Tailored Review of the Northern Ireland Commissioner for Older People (COPNI)

Commissioned by The Department for Communities
October 2022

Contents

1. Executive Summary

1.1.   The New Decade New Approach agreement (2020) committed Departments to reviewing their Arm's Length Bodies (ALBs). The Department for Communities (DfC) commissioned a Tailored Review of two of its ALBs, the NI Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI). COPNI is the subject of this report.

1.2.   The aim of the Review is to take a holistic look at COPNI "to determine whether its NDPB and Corporation Sole status continues to represent the optimum mode of delivery for the desired policy and strategic outcomes in comparison with other options, alongside looking at governance efficiencies for better partnership working focussed on a strategic and proportionate approach".

1.3.   The Office of the Commissioner for Older People for Northern Ireland (COPNI) was established by the Commissioner for Older People Act (Northern Ireland) 2011, which took effect from January 2011. Mr. Eddie Lynch commenced his term as Northern Ireland's second Commissioner for Older People on 14 June 2016. The Commissioner's role is to act as an independent voice and champion for older people, and to safeguard and promote their interests. The post of Commissioner is appointed for four years, renewable once.

1.4.   The review was carried out between May and September 2022. We reviewed COPNI documentation and consulted with a range of stakeholders via interviews and postal questionnaires. We also sought to adapt our design to employ remote data collection technologies using Zoom and other online platforms.

Form and function

1.5.   The Review clearly demonstrates the continuing need for the statutory functions ascribed to the Commissioner. Whilst viewed against the three Cabinet Office criteria for ALBs, COPNI's statutory functions include those where it (a) performs a technical function, (b) needs to be politically impartial and (c) needs to act impartially to establish the facts. We have considered whether there are alternative structures which could deliver these functions effectively and efficiently.

1.6.   In accordance with Article 21 of the Act, the Commissioner is required to keep under review the working of the Act and make reports on it to the First and deputy First Minister (now DfC) on the third anniversary of the Act with subsequent reports between 3 and 5 years after the initial report. The Department does not have a record of receiving a report.

1.7.   COPNI is a non-departmental public body (NDPB), sponsored by the Department for Communities (DfC) The appointment of the Commissioner rests with The Executive Office (TEO). While appointments by the First and Deputy Ministers give the post political legitimacy which would not necessarily be the case if it were made by a specific Minister, it is important that TEO ensures the appointment process satisfies the requirements of DAO DoF 05/17 in relation to Accounting Officer responsibilities. When new First and deputy First Ministers are appointed and an Executive in place, the possibility of sponsorship changing to the TEO should be considered. Furthermore, there is scope within the new Partnership Agreement for the sponsor Department to have a greater focus on strategy and impact.

1.8.   In common with some other Commissioners offices, the post of Commissioner in COPNI has Corporation Sole status, which affords the Commissioner significant independence to carry out their duties and challenge functions. However, while the Corporation Sole model has many strengths, it does place a significant administrative overhead on what is a relatively small organisation and there is an argument for considering designating the Commissioner as a Statutory Officer of a Department (in effect a Ministerial appointee with statutory functions) which would continue to embed the independence of the Office in statute while significantly reducing the

administrative requirements associated with being an NDPB. However, this would be different from the Older Peoples Commissioner for Wales which does have Corporation Sole.

Control and Governance

1.9.   The Audit and Risk Committee has three independent members, including the Chair. There was one vacancy when the current Review commenced. Members interviewed expressed concerns about aspects of how the Committee was operating and the Chair and remaining member resigned at the end of October 2022. Arrangements are in hand to replace the Committee.

1.10. COPNI has established financial accountability processes, but the Corporation Sole status cannot provide the same quality of assurance about the strategy or impact of the office. We considered the option of a Board, as is the norm in other ALBs, or an Advisory Board as is the case for the Children's Commissioner in England. We also examined an alternative option, which was for COPNI to develop a more formal relationship with the NI Assembly Communities' Committee. On balance we consider that the establishment of an Advisory Board strikes the best balance for COPNI.

Efficiency

1.11. As a small organisation, COPNI has limited scope for demonstrating efficiency savings or for providing a career structure for staff. We considered possible alternative models of staffing including merging back-office support with another ALB or drawing staff from the NICS. We do not consider that there are sufficient efficiencies to be gained from combining back-office functions to outweigh the potential disadvantages. However, as there are plans (subject to legislation) for establishing new Commissioner posts, further consideration should be given to Commissioners drawing on shared services from the NICS. This could be in the context where the Commissioner is a Corporation Sole or becomes a Ministerial appointee with statutory functions (i.e., a Statutory Officer of the Department). The latter would however relieve the Commissioner of many of the administrative functions which are required of NDPBs and allow the post holder to focus time and resources on the key statutory priorities for the Office. At the same time this could potentially constrain the Commissioner's capacity to operate independently and effectively hold government to account.

1.12. We appreciate it may take some time to tease out the implications of any change and there may be opportunities in the interim for experienced officers in other DfC ALBs to offer peer support to new incumbents in key posts such as finance.

1.13. There is considerable variation in how Commissioner led bodies are structured. This includes the Commissioner as Corporation Sole, linked to either an Executive Department or the NI Assembly, the Commissioner as a Statutory Officer of a Department, whether the bodies have a Chief Executive supporting the Commissioner and how back office and support services are sourced. We have noted that the management structure of the Commissioner for Older People in Wales does not have the position of Chief Executive. Instead, the Commissioner is supported by a Senior Executive Assistant and a Chief Operating Officer. The latter leads on all internal operations of the Commissioner's office and is formally designated as the Deputy Commissioner. In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within COPNI.

1.14. In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to new premises in James House. We understand that these plans have been subject to significant delay. In addition, Commissioners located in Equality House have expressed concerns about colocation with bodies whom they may be scrutinising which might be perceived to compromise their independence. However, if hybrid working becomes the norm post-Covid, the need for the current office

footprint should be reviewed with the aim of finding efficiencies in COPNI's accommodation costs.

Effectiveness

1.15. To assist with an assessment of COPNI's broader impact we constructed a post-hoc outcomes framework and asked identified stakeholders to comment on COPNIs achievements against these outcomes. There is descriptive evidence of COPNI delivering across these outcome areas.

- COPNI has been widely praised by stakeholders for their response to the pandemic, particularly in raising the profile of older people's needs in the media as well as in engaging with and supporting older people themselves.

- COPNI has been acknowledged by Government agencies and NGOs for its role in highlighting the issue of care in care homes through the Home Truths report and in doing so safeguarding and promoting the interests of older people

- Despite being described as 'initially adversarial', COPNI has built positive relationships with the relevant authorities and is now working collaboratively with them, including RQIA, to monitor the implementations of the recommendations from the Home Truths report

- COPNI case work, representing older people legally, has increased in scale and complexity. In particular there is now more focus on complex cases, which can lead to judicial reviews.

While the Covid pandemic did severely limit COPNIs capacity to engage with older people, the Legal and Advocacy team continued to represent the interests and rights of many older people

- COPNI has built positive relationships with key decision makers allowing them to advocate on behalf of older people. The Commissioner has contributed to policy developments affecting older people, including: the Active Ageing Strategy published in 2016; the Adult Protection Bill and the Housing Supply Strategy.

1.16. Looking ahead it would be useful to revise and develop this outcome framework further to inform a more pro-active (formative) approach to evaluation and impact reporting. This would involve COPNI clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 49 illustrates that targets, indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

1.17. It can be argued that a key factor affecting successful influence on policy/ practice development is the ability to connect with and build constructive relationships with key decision makers, therefore we would propose that COPNI include the concept of 'relationship building' as a key outcome.

Recommendations

Form and function

1.18. The statutory functions ascribed to the Commissioner meet the Cabinet Office requirements and COPNI therefore must be retained to satisfy the requirements of the Older People Act (Northern Ireland) 2011.

Governance and Control

1.19. We recommend that TEO should continue to appoint the Commissioner which, by virtue of requiring the endorsement of the First and deputy First Ministers, will confer added political legitimacy on the appointee.

1.20. We recommend that the Department for Communities (DfC) should engage with TEO when Ministers and an Executive are in place to consider whether, in addition to appointing the Commissioner, TEO should also be the sponsor Department for COPNI. Whichever Department sponsors COPNI, the new Partnership Agreement should be focussed on organisational strategy and demonstration of impact.

1.21. Notwithstanding decisions about sponsorship arrangements, we recommend that consideration is given to whether the Commissioner should remain as a freestanding Corporation Sole or become a Statutory Office of a Department. However, removing Corporation Sole status would represent a deviation from the norm for other UK Commissioners with comparable functions, including the Older Peoples Commissioner for Wales, and raise concerns about the Commissioner's perceived independence and actual detachment from government. Any proposed change in the Commissioner's status would need to address how to guarantee the Commissioner's continued independence and capacity to effectively hold government to account.

1.22. In view of the importance of ARAC, we recommend:

- action is taken urgently to reinstate an ARAC

- that the sponsor Department is included in the appointment arrangements for ARAC members

- the ToR are reviewed annually

- an effectiveness review is undertaken annually

- COPNI agrees an annual work programme with the Committee

- there are regular meetings of the IA, EA and the Department

- DfC and COPNI consider using the NICS IA group to provide IA services when the current contract terminates

- DfC should have input into the appraisal of the ARAC Chair

1.23. We recommend that COPNI establish an Advisory Board in consultation with the Department in order to provide the Commissioner with independent advice on strategy and impact.

Efficiency

1.24. There is limited scope for COPNI to find efficiencies through possible mergers with another NDPB. We recommend that the Department give consideration to reviewing the senior management structure which currently has a Chief Executive post supporting the Commissioner.

1.25. There could also be the potential for efficiency savings if the Commissioner were to be designated a Statutory Office of a NI Department. While we recommend that consideration is given to the Commissioner becoming a Statutory Officer of the Department, particularly in terms of efficiency, this could have implications for the Commissioner's independence and capacity to effectively hold government to account.

1.26. In the event of hybrid working becoming the norm, we recommend that opportunities are explored for finding efficiencies in COPNI's accommodation costs. The position in respect of the move to James House needs clarified.

Effectiveness

1.27. There is some descriptive evidence of COPNI delivering effectively across identified outcome areas. Looking ahead we recommend that COPNI revise and develop the outcome framework to inform a more pro-active (formative) approach to evaluation and impact reporting.

1.28. This would involve COPNI clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 49 illustrates that targets and indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

1.29. In addition, identifying that good relationships with key decision makers can be a key factor affecting successful influence on policy/ practice development, we recommend that COPNI include the concept of 'relationship building' as a key outcome.

2. Introduction

2.1 The New Decade New Approach agreement which was published in January 2020 restored the institutions of government in Northern Ireland and made a number of commitments, including that Departments should undertake a review of their Arm's Length Bodies (ALBs). It is in this context that the Department for Communities (DfC) commissioned independent consultants to undertake a review of two of its ALBs, the NI Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI). COPNI is the subject of this report.

Background and role of the Commissioner

2.2. The Commissioner for Older People was established by the Commissioner for Older People Act (NI) 2011, to act as an independent voice and champion for older people, and to safeguard and promote their interests. The post of Commissioner is appointed for four years, renewable once. COPNI's budget in 2020-21 was £1.021m which supported a team of 15 staff.

2.3. The Commissioner has a wide range of responsibilities which include advising government and its agencies on policies, legislation and services provided for older people, reviewing the services provided for older people and challenging government actions for improvement and correction when they fall short.

2.4. COPNI is a non-departmental body (NDPB) and has been sponsored by the Department for Communities since 2016. It was originally established under the Office of the First and deputy First Minister whose successor, the Executive Office retains responsibility for appointing the Commissioner.

2.5. COPNI's work is underpinned by the UN Principles for Older Persons (1991). These international standards are important as COPNI assesses how well public bodies and other organisations deliver services for older people here in Northern Ireland. The work of the Commissioner is also informed by the NI Executive Active Ageing Strategy 2016 – 2022 and the Older People's Housing Strategy 2021/22 to 2025/26.

Tailored Reviews

2.6.   The Review was conducted in the context of the Cabinet Office Guidance on Tailored Reviews (which the Department of Finance has amended to suit the needs of the NI Executive). The aim of the Review is to take a holistic look at COPNI "to determine whether its NDPB and Corporation Sole status continues to represent the optimum mode of delivery for the desired policy and strategic outcomes in comparison with other options, alongside looking at governance efficiencies for better partnership working focussed on a strategic and proportionate approach".

2.7.   Tailored reviews are required to provide a robust challenge to and continuing need for individual organisations and where an organisation is being retained, that it is operating effectively and efficiently and that assurance processes are in place to make such assessments. In addition, the Tailored Review should ensure that appropriate governance and control measures are in place and that the organisation and its sponsor Department are complying with recognized principles of good corporate governance.

