

Proposed Disability Commissioner (Scotland) Bill

Introduction

A proposal for a Bill to establish a Disability Commissioner for Scotland

The consultation runs from 12 May 2022 to 3 August 2022

All those wishing to respond to the consultation are strongly encouraged to enter their responses electronically through this survey. This makes collation of responses much simpler and quicker. However, the option also exists of sending in a separate response (in hard copy or by other electronic means such as e-mail), and details of how to do so are included in the member's consultation document.

Questions marked with an asterisk (*) require an answer.

All responses must include a name and contact details. Names will only be published if you give us permission, and contact details are never published – but we may use them to contact you if there is a query about your response. If you do not include a name and/or contact details, we may have to disregard your response.

Please note that you must complete the survey in order for your response to be accepted. If you don't wish to complete the survey in a single session, you can choose "Save and Continue later" at any point. Whilst you have the option to skip particular questions, you must continue to the end of the survey and press "Submit" to have your response fully recorded.

Please ensure you have read the consultation document before responding to any of the questions that follow. In particular, you should read the information contained in the document about how your response will be handled. The consultation document is available here:

[Consultation Document](#)

[Privacy Notice](#)

I confirm that I have read and understood the Privacy Notice which explains how my personal data will be used.

On the previous page we asked you if you are UNDER 12 YEARS old, and you responded Yes to this question.

If this is the case, we will have to contact your parent or guardian for consent.

If you are under 12 years of age, please put your contact details into the textbox. This can be your email address or phone number. We will then contact you and your parents to receive consent.

Otherwise please confirm that you are or are not under 12 years old.

No Response

About you

Please choose whether you are responding as an individual or on behalf of an organisation.
Note: If you choose "individual" and consent to have the response published, it will appear under your own name. If you choose "on behalf of an organisation" and consent to have the response published, it will be published under the organisation's name.

on behalf of an organisation

Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

No Response

Please select the category which best describes your organisation

Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Cerebral Palsy Scotland is a charity that improves the lives of children and adults with cerebral palsy (CP) through specialist therapy, support and information. We are the only charity focusing specifically on the needs of people with CP in Scotland. We have over 25 years of clinical expertise in supporting people with CP and their families.

Please choose one of the following:

I am content for this response to be published and attributed to me or my organisation

Please provide your Full Name or the name of your organisation. (Only give the name of your organisation if you are submitting a response on its behalf).

(Note: the name will not be published if you have asked for the response to be anonymous or "not for publication". Otherwise this is the name that will be published with your response).

Cerebral Palsy Scotland

Please provide details of a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number.

We will not publish these details.

Aim and approach - Note: All answers to the questions in this section may be published (unless your response is "not for publication").

Q1. Which of the following best expresses your view of the proposed Bill? (Please note that this question is compulsory.)

Partially supportive

Please explain the reasons for your response.

We are supportive of the concept of a Disability Commissioner and recognise that the rights of disabled people need to be supported and upheld, however, we have comments on some of the detail of the proposed Bill and some concerns around whether what is proposed will achieve positive improvement.

Q2. Which of the following best expresses your view on whether there is a need for a specific, dedicated commissioner focussing solely on people with a disability?

Fully supportive

Please give the reasons for your response

Too often people are further disabled by how they are treated. Their views are not listened to and people have to put up with what is available to them rather than being at the heart of service design. Currently disabled people have very few ways of challenging decisions made by service providers that affect their lives and sub-standard services are not being held to account. For these reasons, we are supportive of the proposals for a Disability Commissioner.

Q3. Do you think legislation is required, or are there other ways in which the proposed Bill's aims could be achieved more effectively? Please explain the reasons for your response.

In theory, legislation exists to protect the rights of disabled people. There are also other standards and policies that set out what services disabled people have access to and how they can be supported. However, there is a large gap between the policy landscape and practice. Disabled people do not feel empowered to change things and do not feel that they are properly listened to or that their needs and views are at the heart of service design. A Disability Commissioner would need to have the authority in law to challenge this and therefore legislation would be required.

The current health and care landscape is difficult to navigate and especially so if you do not have good communication skills or knowledge of what you are entitled to and what is available. In a survey undertaken by Cerebral Palsy Scotland in November 2021 65% of people with CP indicated that current services were not meeting their needs: <https://cerebralspalscotland.org.uk/our-survey-shows-health-services-are-failing-people-with-cerebral-palsy/>. At present the only way change this is for people to go through the formal complaints process which is not only unwieldy, it also will not necessarily lead to systemic change and improvement. Many people do not want to complain for fear of jeopardising the support package they do have or for fear of being labelled "difficult" by professionals.

