

*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

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## **EXPLANATORY NOTES**

### **SCHEDULES TO ACT**

#### **SCHEDULE 2**

#### ***INVESTIGATION UNDER SECTION 4(4)***

This schedule sets out the procedures to be followed when a formal investigation is being carried out in relation to the Commissioner's duties under Section 3(2) or 3(3) of the Commissioner for Older People Act (Northern Ireland) 2011. Terms of reference of the investigation must be written and sent to the relevant authority involved. Also the Commissioner must give the relevant authority the opportunity to give its opinion on the investigation and to offer evidence for this. All formal investigations must be carried out in private.

Apart from the procedures set down in Schedule 2, the Commissioner has the flexibility to carry out the investigation in the way that he/she believes is best. The Commissioner is not required to arrange formal meetings at which people can speak and provide evidence.

Because attendance at meetings with the Commissioner can be expensive, the Commissioner is given the power to pay expenses or allowances for the loss of time of a person involved in a formal investigation.

This section also states the Commissioner must prepare a report on the investigation and it states what persons or organisations the Commissioner must send a copy of the report to. The report must not name individual people unless the Commissioner believes that it is necessary to do so. The Commissioner must give reasons for the recommendations in the report. The relevant authority involved in the case must consider the report and decide what action to take on the Commissioner's recommendations.

In cases where the Commissioner has made a report which recommends that a relevant authority take a particular action, the Commissioner is given the power in this section to issue a formal Notice to the organisation involved. This section requires the organisation to write back to the Commissioner within three months explaining either what it has done to follow the Commissioner's recommendation or if it has decided not to follow the recommendation, to explain the reasons why.

If the organisation has not followed the Commissioner's recommendation and the Commissioner considers that the reason given is inadequate, the Commissioner can issue a further Notice to the organisation setting out the inadequacy and requiring the authority to reconsider the matter and reply within one month.

- The Commissioner is also given the power in this section to publish information on:
- the recommendations he/she has made;
- how the Commissioner may have followed them up with letters to the organisations involved;
- what the organisation did or did not do in response to the Commissioner's letters and/or recommendation(s).

This information will be kept in a register and the Commissioner can arrange for copies of the register to be made available for people's inspection in any way he/she believes is appropriate.