2.8.   Our Terms of Reference specifically require us to consider and make recommendations on the following areas:

Form and function – the status, form, function and continuing requirement for the Commissioner role.

Control and Governance – consider whether COPNI and the Department for Communities in its sponsor role is complying with recognised principles of good corporate governance to ensure strong and robust governance arrangements are in place.

Efficiency – the review will examine the current operational structure, corporate functions and related costs and will consider options for operational efficiencies.

Effectiveness – the review will consider overall effectiveness of COPNI in delivering on its objectives and will look at comparisons with other jurisdictions in order to make recommendations that will enhance effectiveness and provide increased clarity and accountability for stakeholders.

Democratic accountability – the review will consider current and alternative delivery arrangements in the context of democratic accountability.

3. Methodology

Review of documentation

3.1 We reviewed a range of documentation which included comprehensive background briefing provided by DfC:

- The Commissioner for Older People Act (NI) 2011 ("the 2011 Act").

COPNI Reports, including:

- COPNI Management Statement / Financial Memorandum – October 2018

- COPNI "What We Do"

- COPNI Annual Report and Accounts

- COPNI Business Plan and Risk Register

- COPNI Corporate Plan 2016-20

- COPNI Business Plan 2021/22

- COPNI Risk Register June 2021

- COPNI Governance Documentation

- COPNI Reports to those charged with governance (2019-20, 2020-21)

3.2 We familiarised ourselves with the Cabinet Office guidance on Tailored Reviews of Public Bodies and the NI Code of Good Practice on Partnerships between Departments and Arm's Length Bodies.

3.3 We also identified a number of external reports and references including

- NI Executive Active Ageing Strategy 2016 – 2022

- NI Assembly Research Briefing 2010 – The Commissioner for Older People Bill.

- Assembly Research Briefing 2010 – Reviewing the case for an Older People's Commissioner for NI

- The Older People's Commissioner for Wales (olderpeoplewales.com)

- The Commissioner for Older People (Wales) Act 2006 (legislation.gov.uk)

- The Commissioner for Older People in Wales Regulations 2007 (legislation.gov.uk).

Design of data collection tools

3.4 For this review we endeavoured to design data collection instruments that would address the terms of reference and extract relevant information from as wide a range of stakeholders as possible. Given the ongoing concerns around Covid we also sought to adapt our design to employ remote data collection technologies using Zoom and other online platforms.

3.5 Based on the terms of reference we developed a series of questions designed to explore respondent's knowledge, views and experiences of COPNI.

3.6   Furthermore, based on the documentation provided, we designed a draft logic model for COPNI, which sought to link the Commissioners role and functions to a series of proposed high-level outcomes. We consulted with the Commissioner and senior staff, for their feedback and endorsement of the final set of outcomes produced. This outcomes framework was then incorporated into the questionnaire issued to different stakeholders. These questionnaires/interview schedules were adapted to suit the needs of the different categories of stakeholders i.e., Government Departments or NGOs.

Fieldwork

3.7   Fieldwork was carried out over the period of May to August 2022 and consisted of the following:

- Stakeholder interviews either face to face or remotely via online platforms

- Stakeholder questionnaires completed and returned via email

- Panel/focus groups with user groups and external stakeholders

3.8   We conducted a wide range of interviews, (mainly remotely) with key officials in governance and sponsorship in DfC, the Older Peoples Commissioner, Chief Executive and senior staff, and with the Chair and members of the COPNI Audit and Risk Committee (ARAC).

3.9   We also had in person meetings with the Chief Executive of the Equality Commission for NI (ECNI) and the Chief Commissioner and Chief Executive of the NI Human Rights Commission (NIHRC).

3.10   Questionnaires were sent out via email to stakeholders identified by COPNI. These included identified individuals in Government Departments, statutory bodies and NGOs the Commissioner and their office has had contact with.

3.11   In order to make comparisons with arrangements in other Commissioners' offices within DfC we interviewed the Commissioner for Discretionary Support and his Office Manager and the Secretary to the Local Government Boundary Commission. We also met with the Chief Executive of the Commission for Victims and Survivors to understand an alternative model for the division of responsibilities between the Commissioner and the CE.

3.12   Finally, we interviewed the Police Ombudsman and a senior official of the Public Service Ombudsman to identify if there were lessons for COPNI from other NI NDPBs with similar investigatory responsibilities.

Challenge Panel

3.13   DfC established a Challenge Panel to oversee the review and robustly test and challenge the assumptions of the review. The review team will provide their findings to the Challenge Panel prior to finalisation of their report.

4. Cabinet Office Tests and Delivery Options

The need for COPNI

4.1 There is a clear legislative requirement for COPNI. The Commissioner for Older People was established by the Commissioner for Older People Act (NI) 2011, to act as an independent voice and champion for older people, and to safeguard and promote their interests. The important role which COPNI plays in promoting the rights of Older People was emphasised by all statutory and voluntary stakeholders with whom we consulted. Furthermore, the future demographic profile of NI will change with the people over 65 predicted to make up 1 in 4 of the population by 2045, representing a 39% increase in the pension age population (2022- based Interim Population projections for Northern Ireland NISRA 12 January 2022). The health and social care needs for older people will therefore be a significant political, economic and social issue for Northern Ireland in coming decades. There is therefore undoubtedly a continuing requirement for COPNI.

The "Three Tests"

4.2 The Cabinet Office guidance identifies three tests in relation to ALBs which must be considered in any Tailored Review. These are:

Does the ALB perform a technical function?

Does it need to be politically impartial?

Does it need to act independently to establish the facts?

4.3 We consider that COPNI meets all three tests. The investigatory work undertaken by COPNI requires specialised legal skills and training which satisfies the "technical" question in part. It is self-evident that COPNI needs to be politically impartial as much of its work will require it to exercise an independent challenge function. And to do this COPNI must be capable of uncovering the facts surrounding the topics under investigation thus satisfying the second and third tests.

Delivery options

4.4 The Cabinet Office Guidelines require Tailored Reviews to consider alternative delivery options for ALBs under review. The range of Options is considered in Table 2. Reviewing all the options, it is clear that only two of the options require further consideration i.e., the Commissioner becoming a Statutory Officer of a Department, or remaining as an ALB sponsored by a NI Department. In the Control and Governance Chapter we look in more detail at the question of introducing a Board to support the statutory functions ascribed to the Commissioner.

Table 2. Delivery Options for COPNI

Option	Comment
Abolish	COPNI was established by legislation to safeguard and promote the wellbeing of older people.
Bring in-house as a Directorate of the Department	While this option would reduce costs, COPNI needs to demonstrate that it is independent from government so as to have the freedom to challenge on behalf of its client constituency. This could not be achieved if COPNI were to be incorporated simply as a Directorate of the Department
Merge with another body	We have considered whether COPNI could merge with another body while retaining a clear focus on older persons' issues. The possibilities are joining with NICCY to create a single Office with two Directorates, merge with the ECNI or the NIHRC with whom there is some overlap of functions. We have concluded that all of these options pose considerable challenges and are not currently viable. The merger options are discussed further below.
Commercial model- delivery by the private sector or delivered under contract by the voluntary or private sector.	COPNI does not attract private funding and is unlikely to do so in the future. Devoting resources to finding private or voluntary sector support would divert the organisation from its primary focus of safeguarding and promoting the rights of older people and result in a loss of democratic accountability.
Move out of central government e.g. to local government	To disperse this important function across 11 local Councils would result in fragmentation, confusion and inefficiencies.
Deliver via a Statutory Office holder (Departmental)	While there are examples of Commissioners working this way, they tend to be narrower in focus than is the case with COPNI. However, this model would relieve the Commissioner of many of the administrative overheads of an NDPB. This is considered in more detail below.
Deliver via a Statutory Office holder (Parliamentary)	This option is favoured by the Commissioner and by most respondents to the stakeholder survey. However, it is not supported by the Assembly Commission. (See 5.41)
Continued delivery as an ALB with the Commissioner as Corporation Sole	The status quo. The initial policy rationale for creating the Older Person's Commissioner as a Corporation Sole was to afford the level of independence in the legislation. The issue of COPNI having a Statutory or Advisory Board to enhance accountability is discussed at 5.27-5.34.

Merger options

4.5   Merge NICCY and COPNI into a single organisation

Advantages	Disadvantages
Combined back office which would provide more resilience	Efficiency savings minimal
Reduce duplication e.g. single set of core policies	Potential conflict of priorities
Create larger pool of investigators	

4.6   Merge COPNI with Equality Commission NI

Advantages	Disadvantages
Both organisations have Equality/Human Rights obligations in respect of Older People	The two organisations have distinct roles and very different structures
ECNI already provide ICT services for COPNI with whom they also share accommodation	Risk of dilution the focus which COPNI has on promoting the welfare of older people
Combined back office for HR and Finance would be a development of these shared services	ECNI has a small back office which is already stretched
	Transfer of functions legislation would be required as they are currently sponsored by different Departments

4.7   Merge COPNI with NIHRC

Advantages	Disadvantages
Both organisations are concerned with the rights of older people.	The status of the 2 bodies is different as NIHRC is a National Human Rights Institution answerable to Parliament while COPNI is answerable to the NI Assembly
Single body could arguably provide a more effective voice for older people.	As an NHRI, NIHRC has a broad remit and must have equal regard to the rights of all while COPNI has a sole focus on the rights of older people
Possible efficiencies by combining back offices (although NIHRC have just 4 support staff so would require additional resources if they were to take on another function).	NIHRC is sponsored and funded by a UK Department (NIO) while COPNI is sponsored by a NI Executive Department
	While COPNI's role is to advocate for older people, NIHRC are required to evaluate state action against clear objective criteria.

5. Governance and Control

5.1 COPNI is a Non-Departmental public body (NDPB), sponsored by the Department for Communities (DfC) from which it receives funding and to which it accounts for its expenditure. The Commissioner has been designated as Accounting Officer for COPNI by the Permanent Secretary in DfC, the Principal Accounting Officer for DfC expenditure. Prior to the restructuring of NI Departments in 2016, COPNI was sponsored by OFMdFM however the appointment of the Commissioner continues to rest with The Executive Office (TEO), the successor to OFMDFM while sponsorship lies with DfC.

5.2 We understand that the appointing authority for the Older Person's Commissioner was retained by TEO to ensure that the appointee enjoyed cross community support. While it does appear anomalous that the sponsor Department is not responsible for making the appointment and has the potential to be a source of tension around appointments and reappointments, we consider that making the appointment through TEO increases the democratic accountability of the appointment as it brings the authority of the First and deputy First Minister to the process.

5.3 We noted the current position where the Commissioner is appointed for an initial period of 4 years with the option of one extension for a further 4 years and considered whether a longer, single term of say 6 or 7 years would enable the Commissioner to have a greater focus on longer term strategic aims, outputs and outcomes for older people. TEO (which is responsible for appointing the Older Persons' Commissioner) are aiming to increase diversity and are encouraging a norm of 4 or 5 years for public appointments across NI. The bar for removing the Commissioner is set very high so the current arrangement of 4 years plus a second term of 4 years would facilitate the release, rather than removal, of the Commissioner if he/ she is underperforming, or should the Commissioner lose the confidence of the constituency.

5.4 We have also considered whether DfC is the most appropriate sponsor Department for COPNI. We understand that the rationale for OFMdFM sponsoring the Older Persons' Commissioner initially was that FM/ dFM was the lead on equality and was also the sponsor for the Children's Commissioner the legislation for which was reflected in the Older People Act (Northern Ireland) 2011.

When Departments were reorganised in 2016, the aim was to give the new TEO a sharper focus in supporting the Executive and DfC was identified as an alternative sponsor as it had other equality functions, including Ageing Strategy (although the Equality Commission and Race remained with the TEO).

5.5 Possible alternatives to the current arrangements include returning to sponsorship by TEO, transferring sponsorship to the Department of Health which carries responsibility for a range of services to older people. However, there is undoubtedly merit in not aligning COPNI with Departments which have a strong policy and service delivery role in respect of Older People. TEO has a cross cutting role in overseeing the coordination of Executive policies and would be a credible alternative sponsor for COPNI (as noted elsewhere, TEO currently appoints the Commissioner). In addition, TEO aims to "deliver a peaceful, fair, equal and prosperous society" and has a specific objective on Tackling Disadvantage and Promoting Equality of Opportunity, which includes an objective of "promoting and protecting the interests of children, older people, people with disabilities, victims and survivors and other socially excluded groups". There is therefore an argument for realigning responsibility for appointing the Commissioner with the sponsorship role.

