

These notes refer to the Commissioner for Older People Act (Northern Ireland) 2011 (c.1) which received Royal Assent on 25 January 2011

Commissioner for Older People Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 11 - Assistance in relation to legal proceedings

This Section sets out the scope of the Commissioner's power to assist an older person in relation to certain legal proceedings, that is proceedings which involve law or practice concerning the interests of older people.

This section is different from section 10 because it deals with cases where it is actually the older person (not the Commissioner) who has brought a case to court involving the interests of older people but the older person would like the help of the Commissioner with their case.

This section gives the Commissioner the power to help an older person in these circumstances. But before the Commissioner is able to help he/she must consider the following questions:

- Does the case involve a question of principle?
- Is it unreasonable to expect the older person to deal with the case on their own, because it is very complicated, or because of a relationship with some other person involved, or for some other reason?
- Are there any special circumstances which the Commissioner believes make it appropriate for him/her to help?

If the answer to any of these questions is yes, then the Commissioner may help. The final point that the Commissioner must check is whether there is another organisation or person who is able and likely to help the older person with the court case. If there is, the Commissioner must not act in the case.

The power of the Commissioner to help an older person involved in a court case could take the form of whatever help the Commissioner thinks is necessary and includes arranging for someone qualified to give legal advice or arranging for a solicitor or barrister to represent an older person.

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The Commissioner would be able to recover costs/expenses from the older person as part of the arrangement to provide assistance, if the Commissioner thinks that this is reasonable in the circumstances of the case.