



NORTHERN  
IRELAND  
HUMAN  
RIGHTS  
COMMISSION

## INVESTIGATION INTO THE RIGHTS OF OLDER PEOPLE IN NURSING CARE IN NORTHERN IRELAND

### Terms of Reference

#### Background

In the UK, the fastest growing age group are those aged 80 and over.<sup>1</sup> It is also accepted that increased longevity has meant that the likelihood of needing some form of residential care is much greater today than in the past. In light of the changing demographics of the UK, the Northern Ireland Human Rights Commission has been exploring the vulnerabilities and problems that older people face and the responsibilities of government to this group of people

Having undertaken an extensive scoping exercise from May 2009, drawing on the expertise of academics, non-governmental organisations and other statutory bodies, the Commission has decided to conduct an investigation into the rights of older people in nursing care. Residents in nursing homes require 24-hour care, and the Commission has identified a group of people that are likely to have complex medical needs and vulnerabilities. It wishes to explore the extent to which those medical needs are met along with the rights and entitlements residents share with any other member of the population living in their private residence. The investigation will therefore focus on the following areas in respect of nursing home care in Northern Ireland:

- **Sedation:** appropriate prescription and use of sedatives
- **Review of medication:** appropriate use of medication

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<sup>1</sup> Available: [www.statistics.gov.uk](http://www.statistics.gov.uk).

- **Nutrition:** including malnutrition and methods of feeding
- **Dignity:** focusing on the day to day experiences of residents in relation to, for example, autonomy in decision making, access to outdoor spaces, clothing, stimulation, finances and such other matters as the residents, family members and/or staff may identify; and
- **Non-discrimination:** exploring the extent to which older people face discrimination in the enjoyment of rights because of their age as well as for example, gender or ethnicity.

## **Investigation remit**

The investigation aims to identify:

- the international and regional human rights standards to which the UK is a party, relating in particular to accommodation, healthcare, dignity, nutrition, non-discrimination and disability
- relevant international and regional 'soft law' standards relating to health, dignity, disability and elder care
- the extent to which existing legislation, guidance, and practice in relation to older people in nursing care complies with international human rights standards; and
- the extent to which the rights of older people are met in the nursing home environment.

## **Methodology of investigation**

It is envisaged that fieldwork will commence in November 2009 and will continue until the summer of 2010. The Commission has devised criteria in order to select four homes for the purposes of primary evidence gathering. The homes will not be named in the report. The homes identified consist of a mixture of rural and urban locations from across Northern Ireland and will include a range of bed sizes, and specialist care.

A primary aspect of the fieldwork will involve access to individual residents for interview and to their medical and nursing home records. The Commission will seek written consent from the individuals concerned before proceeding with these aspects of the investigation. Where an issue may arise (as identified by nursing home staff) as to the individual's mental capacity to provide consent, written consent will be sought from their next-of-kin. It is

envisaged that the final report will be published by the end of 2010, with a series of recommendations to nursing homes. As with all investigations reports, the Commission plans to monitor the extent to which those recommendations are implemented and report on this through its statutory functions and annual report.

The investigation will be carried out by the means of:

- review of literature and relevant human rights standards and case law
- review of legislation and policy
- analysis of available statistical material on the issue of nursing home or elder care
- interviews with relevant Department of Health and Trust employees
- interviews with management and staff from each of the nursing homes selected for investigation
- review of relevant policies and other documentation (including that relating to complaints) from each of the nursing homes selected for investigation
- analysis of the information necessary (e.g. gender, length of time in nursing home) to identify a sample of residents from each of the nursing homes selected for investigation. The Commission particularly wishes to speak to people with dementia.
- interviews with the sample of residents from each of the nursing homes selected for investigation; and
- analysis of the nursing home notes/records and medical records of the sample of residents for the purpose of assessing appropriateness of care and medication provided by the nursing home. This review will be conducted with the assistance of a suitably qualified medical expert.
  - analysis of nursing home records for the purpose of reviewing the care and medication of residents. This review will be conducted with the assistance of a suitably qualified medical expert.
  - interviews with family members and friends of nursing home residents where appropriate
  - meetings with non-governmental organisations in order to participate in interviews and provide case studies of people in nursing care and to help in establishing contacts with residents and their families

- interviews with other professionals actually or potentially involved with this issue including elder care social workers, geriatricians and social care workers, and pharmacists; and
- call for evidence and analysis of data received (see further below).

## **Call for Evidence**

In gathering evidence for this investigation, the Commission wishes to include a public call for evidence. Members of the public are asked to contact the Commission with any relevant experiences of the issues under investigation, whether experienced first hand or by family members. The evidence will be gathered over the phone for an initial two-week period from 15 to 26 February, Monday to Friday. After that period any callers will be given a time limited opportunity to input via a questionnaire on the Commission's website or by post. Evidence gathered in this way will be used to:

- ascertain the extent to which the issues identified through first hand observations and interviews represent systemic problems across nursing home establishments in Northern Ireland
- produce anonymous case studies for the report
- assess arising areas of systemic concern that the Commission could potentially address by way of public interest litigation, and
- identify areas of good practice in nursing homes and opportunities for shared learning.

Individual cases may, in certain circumstances raise concerns of sufficient gravity that might lead, with the callers consent, to referral to the legal team. The legal team, having assessed the evidence further may offer assistance to reach informal resolution/advocacy. There will be the possibility of the call for evidence revealing a pattern of concerning calls about a particular home not already subject to this investigation. The Commission intends to deal with this through formal contact with the nursing home manager and may also discuss the concerns raised in the final investigation report, while not naming the nursing home.