However, this matter cannot be progressed in the absence of TEO Ministers and an Executive which has the ultimate responsibility for allocating or reallocating functions between Departments. The appropriate time to address the issue is when a new Executive is in place.

Internal management

Commissioner and Chief Executive Roles

5.6 The Commissioner as Accounting Officer is personally responsible for propriety and regularity in the management of public money and for maintaining a robust system of internal control. The CE has delegated authority for day-to- day management of the organisation, staff, finances, strategic planning, resources and governance arrangements and for implementing the Corporate and Business (Annual Report and Accounts 2020-21).

Staffing

5.7 All staff are directly recruited, although there is also a requirement to draw on Agency staff to temporarily fill vacancies while awaiting permanent replacements. Staff turnover has been high in COPNI – 38% in 2018-19, 32% in 2019-20 and 16% in 20-21. This has been attributed, in part, to dissatisfaction with pay progression policy.

Consequences of high staff turnover include a relatively high number of temporary staff in post, including in senior posts, and the loss of valuable experience when members of staff who have been with the organisation for a number of years move on.

5.8 COPNI are in discussion with the Department on a Business Plan for a new staffing model with options for increasing the approved staff complement from the current head count of 15 (Option 1) to 17 (Option 2), 21 (Option 3) or 17 (Option 4) with legal services being outsourced. COPNI rely on the ECNI to provide ICT services and have also a MoU with ECNI for accommodation.

5.9 Internal operational management is principally through the Senior Management Team (SMT) comprising the Commissioner, Chief Executive and Heads of Policy and Participation and of Legal and Investigation. SMT meets quarterly. A Leadership and Management Team (LMT) sits beneath the SMT and meets monthly. Membership of LMT comprises the CE, Head of Policy and Participation and senior staff responsible for Corporate Services, Policy and Research, Legal and Investigations and Participation.

Audit and Risk Committee

5.10 The ARAC has 3 independent Members, including the Chair. The members of ARAC are appointed through open competition. The term of office is four years with the potential to serve one further four-year term. The Chairperson and Members are renumerated on a per meeting basis. The Committee usually meets four times per year but may take on additional work at the request of the Commissioner.

5.11 The previous chair led the ARAC for two terms, ending in March 2021. The subsequent Chair, who served as an independent Member since 2014, was appointed commencing at the June 2021 meeting. A second member was appointed to the committee in April 2017 and reappointed in June 2021. A new member of the committee was appointed through open competition starting at the June 2021 meeting and resigned from the Committee in June 2022 to take up an appointment with the NIAO Advisory Board (which precluded him sitting on the audit committees of other bodies where the NIAO were External Auditors). We understand that the remaining two members resigned at the end of October 2022 and that arrangements are being made to fill these positions. With effect from August 2022, in order to support the Commissioner and the effective operation of the ARAC, the DfC Lead Sponsor has attended the Committee meetings as departmental observer.

5.12   The ARAC Chair confirmed that Members receive a formal letter of appointment which provides them with a clear understanding of their role, the commitment required and the duration of their appointment. A Register of Members' interests is maintained and updated regularly. Members are briefed on appointment by the Commissioner and CE and the Chair had plans for some external training for Members.

5.13   ARAC meetings follow a standard Agenda, including a check for Conflicts of Interest, an oral report from the Commissioner, papers from the CE and Head of Finance and any reports of Bullying, Whistleblowing etc. While the annual programme for the Committee is shaped in part by the requirements for the laying of the Annual Report and Accounts, there is no formal annual work programme.

5.14   Internal Audit is delivered by Moore (NI) who are appointed after external procurement. COPNI have received a good service from Moore (NI) and have not considered using NICS to provide IA services. As an NDPB, NIAO perform the external audit function. Independent Members of ARAC have an opportunity to meet privately with the IA, NIAO and a representative of the DfC Sponsor Branch in the course of ARAC meetings.

5.15   A number of issues were identified which mitigate against the effectiveness of the ARAC. These included:

- minutes of meetings not always fully reflecting key issues covered in the ARAC meeting.

- not all agreed Action Points included in the minutes and the draft minutes of the previous meeting not issuing until the papers for the subsequent meeting are circulated.

- a perception that COPNI management were reluctant to accept advice and guidance from the ARAC.

- important issues of relevance to ARAC were not notified to the Committee in a timely fashion.

- Finally, it was noted that IA is limited to eight and a half days, which restricts their capacity to do sufficient audits in order to give the Accounting Officer adequate assurance and in turn to provide assurance to the Department.

5.16   In terms of Risk Management, while a Risk Register was tabled at ARAC meetings:

- there was a question as to whether issues critical to the business of COPNI received sufficient priority as compared to internal management issues (back pay was one such issue).

- it was noted that no formal training on Risk Management had been undertaken although training was planned for late August (which in the event was postponed).

5.17 In the absence of a Board, the ARAC have tended to consider issues beyond the normal remit of an Audit Committee. This has included reviewing business plans and organisational performance. Members recognize that this represents a weakness in overall governance which could be addressed through the appointment of an Advisory Board with strong sectoral representation. The Advisory Board would advise on strategy and performance while ensuring that the Commissioner's independence is respected. This is further discussed at para 5.27 and following. While the Chair reported that the ARAC ToR are reviewed annually, there has been no recent effectiveness review of the Committee.

Departmental sponsor

5.18 COPNI's relationship with the Department is managed by the Sponsor Team whose role is to support effective governance of COPNI in line with the relevant Management Statement/ Financial Memorandum (MSFM) and Departmental guidance. Key governance arrangements are actioned through the Quarterly Accountability Meetings structure and include:

- Evaluation and progress monitoring of Corporate and Business Plans (although the Commissioner has autonomy to determine her own business objectives)

- Financial Management /Budget considerations including business cases

- Risk management

- Scrutiny and Laying of Annual Report and Accounts

- Quarterly Assurance

- Strategic Issues.

5.19 The Department have advised that governance arrangements are not working effectively and have been gradually worsening. This is reflected in papers for quarterly sponsorship meetings suffering from quality gaps and not being received in good time.

5.20 We asked the Department about its partnership with COPNI against the 5 Principles as set out in the NI Code of Good Practice (March 2019). The 5 Principles include Leadership, Purpose, Assurance, Value and Engagement. We have been advised that relationships with the COPNI are difficult and have become increasingly tense since the Review of Governance was delivered.

5.21 The current MSFM (December 2017) is due to be replaced by a Partnership Agreement between the COPNI and the Department which will be an opportunity to further develop the sponsorship role to become more focussed on governance, strategy and impact. This will be supported by the revised (currently draft) appraisal arrangements where the Commissioner is invited in their self-assessment to provide evidence of impact and effectiveness, constructive engagement with stakeholders and leadership of the organisation.

5.22 As the appointee acts as Accounting Officer for the organisation, it is important that the requirements of DAO DoF 05/17 are satisfied at recruitment i.e., when appointing a Commissioner appropriate criteria are included in the application form, questions on governance and Accounting Officer responsibilities are included in the interview, and employment letters clarify the roles and responsibilities of Accounting Officers. DfC should ensure that Accounting Officers receive the induction and ongoing training necessary for the individual to perform effectively.

External engagement

5.23 The Commissioner is called regularly to present to Committees of the NI Assembly relevant to his remit and work, and to meetings with Ministers. He is also a frequent media commentator and is a member of the Age Friendly Network NI which supports practitioners in the 11 local councils across Northern Ireland to advance Age Friendly planning and practices. He is also a member of a UK Network of key older people's organisations across the UK, including Independent Age, Age Scotland and the Older People's Commissioner for Wales. (In a House of Lords debate on 19 October 2022 on the case for an Older Peoples' Commissioner for England, the Parliamentary Secretary, Cabinet Office, and Parliamentary Under-Secretary, Department of work and Pensions, Baroness Steadman-Scott confirmed that the Government have no plans to appoint an older people's commissioner in England. The Minister noted that the Government are delivering a new enhanced support package for workers over the age of 50 to help them to stay in and return to work.)

The Delivery Model

Corporation Sole

5.24 In common with many other Commissioners, the post of Commissioner in COPNI has Corporation Sole status. "'Corporation sole' is a device for conferring legal corporate status on an office in which there will only be one incumbent at a time. The corporation sole has continuous legal existence thus ensuring continuity from one office holder to the next.

5.25 The Corporation Sole model affords the Commissioner significant independence reflecting their statutory responsibilities to provide a challenge function to government and to conduct sensitive investigations. Corporation Sole also provides for agility and flexibility to respond quickly to emerging issues. It therefore places considerable responsibility on the post holder who fulfils the role not only of Commissioner but also Board, and Accounting Officer. While the Commissioner has not experienced any challenge to his independence under the current sponsorship arrangements, there are circumstances in the future where, for example through budgetary constraints, the work of the office could be curtailed.

However, while the current model seeks to strike a balance between on the one hand the Commissioner's independence and on the other the democratic accountability of the office to an Executive Minister through the sponsor Department, it results in COPNI carrying all the overheads of a larger NDPB.

5.26 COPNI is not unique in having this delivery model, the Older People's Commissioner for Wales is a corporation sole, as are some Northern Ireland Commissioners including the C&AG, the Public Service Ombudsman, the Commissioner for Children and Young People and the Commissioner for Victims and Survivors. Similarly, the police and crime commissioners in England and Wales are corporation soles.

A case for a Board?

5.27 While the Corporation Sole model provides for independence and flexibility, it lacks the formal accountability arrangements which are associated with statutory Boards which are the norm in most ALBs. As noted above, while the Commissioner has a range of sources of advice e.g. an ARAC, Advisory and older peoples' groups, and the Department through its sponsorship arrangements ensures that COPNI meets its governance requirements, we have considered whether a statutory Board would add value to the governance model for COPNI.

5.28 The current governance arrangements mean that there is limited formal and systematic external scrutiny of COPNI's performance. As is the case with other ALBs, a properly constituted Board could support the Commissioner and the work of his office through offering guidance and expertise on setting strategic priorities and monitoring and evaluating the impact of their work. The Assembly Audit Committee, following a recent review, have recommended that the NIAO appoint a Statutory Board to monitor the exercise of the C&AGNI's functions and have a power to advise the C&AGNI about these functions. The C&AGNI would, in turn, be duty bound to have regard to any advice given.

5.29 The Assembly Audit Committee at the same time reviewed governance arrangements for NIPSO and concluded that NIPSO should have an Advisory Panel which, while having no executive powers, would "improve governance and accountability and supplement the work of the NIPSO ARC" (Recommendation 19). The Panel could make recommendations to the Ombudsman and if these were not accepted, this would be recorded in the Panel's minutes and published.

5.30 We are not persuaded that a Statutory Board is the appropriate option for COPNI. Such a development is not the norm for other Commissioners offices with a comparable remit (nor indeed Commissioners more generally). Furthermore, the appointment and management of a Board would impose additional costs on COPNI and the Department at a time when resources are already under pressure.

5.31 We have also considered whether an Advisory Board would be better placed to both support and challenge the work of the Commissioner. We have consulted with the Office of the Children's Commissioner in England (OCCE) where the Children's Commissioner must appoint an advisory board to provide strategic challenge and to advise on how her powers "can be used to best effect to promote children and young people's rights, thereby improving outcomes for children and young people in England" (Advisory Board Terms of Reference). Membership is drawn from the Children's and wider sectors and comprises 10 members, including the Chair who is appointed by the Commissioner.

5.32 Appointment of an Advisory Board would require a formal process for recruiting members, which would be done in consultation with the DfC. The Advisory Board's Terms of Reference would include advising on the strategic direction of COPNI, as well as monitoring and reviewing organisational performance and impact. While the proposed Advisory Board would not direct the Commissioner, he would be required to have regard to (but would not be bound by) the Board's advice. The role would complement, but be distinct, from the ARAC which would focus on issues of financial management, accountability, internal and external control and risk management.

5.33 We considered an alternative proposal is which COPNI develops a more formal relationship with the relevant Assembly Committee. This could take the form of the Committee receiving and commenting on reports from COPNI on performance and impact with respect to the Corporate and Business Plan. However, it is up to each Assembly Committee to set its own Agenda and it would be unusual for a Committee to take such a "hands on" approach with an ALB. Furthermore, at times when the Assembly Committees were not meeting, a gap in governance would be created.

5.34 Having considered the options we have concluded that the appointment of an Advisory Board representative of the sector would complement the work of the ARAC and support the Commissioner in shaping the strategic direction of COPNI and reviewing performance and impact.

Statutory Office Holders

5.35 In the next section we draw attention to different models of Statutory Office Holders. The Cabinet Office define a statutory office as a position established under legislation, sometimes as a separate legal entity or corporation sole, with a specific remit to conduct activities or deliver services within the public sector but which is an individual and not an organisation. The statutory office is held by one person who is appointed by a Minister(s), the statutory office holder.

