsh specific legislation on VAWDASV. Whilst it is possible for these different sectors to work together in the current system, it would be more efficient and effective to align priorities if responsibility and powers over all of the areas that affect the abuse of older people were held by the Senedd and the Welsh Government.

Many older people who are victims of abuse or other crimes can also find it challenging to access justice in the current system, with low rates of prosecution for crimes committed against older people. A devolved justice system and distinct Welsh jurisdiction would enable an improved approach to be taken, which placed a greater focus on supporting victims and ensuring that crimes committed against older people were given greater consideration.

The Welsh Government recently published *Delivering Justice for the People of Wales*, which included a commitment to give a prominent voice within the justice system to older people. This commitment is a positive step forward and sets the groundwork for implementation of a distinct approach to justice in Wales.

Conclusion

The Commission has an opportunity to set out how reforming the way in which Wales is governed can lead to better outcomes for individuals and reduced inequalities in our

society. This should be the starting point when considering whether responsibilities should lie at the Senedd, the UK Government or with local authorities.

It is the Commissioner's view that the matters set out in this submission would benefit from being administered in Cardiff to allow for a different approach to be taken. The further devolution of powers to the Senedd and Welsh Government would enable the Commissioner to better influence how government policy impacts on lives of older people.

The Older People's Commissioner for Wales

The Older People's Commissioner for Wales protects and promotes the rights of older people throughout Wales, scrutinising and influencing a wide range of policy and practice to improve their lives. She provides help and support directly to older people through her casework team and works to empower older people and ensure that their voices are heard and acted upon. The Commissioner's role is underpinned by a set of unique legal powers to support her in reviewing the work of public bodies and holding them to account when necessary.

The Commissioner is taking action to end ageism and age discrimination, stop the abuse of older people and enable everyone to age well.

The Commissioner wants a Wales where older people are valued, rights are upheld and no-one is left behind.

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