Comparisons with other Commissioner models

Discretionary Support Commissioner

5.36 To make some comparisons with other Commissioner led organisations in DfC, as required in our ToR, we interviewed the Discretionary Support Commissioner for Northern Ireland (ODSC) and his Office Manager, and also the Secretary of the Local Government Boundary Commission (LGBC) as contrasting models of how Commissioners' offices work.

5.37 The Discretionary Support Commissioner, ODSC, delivers an independent review service on Discretionary Support decisions made by the Department for Communities. The Commissioner is an independent statutory office holder appointed by the DfC. The Department provides for the running costs of the Commissioner's office through the normal Departmental allocation process. The Office draws its staffing and all back-office services, including Internal Audit, from the Department.

5.38 The independence of both the Commissioner and of his reporting is of vital importance to the role. A Relationship Statement between the DSC and the Department has been agreed and governs the interaction between the two entities. The Relationship Statement records the statutory basis for the post of Commissioner and sets out the functions of the Office, together with planning and reporting arrangements operated by the Commissioner. (ODSC Report for the period 1 April 2021- 31 March 2022) The Commissioner is satisfied that the Department fully respects the independence of his Office.

The Local Government Boundary Commissioner

5.39   The Local Government Boundary Commissioner provides an independent review of boundaries and names of the 11 local government districts in Northern Ireland, and the number, boundaries and names of the wards into which each local government district is divided. The Commissioner is appointed by the DfC Minister through public appointment and is supported by a small secretariat seconded from the NI Civil Service which also provides the Commissioner with other back-office services. The post is time limited and concludes when a Final Recommendations Report is made to the Department for Communities.

5.40   The responsibilities of the ODSC and the LBGC are more narrowly defined than are COPNI's. The functions of both the ODSC and the LBGC are discrete and time bound, focussed on responding to public interest on a single issue and providing reports recommending improvements to statutory provision or delivery.

They do not have legal investigatory powers to hold government to account, nor do they have an advocacy role to represent and lobby on behalf of a client group. COPNI's core focus is on older people as a client group, and it has investigatory powers to challenge decision makers and influence change in the best interests of older people.

5.41   Recent correspondence from the Clerk to the Assembly on behalf of the Assembly Commission has confirmed that it would not be appropriate for further Commissioner led NDPBs to come under the remit of the Assembly and this option can therefore be ruled out. In the following tables we compare the advantages and disadvantages of the two remaining shortlisted delivery model options.

5.42   The shortlisted delivery model options.

(i)   The status quo – the Commissioner remains Corporation Sole.

(ii) The Commissioner becomes a Statutory Officer of a Department but is no longer a Corporation Sole.

Commissioner remains a Corporation Sole sponsored by a Department of the NI Executive

Advantages	Disadvantages
As an independent entity COPNI continues to be an agile organisation, capable of responding at pace to new pressures	As an NDPB, and independent entity, COPNI carries significant administrative overheads which are onerous for a small body
Commissioner enjoys independence consistent with UN Principles for Older People	Limits on scrutiny of Commissioner in terms of setting priorities/strategic direction and assessing performance and achievement.
Commissioners in other jurisdictions with comparable functions have Corporation Sole status and proposals to change this have not been accepted	As a small organisation COPNI is susceptible to staff turnover, particularly in posts where the labour market is tight, (however, this is not necessarily unique to small organisations)
Staff are focussed and passionate about promoting the rights of older people	COPNI is unable to provide a career structure for staff which may contribute to staff turnover.
Staff identify with and are committed to the organisation	

The Commissioner becomes a Ministerial appointee with statutory functions

Advantages	Disadvantages
COPNI relieved of many of the administrative overheads of being an NDPB e.g would not be required to have an ARAC or produce separate Annual Reports and Accounts	Perception that COPNI is less independent Potentially conflicts with COPNI's role in holding government to account
Independence protected by legislation	Option not replicated in other Commissioners' offices with similar functions
Commissioner freed to focus on key priorities	Potentially restrict the pool of job applicants for COPNI positions
Potential for savings	Extent of potential savings unknown

5.43 There are inevitable diseconomies of scale with small bodies which enjoy a significant degree of autonomy. They are required to carry the administrative overheads of larger organisations without the same resilience to absorb staff absence or turnover. As a Ministerial appointee with statutory functions, the Commissioner would have a greater capacity to focus on their legislative priorities while administrative functions would be dealt with by the Department. However, the essential purpose of the Commissioner is to oversee implementation of "rights" legislation and, where necessary, to be critical of government and public service delivery if they fall short. Fulfilling this role effectively requires a degree of separation and detachment from government which is more consistent with Corporation Sole status.

5.44 While the NICS could also provide an efficient HR service and recruit specialist staff internally, the issue about independence and detachment from Government also arises. The Commissioner's office may be better placed to select those specialist staff with attributes best suited to the demands of the organisation. Furthermore, staff recruited directly by the Commissioner's office are more likely to identify with and have a commitment to the aims and ethos of the independent organisation.

6. Efficiency

6.1   Our Terms of Reference required us to "examine the current operational structure, corporate functions and related costs" and to "consider those potentially presented through shared services and models such as the Office of the Discretionary Support Commissioner where staffing is provided by the Department with access to HR, IT and other services from the Northern Ireland Civil Service".

Staffing and Organisational structure

6.2   COPNI has an approved complement of 15 posts, as of October 2022 (See Appendix 1, Organisational Chart). 8 posts fall within the Legal, Policy, Advice and Research Branch while 2 posts are dedicated to Communications and External Engagement, with the balance supporting Finance, Governance and HR. All staff are directly recruited, although there is also a requirement to draw on Agency staff to temporarily fill vacancies while awaiting permanent replacements. COPNI rely on the ECNI to provide ICT services and have also a MoU with ECNI for accommodation.

6.3   The two most senior posts in COPNI are the Commissioner and Chief Executive (CE) at Grade 5 and Grade 6 Civil service equivalent respectively.

The Commissioner, as Accounting Officer, is personally responsible for propriety and regularity in the management of public money and for maintaining a robust system of internal control. The Chief Executive reports directly to the Commissioner and has delegated authority for day-to- day management of the organisation, staff, finances, strategic planning, resources and governance arrangements and for implementing the Corporate and Business (Annual Report and Accounts 2020-21).

Organisational arrangements in a sample of other Commissioner led Bodies

6.4   The Office of the Older People's Commissioner for Wales, OPCW, represents an alternative model of governance for a Corporation Sole. The OPCW had a budget of £1.6m with a staff complement of 20 in 2020-21. The OPCW does not have a Chief Executive post; the Commissioner is supported by Chief Operating Officer, who leads on all internal operations of the Commissioner's office and is formally designated as the Deputy Commissioner. In addition, a Senior Executive Assistant provides a range of administrative assistance to the Commissioner.

6.5   The Office of the Children's Commissioner in England (OCCE), which has comparable functions to COPNI, albeit with a different client constituency, had a head count of 29 in 2020-21. As noted above, the OCCE has an Advisory Board in addition to an Audit Committee. The OCCE had a Chief Executive post until 2014 when the post was abolished and the Directorates within the office report directly to the Commissioner. The Tailored Review of OCCE published in 2019 reported that the Senior Management Team (SMT) consisted of the Commissioner and two Directors (Strategy and Policy and Evidence) and an Extended Senior Management Team (ESMT) which, in addition to SMT, included Heads of Service (Business, Policy and Advocacy and Communication and External Affairs. The OCCE Annual Report for 2020-21 notes that the remit of the SMT, which meets monthly, is both strategic and operational while the ESMT meets bi-monthly to review and take forward delegated operational issues. Similarly, the Scottish Children's Commissioner has 4 Directors reporting directly to him while the Welsh Children's Commissioner is the direct report for the 5 Heads of Directorates (with AO responsibilities delegated to the Head of Finance).

6.6   We also consulted with the Commission for Victims and Survivors (CVS) which is a Non -Departmental Body of The Executive Office. The Commissioner's status is Corporation Sole. He sets the strategic direction, provides government with advice and Chairs the Victims and Survivors Forum. The Chief Executive is the designated Accounting Officer and is responsible for managing the performance of the organisation, ensuring good governance, and looking after the operational needs of the organisation.

6.7   As noted earlier, we also looked at the Discretionary Support Commissioner for Northern Ireland (ODSC) and the Local Government Boundary Commission (LGBC) as contrasting models of how Commissioners' offices work. The ODSC Commissioner is appointed by the DfC Minister, and the Department provides for the running costs of the Commissioner's office through the normal Departmental allocation process. The Office draws its staffing and all back-office services, including Internal Audit, from the Department. Likewise, the Local Government Boundary Commissioner is appointed by the DfC Minister through public appointment and is supported by a small secretariat seconded from the NI Civil Service which also provides the Commissioner with other back-office services.

6.8 Clearly different Commissioner led bodies have been established with different organisational structures – drawing back-office staff from the NICS or recruiting directly; the Commissioner or Chief Executive acting as AO, whether or not there is a Chief Executive. Typically, Chief Executives are the most senior post holder with overall responsibility for direction and management of an organisation, whereas in COPNI this responsibility is shared between the Commissioner and CE posts. We have noted that the management structure of comparable Commissioners' offices in other jurisdictions do not have the position of Chief Executive. Instead, senior posts report directly to the Commissioner. In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within COPNI.

6.9 As the government plans to establish further Commissioner posts it is timely to consider which alternative models might provide more cost-effective solutions while preserving Commissioners' independence. Some bodies will require specialist skills, for example policy and legal posts in the case of COPNI, but there is an argument for looking again at whether it would be more efficient for Commissioners to draw on NICS back- office services which would free them to have a sharper focus on the core functions of the organisation.

6.10 We are aware that the possibility of shared services has been considered previously (and rejected) but we believe that it should be revisited in the current financial climate. Commissioners view the ability to recruit their own staff as an important dimension of being independent of government and this will need to be addressed as part of any consideration to draw on NICS staff (and services), as will the ability of the NICS to provide a reliable, cost- effective service to Commissioners.

6.11 In terms of securing significant efficiency savings, the more radical option would be to change the status of the Commissioner from Corporation Sole to a Ministerial appointee with statutory functions which would align the organisation more closely with the Department. Under this delivery model the Department would assume many of the administrative functions currently carried by COPNI. However, removing Corporation Sole status would represent a deviation from the norm for other UK Commissioners, and raise concerns about the Commissioner's perceived independence and actual detachment from government. Any proposed change in the Commissioner's status would need to address how to guarantee the Commissioner's continued independence and capacity to effectively hold government to account.

6.12 Finally, for so long as current arrangements prevail DfC, as the sponsor of a number of larger ALBs, might also consider the merits of establishing peer mentor relationships for a time, for example in areas such as Finance and HR, between experienced officials in these organizations and their counterparts in smaller ALBs.

6.13 In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to new premises in James House which is part of the NICS estate and as such could potentially lead to reductions in accommodation costs. We understand that these plans have been subject to significant delay. In addition, Commissioners located in Equality House have expressed concerns about co-location with organisations whose operations they may be required to scrutinise. However, if hybrid working becomes the norm post-Covid, the need for the current office footprint should be reviewed with the aim of finding efficiencies in COPNI's accommodation costs.

6.14 To summarise, having rejected options which would involve COPNI merging with other organisations, and which would in any case, have delivered marginal efficiencies, we have made high level judgements about how 3 potential scenarios might contribute to achieving the key aims of independence and efficiency.

1. Our assessment is that the Status Quo (COPNI remains a Corporation Sole and is responsible for most back-office services) would score high on perceived independence and on the capacity to effectively deliver the statutory functions but would not deliver meaningful efficiencies.

2. If COPNI were to remain a Corporation Sole but were to rely on the NICS for back-office support, this could impinge on perceived independence, but could deliver some limited efficiencies as COPNI would still be required to bear the administrative overheads of an ALB e.g. preparing Annual Accounts, recruiting an ARAC, generating a suite of HR policies etc.

3. Finally, should the Commissioner become a Statutory Officer of a Department, then the scope for efficiency savings would be increased, potentially allowing available resources to be more focused on meeting the Commissioner's core aims. However, as pointed out above, COPNI is different from ODSC and LBGC in that it has investigative powers and advocacy functions that they do not. Removing corporation sole status could impact negatively on COPNI's perceived independence and so limit its capacity to deliver its statutory functions effectively. Any proposed change in the Commissioner's status would need to address how to guarantee the Commissioner's continued independence and capacity to effectively hold government to account.

7. Effectiveness and Impact

Introduction

7.1 COPNI was established as an 'Arms-Length', 'Non-Departmental Body' with the Commissioner for Older People being appointed by The Executive Office (TEO). COPNI operates within the framework of its enabling legislation and a Management Statement and Financial Memorandum (to be a Partnership Agreement) agreed with its sponsoring department, the Department for Communities. The Office is held to account via a range of external and internal audit and financial accountability mechanisms. Corporation Sole status provides the Commissioner with an independence such as they are not subject to any formal external scrutiny or accountability for their performance while in office.

7.2 That is not to say that the Commissioner does not report on or provide evidence of their impact. The Annual report does include a section illustrating how performance and outcomes are delivered against operational plans. Rather, the legislative framework and corporation sole status means that the Commissioner alone decides what their priorities or outcomes should be and how they should report on their achievement without reference to a board or funder.

7.3 Every three years COPNI produces a Corporate Plan, the Commissioner identifies priorities for action for his term, taking into account the issues identified through research, casework queries directed to the COPNI office and from speaking with older people. The current priorities (2016-2020) are: Supporting our ageing population by promoting positive ageing and ending age discrimination; better health and social care and tackling financial abuse and scams and protecting older victims of crime. These priorities have been broken down into projects with actions and outcomes.

7.4 The planned projects and operational activities are set out in the annual business plan with clearly defined objectives and Key Performance Indicators (KPIs). The progress of each project is monitored, reported and delivered against project or operational plans. The Senior Management Team meet bi-monthly and receive reports on progress of each project or operational plan. The progress is reported to the sponsoring department on a quarterly basis through performance and assurance reports and at accountability meetings.

7.5   The Covid pandemic has had a major effect on COPNI, particularly on planning processes, as the organisation has had to adapt and respond to an ever-changing crisis which has had a particularly adverse impact on older people. COPNI had to review the proposed business plan and to assess the scale and scope of the projects that had been planned for 2020-21. Direct engagement with older people was particularly disrupted, and the Commissioner was heavily engaged in lobbying for support and resources to provide additional protection for older people.

7.6   Due to the nature of their work COPNI does faces a significant challenge in quantifying the impact of its work and the outcomes achieved. This is compounded by the need to focus on longer-term challenges, while maintaining an impactful public presence and responding to current issues. Therefore, to help assess the impact and effectiveness of COPNI, we consulted with the Commissioner to identify a range of higher-level outcomes that would represent the outcomes of COPNIs work. We then sought to gather (mainly qualitative) data from a range of sources that could be used to assess COPNIs performance against this agreed set of post-hoc outcomes.

7.7   The COPNI Corporate Plan 2016-2020 sets out the statutory duties, powers and priorities for action for the period of the plan.

For the purposes of this review, we developed the outline for a basic logic framework for COPNI, which attempted to link all the elements within the Corporate Plan to a proposed set of high-level outcomes. The diagrams on pages 6 and 7 of the Corporate plan very helpfully illustrate the priority areas and planned projects for the period. Taking this as the starting point we aligned these with the Commissioners key duties. Although not strictly linear, as some of these will obviously overlap, they do line up relatively well. This then allowed us to specify proposed outcomes aligned to these duties, priorities and actions. We identified some eight high level outcomes. This outline 'framework' was shared with the Commissioner and senior staff and went through a number of iterations before we arrived at a final version, see over.

7.8   We then incorporated these agreed outcomes into a questionnaire which was distributed to stakeholders identified by COPNI and the Department. Respondents were asked to provide evidence or examples of COPNIs achievement against these outcomes. In the section over, we present an analysis of these responses. It should be pointed out that this analysis is not intended as a measurement or definitive judgment on COPNIs performance, but rather a means to present and assess COPNIs effectiveness in a structured format against a set of post-hoc outcomes.

COPNI – Proposed Logic Model/Outcomes Framework

Role COPNI	Objectives (From Business Plan)	Actions (From Business Plan)	Proposed Outcomes	Goals
Advise Support Advise and support older people directly on their needs, rights and access to services Advise government and all its agencies on policies, legislation, on services provided for OP	A. OP remain involved in civic and community life and are supported C. OP understand the choice and control over the decisions which impact most on their lives	Engagement with Older people: Covid 19 Pandemic Support and protection of OP Planning for your Third Age	1. Older people are better informed of their Rights 2. Older people are better able engage in civic society to their full potential	**Northern Ireland is a great place to age:** **Older People are Respected**
	B. OP are able to access the social activities, services and support they need, when they need it	Responding to public consultations Crime and Older People: Understanding vulnerability. Scamwise Partnership	3. The design of Policy, legislation, and services for older people are better informed	
Investigate Challenge Government actions for improvement and correction of OP service provision when they fall short	D. OP in nursing and residential care are protected by robust inspection and enforcement procedures, fit for purpose legislation in a society with zero tolerance of unacceptable standards of care. F. OP feel safe and secure and are better protected from all forms of abuse	Home Truths Care Home Contracts – Human Rights of Older People Adult Protection Bill Energy for vulnerable	4. The performance of public/private sectors with respect to provision of older people's services is investigated and assessed 5. Shortfalls in service provision for older people are identified and changes recommended	**Older People are Protected**
Advocate, Represent Review, monitor public and private sector provision for OP and ensure it is in their best interests	E. OP People have confidence that the social care and support they need will be available to them and their rights and dignity are protected at all times. G. OP feel safe and secure and are better protected from all forms of crime.	Responding to individuals who contact the Commissioner for assistance Loneliness and Isolation of Older People	6. older people are legally represented and protected 7. The design of Policy, legislation, and services for older people are improved	**Older People are Valued**

Advise, Support

COPNI Role	Outcomes
Advise Support	1. Older people are better informed of their Rights
Advise and support older people directly on their needs, rights and access to services	2. Older people are better able engage in civic society to their full potential

7.9 A key role for COPNI is to communicate with and provide advice to a range of audiences on the needs and rights of older people, in particular, older people themselves and policy makers, legislators, and service providers. In reviewing the responses to the stakeholder questionnaires, we realised that the wording for outcome 3 was somewhat ambiguous and potentially overlapped with outcome 7. In hindsight we consider that the outcome 3 should possibly have read 'Policy makers, legislators, and service providers are better informed of Older People's Rights'. We have therefore decided to remove the responses to outcome 3 from this section and combine with responses to those for outcome 7.

Outcome 1: Older people are better informed of their Rights

7.10 The Commissioner and his Senior Management Team undertake a wide-ranging programme of engagement with older people and with groups that represent them. These are valuable opportunities for the Commissioner to meet with different older people from all backgrounds across Northern Ireland in order to hear about what matters most to them.

7.11 This was the area of work of COPNI that saw the most disruption during 2020/21. Normally communications and engagement are evenly balanced between media activity and direct engagement with older people through a range of visits and events, seminars, workshops and symposia. The pandemic has seriously limited direct face to face engagements with older people and the Commissioner. Despite best efforts to publicise virtual events, uptake was low, and it was very difficult to engage with older people who were not online or who didn't have the means or inclination to go online.

7.12 COPNI has been widely praised by stakeholders for their response to the pandemic, particularly in raising profile of older people's needs in the media as well as in engaging with and supporting older people themselves.

I don't know any other public body in NI with a higher profile than COPNI. I deal with a lot of older people in my own organisation, and from other roles with older people; virtually everyone I deal with, not only knows about COPNI but knows the Commissioner by name.

– Michael Monaghan National Federation of Occupational Pensioners (NFOP)

7.13 Age NI commented that in their experience, all who have held the post of COPNI have been open and accessible to older people, both as individuals and members of groups.

7.14 However, it is acknowledged that all older people may not be fully aware of the full remit of COPNI and how they can advocate on their behalf. This is not an issue that is unique to COPNI. The health and social care system is complex, and it is challenging to ensure that the role of each organisation is understood and there is a need for organisations to collaborate so as to avoid the public having to navigate what can be a complex system.

7.15 The definition of the role of the commissioner may not be easily understood by older people and their representatives. To the general public there may seem to be some overlap in terms of role with some of the statutory and voluntary organisations that support older people e.g. Age NI, Patient Client Council, RQIA, Trusts, advocates.

7.16 RIQA believe it would be beneficial if COPNI were more visible to the wider population of older people. The older people population is no doubt diverse, from rural and urban areas, with different needs and from a wide range of cultural backgrounds. Public service providers have to increasingly consider how they reach out to populations -it is not sufficient to consider how people access such bodies or services.

Promotion should be targeted to places where older people access through GP practices, health care settings, places of worship, libraries, leisure centres (places frequented by older people)

7.17 Getting information to people in the right format is also important. While growing numbers of older people are online, vast proportions of older people, particularly older old people, are not online and rely upon traditional media. Getting information out needs to be not just digital but non-digital – older people also prefer face to face meetings as they are so scared of scams. There are a variety of ways that can promote and raise awareness of COPNI including Newspapers, radio, TV, social media, internet, community notices and community navigator roles are all important in supporting effective communication

7.18 Pro-active steps are required to engage with older people who experience barriers, using a range of engagement models and approaches. This includes ensuring inclusion of older people who are not members of groups, people with dementia and/or disability, carers of older people, older old people, people who do not consider themselves or consider their primary identity to be that of an older person, other diverse or excluded groups.

7.19 Working in partnership with voluntary and statutory organisations across the age sector is seen as key, as is linking in with groups that are experienced in models of engagement and co-design. COPNIs participation with the Age Friendly Network for Northern Ireland has facilitated engagement with practitioners in the 11 local councils across Northern Ireland to advance Age Friendly planning and practices. COPNI has made presentations to local councils to present on the work of the COPNI to promote and raise awareness.

Outcome 2: Older people are better able engage in civic society to their full potential

7.20 A priority action in the COPNI corporate plan is 'Supporting our ageing population by promoting positive ageing and ending age discrimination', specifically:

1.4 Older people are connected to their communities and do not experience loneliness and social isolation

1.5 Older people are supported to plan and have conversations about their "third age"

7.21. Older people are particularly vulnerable to social isolation which can impact upon individuals' quality of life and well-being, adversely affecting their health. COPNI recognise the importance of engaging with and supporting older people's groups and organisations, particularly in local areas and their important role in connecting with older people.

Prior to COVID the Commissioner held or attended events throughout the region, engaging directly with a diverse range of older people, listening to their experiences of loneliness and social isolation in both rural and urban communities and taking on board their ideas and solutions.

7.22. The Commissioner continues to advocate for services which enable older people to remain connected to society. This has included promoting the benefits of the Senior Smartpass and improved access to public transport services (particularly in rural communities), which are essential in enabling older people to lead independent and active lives.

7.23. As an example, the Commissioner had meetings with Translink, resulting in a commitment to improve access for older (and disabled) people to Glider bus service in Belfast. The Commissioner has also negotiated with a local council to ensure public toilet facilities were made more accessible to older people in a rural town.

7.24. Another important area, which has only increased in importance after Covid, is the promotion of programmes that help older people with digital / IT literacy in order to better connect with family and friends. During Covid, COPNI has focussed on isolation of older people from their communities during Covid 19 restrictions.

- Commissioner advocated for funding to Age NI to provide a standalone advice and practical helpline for older people.

- Staff volunteers took part in the Age NI Check in and Chat service, maintaining contact with isolating older people

7.25. As part of his duty to safeguard the interests of older persons, the Commissioner also seeks to promote a much more positive approach to planning for your "third age". In respect of this the Commissioner is committed to working with relevant public authorities to encourage older people to plan so they are better able to understand the choice and take control over the decisions which impact most on their lives. This includes issues such as working and pensions to having more difficult conversations about Wills and Powers of Attorney.

7.26. Again, while such engagements have been restricted by Covid, effort was made to continue to engage with older people such as via the regular ezine publication of news and advice; moderation of social media accounts; and regular publication of "Words of Wisdom" articles, interviews of individual older people.

7.27. Other Stakeholders commented that addressing the needs of older people will always be a work in progress, continually evolving taking into consideration changing circumstances.

Older people have been highly visible because of the pandemic and perhaps received higher attention than normal. Sustaining this visibility and attention by all partners is necessary to provide older peoples services as communities seek to become even more Age Friendly for future generations.

Outcome 4: The performance of government with respect to provision of OP services is investigated and changes recommended

7.28. The second priority action in the COPNI corporate plan is in relation to provision of 'Better health and social care', specifically:

1.1. Use the Commissioner's Powers of Investigation to examine circumstances of concern in nursing and residential care of older people, and

1.2. Independently champion improvements for older people in the reforms of health and social care, policy and practice, including dementia care.

7.29. The Commissioner has a statutory duty to keep under review the adequacy and effectiveness of law and practice relating to the interests of older people / The Commissioner must keep under review the adequacy and effectiveness of services provided for older persons by relevant authorities

7.30. The key investigation to date has been the Commissioner's investigation of the Dunmurry Manor Care Home. The Commissioner has a duty to ensure that services provided to older people by "relevant authorities", which includes care homes where Trusts have placed older people, are both adequate and effective. It is also the Commissioner's duty to review the effectiveness of the law affecting older people and to ensure the laws which hold care providers to account are strong enough.

7.31. The Home Truths Report was published in June 2018, the Commissioner's investigation examined the care, treatment and experience of older people living in Dunmurry Manor Care Home from the period prior to the home's opening in 2014 until 2018. It included an examination of the actions of all those responsible for the commissioning, provision, monitoring and regulation of the care services provided at the care home during this time.

7.32. The recommendations outlined in Home Truths aimed to address what was described as 'the serious and systemic failures that had permitted inhuman and degrading treatment of older people'. The report made 59 recommendations to seven Relevant Authorities (RAs) with the overarching aim of improving the standard of care provided to older people in care home settings. Subsequently over 400 responses to the report were received from the relevant authorities and analysed by COPNI.

7.33. COPNI has been widely praised by local councils and NGOs for its role in highlighting the issue of care in care homes through the Home Truths report and in doing so safeguarding and promoting the interests of older people. The Institute of Public Health also highlighted the role played by COPNI during the pandemic in challenging how data was being presented with regard COVID related deaths, highlighting the discharge of Covid positive patients from hospitals into care homes as well as messaging in the media around older people and the pandemic.

7.34. With respect to investigations, COPNI also has a good relationship with the Northern Ireland Public Services Ombudsman (NIPSO). NIPSO will consult with COPNI to help prevent unnecessary duplication of scrutiny work and to facilitate cooperation. COPNI is a member of the Regulatory & Oversight Forum which was set up to ensure there is regular contact between the various regulation and oversight bodies in Northern Ireland.

7.35. Continuing Healthcare (CHC) is a good example of a key issue facing older people which both COPNI and NIPSO have worked on, drawing on their respective powers and expertise. CHC policy relates to the assessment of whether a person's needs are primarily health care related or social care related.

The determination of the assessment can impact on whether a person is required to make a contribution to their cost of care. Both COPNI and NIPSO have highlighted the issue and helped inform both public awareness and policy debate on this issue.

7.36. COPNI conducted initial research into the issue and highlighted the confusion over payment and policy and the particularly adverse impact on older people. NIPSO then published the findings from a number of investigations where it upheld complaints from the public and called for clarity around the policy. COPNI are continuing to raise the issue and are taking a Judicial Review to challenge the unfairness of the policy which in practice, effectively removes any entitlement to CHC.

Outcome 5: Shortfalls in service provision for older people are identified and changes recommended

7.37. Government departments and public bodies do not have a statutory requirement to respond to COPNI reviews and advice. COPNI does continue to advise and monitor on implementation of recommendations from their investigations and report that there has been some important but limited improvement.

7.38. While the Commissioner was satisfied that the majority of the Home Truths recommendations have been accepted by the relevant authorities, he initially expressed frustration with the pace of change in many areas where the investigation found flaws in the system. Inevitably it takes time it takes time to bring about changes to legislation, policy and practice.

7.39. Home Truths demonstrated that COPNI had the legislative power to conduct this kind of investigation and the authority to hold public bodies and private care homes to account. The Commissioner believes that this sent out a clear message, which in itself has been enough to help progress with other issues. The legislative impact arising from the Home Truths recommendations will have implications for many departments and agencies, in terms of changes to policy and practice around adult safeguarding.

7.40. Perhaps the biggest impact has been a change in culture, particularly within care homes themselves. The Commissioner believes that the attitude of staff within care homes changed after report came out. Care Homes are now more open to receiving complaints, better procedures are in place and more importantly relatives are listened to, and complaints taken seriously.

COPNI has been asked to look into other care homes, but the same issues and recommendations would likely apply, thus the ripple effect of the Dunmurry Manor investigation has brought about wider changes across the care home sector.

7.41. The Regulation and Quality Improvement Authority (RQIA) is the independent body responsible for monitoring and inspecting the quality of health and social care services in Northern Ireland, including care homes, and encouraging improvements in the quality of those services. RQIA indicated that they are committed to meeting the recommendations of the Home Truths report where they have the scope and remit to do so.

7.42. The Commissioner worked with the RQIA, Patient Client Council, the Public Health Agency, and a group of families and friends of care home residents to advise government on the guidance to providers and find solutions to practical difficulties. The group has formalised under the title Normalised Visiting in Care Homes and is a forum for discussions regarding the PHA "Visiting with Care - A Pathway"

7.43. RQIA report that they been building on their relationships with others, interacting on a monthly basis with COPNI through liaison meetings, Patient Client Council (PCC) care home platform and facilitated workshops between COPNI and RQIA to develop a stocktake report on RQIA actions taken in relation

to the recommendations in Home Truths in relation to care homes.

7.44. RQIA did comment that initially the relationship could at times be adversarial, but RQIA and COPNI have worked together to develop a better working relationship. Basically, it involved a process of understanding and respecting each other's roles, responsibilities and limits within their legislative scope and remit, so it's been a joint learning and development approach.

7.45. COPNI and RQIA now work collaboratively and this is evidenced by COPNI sharing intelligence they receive to enable RQIA to investigate presenting issues and, where appropriate, work in partnership with COPNI, Trusts and relatives to resolve concerns/issues. RQIA view COPNI as a critical friend and recognise there will at times be tensions within the relationship which is appropriate given the functions of each organisation.

7.46. When information is shared about the experience of care by an older person, usually by their relatives, it is a useful source of intelligence for RQIA. RQIA can use this to help to focus their inspections on areas of concern and potentially to intervene earlier to resolve issues.

7.47. The Independent Health and Care Providers, IHCP, also reported frequent contact and interaction with both the Commissioner and COPNI staff. They have been engaged in a number of working groups and meetings hosted by Department of Health. A constructive working relationship has been further developed as a result of the Covid pandemic and its impact on care homes and homecare services.

7.48. While COPNIs investigative work with care homes has been vital, RQIA point out that the vast majority of older people are not living in care homes. It would be useful to make information on other strategic work with older people to be more front facing. Other aspects of older peoples' experience e.g. nuisance callers, those in receipt of domiciliary care packages could usefully be supported as detailed below:

- Domiciliary care – shortage of packages of care to support Older People, increasing complexity of need, impact of cost of living crisis on service delivery and recruitment and retention of staff

- Profile in relation to older people in the community – issues re scams/ financial abuse, poverty, current cost of living crisis

- older people in hospital – delayed discharge, pharmacy, adequate support in community

Outcome 6: Older people are legally represented and protected

7.49. The third priority action in the COPNI corporate plan is in relation to 'Supporting our ageing population by promoting positive ageing and ending age discrimination' specifically:

3.1 Ensure older people are better protected from all forms of abuse and neglect

3.2 Examine the experience of older victims of crime

7.50. The Commissioner for Older People provides assistance to individual older people who need advocacy or legal support. The cases taken on by the Commissioner are subject to selection criteria to ensure that they do not duplicate the work of another public authority. However, where an older person is having problems dealing with a public authority the Commissioner can advocate on their behalf.

7.51. The assistance that the Commissioner provides helps and empowers the individual older person to get resolution of the issues they face. It also ensures that the Commissioner is aware of many of the real challenges and problems which older people are dealing with and can advise government effectively about the changes they need to prevent the same problems from recurring.

7.52. In addition COPNI can intervene in disputes between older people and/or their families and any public authority. In these situations COPNI can assist both the older person and the public authority in terms of alternative dispute resolution at the earliest possible stages of a dispute

7.53. The COPNI Annual Report 2021 shows that there was a 64% increase in casework dealt with by the Legal and Advocacy team, (583 in 2020-21 compared to 376 in 2019-20). Cases recorded are classified as, enquiries, quick interventions or complex cases. The report states that COPNI will be reviewing the processes and procedures relating to the handling of legal casework in 21-22. Initially, COPNI would have dealt with more general enquiries and complaints on behalf of older people, but over time they have been able to signpost these to more relevant bodies.

7.54. COPNI now find that they tend to focus on more complex cases, particularly around health and social care issues. These can stay open for much longer time before they are resolved and can even lead to taking a judicial review.

7.55. In the fourth quarter of 2020-21, the Commissioner applied to the court to become a third-party intervenor in a judicial review taken privately by the family of an older resident in a care home.

The case was challenging the (then) guidance on visiting relatives in care homes and the allegation that the guidance represented an infringement of the resident's ECHR Article 8 rights (to family life, home and correspondence). Sadly, the case was discontinued on the death of the litigant.

7.56. The Covid Pandemic has also placed additional strains on COPNIs capacity to deal with this caseload. The conduct and management of all casework was constrained by limited face-to-face engagement with clients and public authorities contributed to making this work more difficult and inefficient. Nonetheless, COPNI's Legal and Advocacy team represented the interests and rights of many older people.

7.57. Independent Health and Care Providers, IHCP also comment that, while the role of COPNI in taking on complaints or issues on behalf of older people is essential, COPNI also have a role in reassuring older people about social care – this can be challenging to balance both of these aspects of the function. It is IHCP perception that COPNI are currently seen as mainly tackling problems rather than promoting reassurance for older people. The Commissioner has had media coverage during the pandemic but mostly on things that have gone wrong (it is more difficult to get media attention for positive stories).

Outcome 3: Policy makers, Duty Bearers are better informed of Older Peoples Rights

Outcome 7: The design of Policy, legislation, and services for older people are better informed

7.58. A Priority for action from COPNI Corporate plan is 'Supporting our ageing population by promoting positive ageing and ending age discrimination' specifically:

  1.1   A Programme for Government which prioritises older people

  1.2   An Active Ageing Strategy for Northern Ireland that is resourced and implemented

  1.3   Ending Age-Discrimination for older people in Northern Ireland

7.59. As with all organisations involved with advocacy work it is not possible to isolate or attribute any single source of influence on Government policy development or strategic decision making. The interaction of a range of complex factors, including, environmental, political, financial etc. all influence and inform the development of strategic thinking and government policy. Certainly government pays attention to COPNI and is cognisant of including some reference to the rights older people in the design of policy.

7.60. There a number of mechanisms whereby COPNI facilitates engagement with officials, including direct meetings, attending strategic advisory groups and responding to consultations.

7.61. The Commissioner has met with Executive Ministers, opposition party leaders, MLAs and officials to highlight the absence of older people from the Programme for Government. As referenced in the 2021 annual report, The Programme for Government does not include a specific outcome relating to older people. However, COPNI objectives do align with a range of other outcomes detailed in the Programme for Government.

7.62. COPNI research and policy advice team actively respond to public consultations relevant to older people. Some fifteen responses were submitted to government in 2020-21 period, these include submissions to The Health Committee Inquiry into the impact of COVID-19 in Care Homes and to the Dept of Justice on an Adult Protection Bill for Northern Ireland

7.63. COPNI engages with local government in particular via the Age Friendly Network for Northern Ireland. The network was set by Age NI in 2019, in partnership with the Department for Communities (DfC) and the Public Health Agency (PHA). Age Friendly Network NI supports practitioners in the 11 local councils across Northern Ireland to advance Age Friendly planning and practices.

7.64. Derry City & Strabane District Council, DCSDC, reported how they interacted with COPNI via the Age Friendly Network NI. The Council now takes a lead with developing Age Friendly across the council area. They have benefitted from the support of COPNI through stakeholders involved in the network through ongoing liaison and contact, as appropriate, on communication and policy responses for example, on responses to the public consultation on Programme for Government Draft Outcomes Framework (2021). Examples of how COPNI have supported and related to Age Friendly within DCSDC area include:

- Pandemic response - raising awareness of the concerns and experiences of older people and their rights during the pandemic – both locally and UK wide

- Lived Experience 2021 – COPNI supported Age NI and DCSDC to complete a survey of older people and their priority issues to gain insight into Lived Experience from the voices of older people

- Contributing to Pensioners Parliament held in the Assembly Chamber, Parliament Buildings in September 2021 and also virtually, where local people were able to raise issues which matter most to them. This provided direct access to the Commissioner as a key note/guest speaker.

- DCSDC regularly attends the All Party Group on Ageing and Older People where the Commissioner links with the key issues raises regionally by attendees. This is further supported by Age NI as the secretariat and the wider Age Friendly Network NI.

7.65. Mid And East Antrim Borough Council also reported on their ongoing liaison and contact with COPNI, mentioning the contribution to public consultation on Programme for Government Draft Outcomes Framework (2021). They also referenced other examples of how COPNI has supported and related to their work:

- Good Vibrations magazine to improve physical and mental wellbeing of older people during the pandemic

- Contributing to events as a key note/ guest speaker of note was Pensioners Parliament held in the Assembly Chamber, Parliament Buildings in September 2021; addressing the All Party Group on Ageing and Older People (Age NI is its secretariat)

7.66. The Commissioner chaired the Ageing Strategy Advisory Group, which led to the development of the Active Ageing Strategy published in May 2016. This committed government to a range of actions, (although funding and implementation timescales were not finalised).

The Commissioners continues to influence and advise government to regularly review and ensure that the actions committed to in the Active Ageing Strategy are implemented and the intended outcomes delivered. This engagement includes participation in strategy development workshops with the Active Ageing & Disability Policy Team in the Department for Communities

7.67. COPNI have been actively engaged in supporting the development of the Adult Protection Bill, and have meets with the Bill team on a quarterly basis. They have provided input, feedback, and information to support the development of policy.

7.68. Northern Ireland is the only part of the UK or Ireland where older people are not protected in law against discrimination in the provision of goods, facilities and services. While the Assembly had committed to the introduction of legislation to protect older people from discrimination on the basis of their age in its last term, time ran out before legislation could be passed. The Commissioner has committed to press government and officials for the introduction of legislation which will prevent discrimination against older people in the provision of goods, facilities and services.

7.69. Another area where the commissioner has had some influence is in the development of a new Housing Supply Strategy. The Housing Division within DfC has interacted with COPNI in relation to the development of a new Housing Supply Strategy, specifically the impact of NI's housing issues on older people and how the Strategy (HSS) can help to address these issues. The Commissioner's focus on our ageing society and what the changes for this demographic will mean in terms of housing supply have provided valuable input for the development of the final Housing Supply Strategy.

7.70. Furthermore, the Housing Division (along with their colleagues in Work and Health) also met with COPNI regularly throughout the last year regarding the cost of living crisis and in particular increasing fuel costs. This helped designing additional winter support payments and emergency fuel payment schemes

7.71. However, this stakeholder also went on to comment on the fact that their policy interventions to date (and COPNIs approach) have been based on an assumption that there is a direct correlation between older people and poverty. However, this assumption may coming under increasing challenge as evidence indicates that older people, as a demographic, may actually less likely to be in poverty.[1]

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1 **https://www.communities-ni.gov.uk/news/northern-ireland-poverty-bulletin-201819-released**

Therefore, across the board protections for people, based on age, may seem unsustainable. This supposes that COPNI may have to pivot to ensuring that the (still considerable) number of older people in poverty are protected in a more focused way. This will be much more complex

Impact Conclusions

7.72. While there is descriptive evidence of COPNI delivering activities across the outcome areas, it should be remembered that this analysis is based on a post-hoc overview of responses from stakeholder's and COPNIs own reports. Looking ahead it would be useful to revise and develop this framework further to inform a more pro-active (formative) approach to evaluation and impact reporting.

7.73. COPNIs most recent Annual report provides detailed and comprehensive reporting against its Priorities for Action. While comprehensive and useful for monitoring progress against tasks and targets, it is more difficult to assess actual impact and change delivered.

7.74. Therefore we would propose that the draft outcomes framework produced for this review be revised and further developed. Based on the analyses of responses and feedback, we would reconfigure the original outcomes down to seven high level outcomes as shown on Page 49. In addition, this illustrates that targets, indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

7.75. For organisations like COPNI - who seek to influence decision makers, but with limited powers and resources – it is not only difficult to define outcomes, but even more difficult to isolate and measure the actual changes delivered. Therefore, it is important that COPNI clearly identify and define the outcomes they can actually deliver i.e. those outcomes they control and take responsibility for. For instance, it is not within COPNIs remit or resource to deliver major policy changes at government level. They can advise and inform, but COPNI is not responsible for the design and delivery of Government policy. Therefore indicators, evidence and measures should be developed that reflect this capacity.

7.76. Reviews of Commissioners in other jurisdictions have commented on the difficulty of assessing and measuring the impact of the Commissioners work. All refer to the issue of attribution, and how the work undertaken, particularly engagement across government, may not be directly attributable to Commissioner[2]. What's more, policy changes may take many years to achieve and the outcome of those changes may take even longer to be felt. This may fall well outside the normal time-frame for evaluation, hence the importance of setting interim goals to assess the general direction of travel[3].

7.77. It would be helpful if a comprehensive analysis of impact could be conducted, highlighting the factors affecting successful influence on policy/ practice development as well as what needs to be done to ensure implementation of rights-based legislation/ policies/ strategies and interventions by government departments and agencies.

7.78. We would suggest that a key factor affecting successful influence on policy/ practice development is the ability to connect with and build constructive relationships with key decision makers. If COPNI is to successfully inform and influence Government policy, then establishing relationships, both formal and informal with key decision makers is a vital factor. It would be important to recognise and articulate this as a formal outcome.

7.79. Therefore we recommend that 'relationship building' become a key outcome for COPNI. This could be incorporated into the outcome framework at a number of levels including: building relations with older people; building relationships with stakeholders and peer bodies; as well as building relationships with decision makers. Outcomes could be specified for each level with targets/indicators and appropriate evidence, data collection identified.

2   Tailored Review Report on the Office of the Children's Commissioner March 2019
3   An Independent Review of the Role and Functions of the Children's Commissioner for Wales, 2014

(Updated) COPNI – Proposed Logic Model/Outcomes Framework

Role COPNI	Objectives (From Business Plan)	Actions (From Business Plan)	Proposed Outcomes	Goals
Advise Support Advise and support older people directly on their needs, rights and access to services	OP remain involved in civic and community life and are supported OP understand the choice and control over the decisions which impact most on their lives	Engagement with Older people: Covid 19 Pandemic Support and protection of OP Planning for your Third Age Crime and Older People: Understanding vulnerability. Scamwise Partnership	1. Older people are better informed of their Rights 2. Older people are better able engage in civic society to their full potential	**Northern Ireland is a great place to age:** **Older People are Respected**
Investigate Challenge Government actions for improvement and correction of OP service provision when they fall short Review, monitor public and private sector provision for OP and ensure it is in their best interests	OP in nursing and residential care are protected by robust inspection and enforcement procedures, fit for purpose legislation in a society with zero tolerance of unacceptable standards of care. OP feel safe and secure and are better protected from all forms of abuse OP feel safe and secure and are better protected from all forms of crime.	Home Truths Care Home Contracts – Human Rights of Older People Responding to individuals who contact the Commissioner for assistance	3. The performance of government with respect to provision of OP services is investigated and changes recommended 4. older people are legally represented and protected	**Older People are Protected**
Advocate, Represent Advise government and all its agencies on policies, legislation, on services provided for OP	OP are able to access the social activities, services and support they need, when they need it OP People have confidence that the social care and support they need will be available to them and their rights and dignity are protected at all times.	Responding to public consultations Adult Protection Bill Energy for vulnerable customers Loneliness and Isolation of Older People	5. Policy makers, Duty Bearers are better informed of OP Rights 6. The design of Policy, legislation, and services for older people are better informed	**Older People are Valued**

COPNI Role	Proposed Outcomes	Targets/Indicators	Evidence/Measures
Advise Support Advise and support older people directly on their needs, rights and access to services	• Older people are better informed of their Rights	% Older People aware of their rights	Surveys
	• Older people are better able engage in civic society to their full potential		Survey/Case studies
Investigate Challenge Government actions for improvement and correction of OP service provision when they fall short Review, monitor public and private sector provision for OP and ensure it is in their best interests	• The performance of government with respect to provision of OP services is investigated and changes recommended	# and types of investigations	Survey/Case studies
	• older people are legally represented and protected	# and types of cases	Case studies
Advocate, Represent Advise government and all its agencies on policies, legislation, on services provided for OP	• Policy makers, Duty Bearers are better informed of OP Rights		Survey/Case studies
	• The design of Policy, legislation, and services for older people are better informed	# and types of legislation, policy informed	Case studies
Build Relationships To inform and influence policy/practice development	• Older People	# type, quality of arrangements	Survey/Case studies of formal/informal relationships
	• Stakeholders/Peer Bodies	# type, quality of arrangements	Survey/Case studies of formal/informal relationships
	• Decision Makers	# type, quality of arrangements	Survey/Case studies of formal/informal relationships

Executive Summary – Effectiveness

7.80. To assist with an assessment of COPNIs broader impact we constructed a post-hoc outcomes framework and asked identified stakeholders to comment on COPNIs achievements against these outcomes. There is descriptive evidence of COPNIs delivering across these outcome areas.

- COPNI has been widely praised by stakeholders for their response to the pandemic, particularly in raising profile of older people's needs in the media as well as in engaging with and supporting older people themselves.

- COPNI has been acknowledged by Government agencies and NGOs for its role in highlighting the issue of care in care homes through the Home Truths report and in doing so safeguarding and promoting the interests of older people

- Despite being described as 'initially adversarial', COPNI has built positive relationships with the relevant authorities and is now working collaboratively with them, including RQIA, to monitor the implementations of the recommendations from the Home Truths report

- COPNI case work, representing older people legally, has increased in scale and complexity. In particular there is now more focus on complex cases, which can lead to judicial reviews. While the Covid pandemic did severely limit COPNIs capacity to engage with older people, the Legal and Advocacy team continued to represent the interests and rights of many older people

- COPNI has built positive relationships with key decision makers allowing them to advocate on behalf of older people. The Commissioner has contributed to policy developments affecting older people, including: the Active Ageing Strategy published in 2016; the Adult Protection Bill and the Housing Supply Strategy.

7.81. Looking ahead it would be useful to revise and develop this outcome framework further to inform a more pro-active (formative) approach to evaluation and impact reporting. This would involve COPNI clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 49 illustrates that targets, indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

7.82. It can be argued that a key factor affecting successful influence on policy/practice development is the ability to connect with and build constructive relationships with key decision makers, therefore we would propose that COPNI include the concept of 'relationship building' as a key outcome.

8. Conclusions

8.1   The New Decade New Approach agreement (2020) committed Departments to reviewing their Arm's Length Bodies (ALBs). The Department for Communities (DfC) commissioned a Tailored Review of two of its ALBs, the NI Commissioner for Children and Young People (NICCY) and the Commissioner for Older People in Northern Ireland (COPNI). COPNI is the subject of this report.

8.2   The aim of the Review is to take a holistic look at COPNI "to determine whether its NDPB and Corporation Sole status continues to represent the optimum mode of delivery for the desired policy and strategic outcomes in comparison with other options, alongside looking at governance efficiencies for better partnership working focussed on a strategic and proportionate approach".

8.3   The Office of the Commissioner for Older People for Northern Ireland (COPNI) was established by the Commissioner for Older People Act (Northern Ireland) 2011, which took effect from January 2011. Mr. Eddie Lynch, commenced his term as Northern Ireland's second Commissioner for Older People on 14 June 2016. The Commissioners role is to act as an independent voice and champion for older people, and to safeguard and promote their interests.

The post of Commissioner is appointed for four years, renewable once. COPNI's budget in 2020-21 was £1,021 which supported a team of 15 staff.

8.4   The review was carried out between May and September 2022. We reviewed COPNI documentation and consulted with a range of stakeholders via interviews and postal questionnaires. We also sought to adapt our design to employ remote data collection technologies using Zoom and other online platforms.

Form and function

8.5   The Review clearly demonstrates the continuing need for the statutory functions ascribed to the Commissioner. Whilst viewed against the three Cabinet Office criteria for ALBs, COPNI's statutory functions include those where it (a) performs a technical function, (b) needs to be politically impartial and (c) needs to act impartially to establish the facts, there are other structures which may offer improvements or efficiencies while retaining independence. We have considered whether there are alternative structures which could deliver these functions effectively and efficiently.

8.6   In accordance with Article 21 of the Act, the Commissioner is required to keep under review the working of the Act and make reports on it to the First and deputy First Minister (now DfC) on the third anniversary of the Act with subsequent reports between 3 and 5 years after the initial report. We were advised by the Commissioner that he made a report to OFMdFM and subsequently to DfC. The Department do not have a record of receiving a report.

8.7   COPNI is a non-departmental public body (NDPB), sponsored by the Department for Communities (DfC). The appointment of the Commissioner rests with The Executive Office (TEO). While appointments by the First and deputy First Minister give the post political legitimacy, which would not necessarily be the case if it were made by a specific Minister, it is important that TEO ensures the appointment process satisfies the requirements of DAO DoF 05/17 in relation to Accounting Officer responsibilities. When new First and deputy First Ministers are appointed and an Executive in place, the possibility of sponsorship changing to TEO should be considered. Furthermore, there is scope within the new Partnership Agreement for the sponsor Department to have a greater focus on governance, strategy and impact.

8.8   In common with some other Commissioners offices, the post of Commissioner in COPNI has Corporation Sole status, which affords the Commissioner significant independence to carry out their duties and challenge functions. However, while the Corporation Sole model has many strengths, it does place a significant administrative overhead on what is a relatively small organisation and there is an argument for considering designating the Commissioner as a Statutory Officer of a Department (in effect a Ministerial appointee with statutory functions) which would continue to embed the independence of the Office in statute while significantly reducing the administrative requirements associated with being an NDPB. However, this would be different from the Older Peoples Commissioner for Wales which does have Corporation Sole.

Control and Governance

8.9   The Audit and Risk Committee has three independent members, including the Chair. There was one vacancy when the current Review commenced. ARAC Members interviewed expressed concerns about aspects of how the Committee was operating and the Chair and remaining member resigned at the end of October 2022. Arrangements are in hand to replace the Committee.

8.10 COPNI has established financial accountability processes, but the Corporation Sole status cannot provide the same quality of assurance about the strategy or impact of the office. We considered the option of a Board, as is the norm in other ALBs, or an Advisory Board as is the case for the Children's Commissioner in England. We also examined an alternative option, which was for COPNI to develop a more formal relationship with the relevant NI Assembly Committee. We have concluded that the establishment of an Advisory Board strikes the best balance for COPNI.

Efficiency

8.11 As a small organisation, COPNI has limited scope for demonstrating efficiency savings or for providing a career structure for staff. We considered possible alternative models of staffing including merging back-office support with another ALB or drawing staff from the NICS. We do not consider that there are sufficient efficiencies to be gained from combining back-office functions to outweigh the potential disadvantages. However, as there are plans (subject to legislation) for establishing new Commissioner posts, further consideration should be given to Commissioners drawing on shared services with the NICS. This could be in the context where the Commissioner is a Corporation Sole or becomes a Ministerial appointee with statutory functions (i.e. a Statutory Officer of the Department).

The latter would however relieve the Commissioner of many of the administrative functions which are required of NDPBs and allow the post holder to focus time and resources on the key statutory priorities for the Office. However, this could potentially constrain the Commissioner's capacity to operate independently and effectively hold government to account.

8.12 We appreciate it may take some time to tease out the implications of any change and there may be opportunities in the interim for experienced officers in other DfC ALBs to offer peer support to new incumbents in key posts such as finance.

8.13 There is considerable variation in how Commissioner led bodies are structured. This includes the Commissioner as Corporation Sole, linked to either an Executive Department or the NI Assembly, the Commissioner as a Statutory Officer of a Department, whether the bodies have a Chief Executive supporting the Commissioner and how back office and support services are sourced. We have noted that the management structure of the Commissioner for Older People in Wales does not have the position of Chief Executive. Instead, the Commissioner is supported by a Senior Executive Assistant and a Chief Operating Officer. The latter leads on all internal operations of the Commissioner's office and is formally designated as the Deputy Commissioner.

In the light of this the Department may wish to consider reviewing the appropriateness of the current management structure within COPNI.

8.14   In relation to efficiencies around accommodation, there are plans for the Commissioners located in Equality House to be relocated to new premises in James House. We understand that these plans have been subject to significant delay. In addition, the Commissioners have expressed concerns about colocation with bodies whom they may be scrutinising which might be perceived to compromise their independence. However, if hybrid working becomes the norm post-Covid, the need for the current office footprint should be reviewed with the aim of finding efficiencies in COPNI's accommodation costs.

Effectiveness

8.15   To assist with an assessment of COPNIs broader impact we constructed a post-hoc outcomes framework and asked identified stakeholders to comment on COPNIs achievements against these outcomes. There is descriptive evidence of COPNIs delivering across these outcome areas.

- COPNI has been widely praised by stakeholders for their response to the pandemic, particularly in raising profile of older people's needs in the media as well as in engaging with and supporting older people themselves.

- COPNI has been acknowledged by Government agencies and NGOs for its role in highlighting the issue of care in care homes through the Home Truths report and in doing so safeguarding and promoting the interests of older people

- Despite being described as 'initially adversarial', COPNI has built positive relationships with the relevant authorities and is now working collaboratively with them, including RQIA, to monitor the implementations of the recommendations from the Home Truths report

- COPNI case work, representing older people legally, has increased in scale and complexity. In particular there is now more focus on complex cases, which can lead to judicial reviews. While the Covid pandemic did severely limit COPNIs capacity to engage with older people, the Legal and Advocacy team continued to represent the interests and rights of many older people

- COPNI has built positive relationships with key decision makers allowing them to advocate on behalf of older people. The Commissioner has contributed to policy developments affecting older people, including: the Active Ageing Strategy published in 2016; the Adult Protection Bill and the Housing Supply Strategy.

8.16 Looking ahead it would be useful to revise and develop this outcome framework further to inform a more pro-active (formative) approach to evaluation and impact reporting. This would involve COPNI clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 49 illustrates that targets, indicators could be devised for each outcome and appropriate evidence, data collection methods identified.

8.17 It can be argued that a key factor affecting successful influence on policy/ practice development is the ability to connect with and build constructive relationships with key decision makers, therefore we would propose that COPNI include the concept of 'relationship building' as a key outcome.

9. Recommendations

Form and function

9.1 The statutory functions ascribed to the Commissioner meet the Cabinet Office requirements and therefore must be retained to satisfy the requirements of the Older People Act (Northern Ireland) 2011.

Governance and Control

9.2 We recommend that TEO should continue to appoint the Commissioner which, by virtue of requiring the endorsement of the First and deputy First Ministers, will confer added political legitimacy on the appointee.

9.3 We recommend that the Department for Communities (DfC) should engage with TEO when Ministers and an Executive are in place to consider whether, in addition to appointing the Commissioner, TEO should also be the sponsor Department for COPNI. Whichever Department sponsors COPNI, the new Partnership Agreement should be focussed on governance, organisational strategy and demonstration of impact.

9.4 Notwithstanding decisions about sponsorship arrangements, we recommend that consideration is given to whether the Commissioner should remain as a freestanding Corporation Sole or become a Statutory Office of a Department. However, removing Corporation Sole status would represent a deviation from the norm for other UK Commissioners, including the Older Peoples Commissioner for Wales, and raise concerns about the Commissioner's perceived independence and actual detachment from government. Any proposed change in the Commissioner's status would need to address how to guarantee the Commissioner's continued independence and capacity to effectively hold government to account.

9.5 In view of the importance of ARAC, we recommend:

- action is taken as a matter of urgency to appoint a new ARAC

- that the sponsor Department is included in the appointment arrangements for ARAC members

- the ToR are reviewed annually

- an effectiveness review is undertaken annually

- COPNI agrees an annual work programme with the Committee

- there are regular meetings of the IA, EA and the Department

- DfC and COPNI consider using the NICS IA group to provide IA services when the current contract terminates

- DfC should have input into the appraisal of the ARAC Chair

9.6   We recommend that COPNI establish an Advisory Board in consultation with the Department in order to provide the Commissioner with independent advice on strategy and impact.

Efficiency

9.7   There is limited scope for COPNI to find efficiencies through possible mergers with another NDPB. We recommend that the Department give consideration to reviewing the senior management structure which currently has a Chief Executive post supporting the Commissioner.

9.8   There could also be the potential for efficiency savings if the Commissioner were to be designated a Statutory Office of a NI Department. While we would recommend that consideration is given to the Commissioner becoming a Statutory Officer of the Department, particularly in terms of efficiency, this could have implications for the Commissioner's independence and capacity to effectively hold government to account.

9.9   In the event of hybrid working becoming the norm, we recommend that opportunities are explored for finding efficiencies in COPNI's accommodation costs.
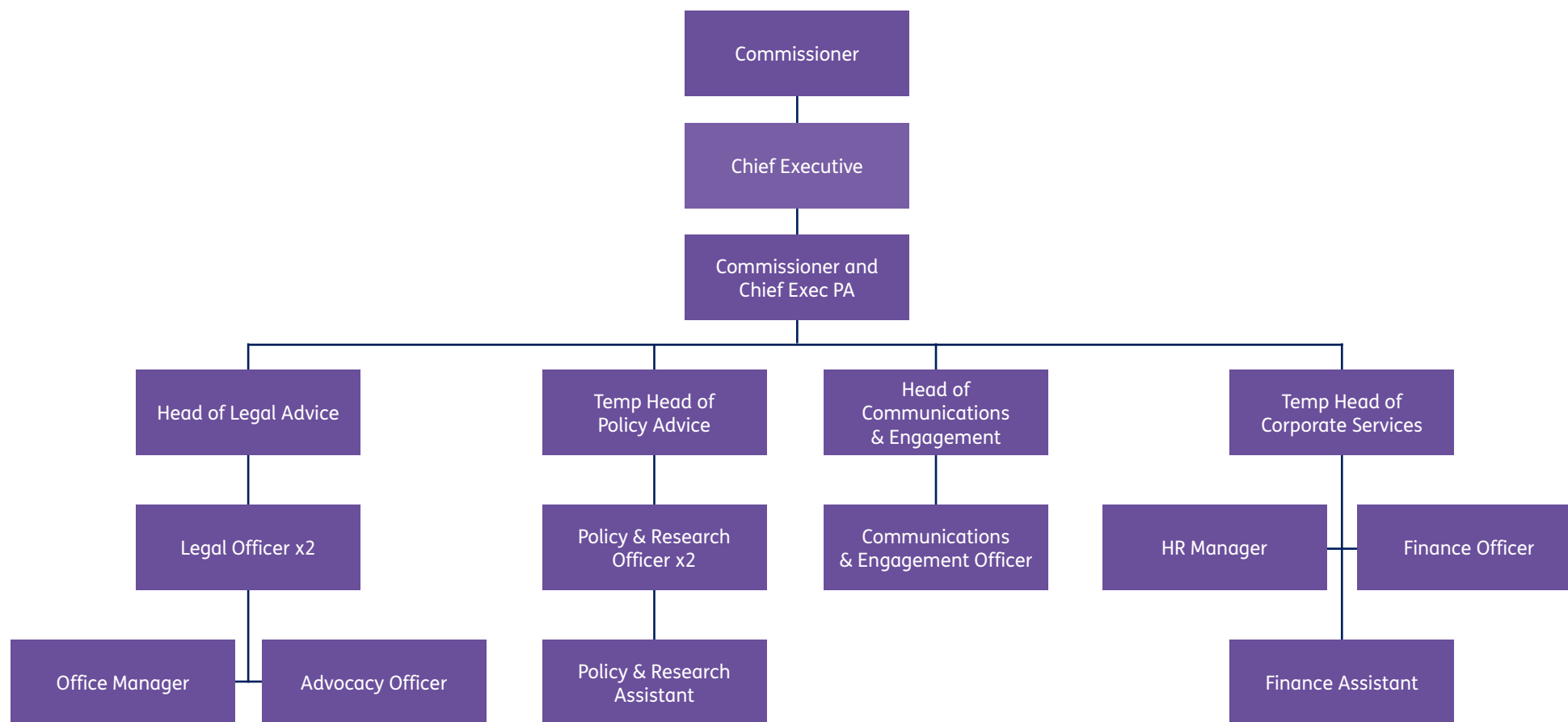
Effectiveness

9.10   There is some descriptive evidence of COPNI delivering effectively across identified outcome areas. Looking ahead we recommend that COPNI revise and develop the outcome framework to inform a more pro-active (formative) approach to evaluation and impact reporting.

9.11   This would involve COPNI clearly identifying and defining those outcomes that are within their remit and resource to deliver. Page 49 illustrates that targets and indicators could be devised for each outcome and appropriate evidence and data collection methods identified.

9.12   In addition, identifying that good relationships with key decision makers can be a key factor affecting successful influence on policy/practice development, we would recommend that COPNI include the concept of 'relationship building' as a key outcome.

Appendix 1

Staff Structure January 2022

COPNI Business Plan 2022-23

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                          Commissioner
                               |
                         Chief Executive
                               |
                     Commissioner and
                       Chief Exec PA
                               |
    ┌──────────────┬───────────┴───────────┬──────────────────┐
Head of Legal    Temp Head of       Head of              Temp Head of
   Advice        Policy Advice      Communications       Corporate Services
    |                |              & Engagement              |
Legal Officer   Policy & Research      |              ┌───────┴────────┐
   x2           Officer x2         Communications    HR Manager   Finance Officer
    |                |             & Engagement Officer   |
┌───┴────┐      Policy & Research                    Finance Assistant
Office   Advocacy   Assistant
Manager  Officer
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