It is also impossible to ensure the voices of disabled people are heard across the many sectors that affect their lives: health, social care, housing, transport, social security, employment and education for a start. A disability commissioner with sufficient legal authority could act across all departments and services to join up the dots as required.

Scope of the Disability Commissioner Role

Q4. Which of the following best expresses your view of the Disability Commissioner role covering all disabilities; physical, mental, hidden and fluctuating conditions?

Partially supportive

Please give reasons for your response, including how the commissioner could co-ordinate with the work of existing bodies/organisations who support people with these conditions.

We accept that the Disability Commissioner's role covers the definition of disability as set out in the Equality Act 2010. However, we are not clear how the remit of this proposed role fits with other existing "champions" (for example the Mental Welfare Commission for Scotland which has responsibility to protect and promote the rights of people with mental illness, learning disabilities, dementia and related conditions, or the Scottish Children and Young People's Commissioner who's remit covers disabled children). Whilst the current consultation sets out that cooperation with existing posts and agencies could be managed by MOUs this can mean that in practice, each think the other is responsible and people and issues fall through the gaps. Having the disability commissioner cover such a wide remit also means that various "sub-sets" may get more attention, for example, children, mental health conditions or elderly people's issues. We are concerned that these are all issues that receive attention elsewhere within the Scottish Parliament landscape and yet there remains a real need to champion the cause of adults of working age with a long term physical condition, such as cerebral palsy.

We find the role of New Zealand's Health and Disability Commissioner interesting in this area and that they have Deputy Commissioners who are assigned to specific areas, such as mental health, complaints resolution or aged care

Q5. Which of the following best expresses your view of the Disability Commissioner having a role in reviewing laws and policies that might impact on disabled people?

Fully supportive

Please explain the reasons for your response.

We think this an essential role for the Disability Commissioner to ensure that people are not further disadvantaged by future policies and legislation and to ensure that any unintended consequences of future legislation and policies are properly scrutinised and highlighted in advance.

Q6. Which of the following best expresses your view of the Disability Commissioner promoting best practice and learning from service providers, key stakeholders and third sector?

Partially supportive

Please explain the reasons for your response, including how you envisage this work being undertaken?

We are fully supported of promoting best practice, but we would like to understand in more detail how this could be done and what the Disability Commissioner could do to hold service providers, key stakeholders and others, including third sector and private providers, to account if their services do not deliver.

Q7. Which of the following best expresses your view of encouraging involvement of disabled people and DPOs (Disabled People's Organisations) in the work of the Disability Commissioner?

Fully supportive

Please explain the reasons for your response. Please discuss how you think this would work in practise – would this be through focus groups, internships, paid roles etc

Q7. Which of the following best expresses your view of encouraging involvement of disabled people and DPOs (Disabled People's Organisations) in the work of the Disability Commissioner?

It is essential that the Commissioner listens and represents the views of disabled people and DPOs. To ensure that this works in practice this should be through a range of mechanisms and it is important the Commissioner's office is resourced in such a way so as to ensure that consultation and engagement with disabled people and DPOs is embedded into their core function over the long term and is not constrained to any time-limited or issue-specific actions.

Engagement, involvement and consultation should be achieved through a range of ways, both on and offline and in person so as to ensure the Commissioner and their office is communicating "in an inclusive way" (as defined in the consultation document).

Q8. Who should the Disability Commissioner be allowed to investigate?

Both Scottish Public Bodies and service providers

Please explain the reasons for your response

It is essential that the Disability Commissioner have the authority to hold service providers (statutory, third sector and private) to account and to ensure that the voice of disabled people are heard by service providers and in future service design.

Financial Implications

Q9. Any new law can have a financial impact which would affect individuals, businesses, the public sector, or others. What financial impact do you think this proposal could have if it became law?

some reduction in costs

Please explain the reasons for your answer, including who you would expect to feel the financial impact of the proposal, and if there are any ways you think the proposal could be delivered more cost-effectively.

We believe that if disabled people were supported to stay well, to live as independently as possible and to access employment opportunities then the overall costs of supporting disabled people would reduce.

Equalities

Q10. Any new law can have an impact on different individuals in society, for example as a result of their age, disability, gender re-assignment, marriage and civil partnership status, pregnancy and maternity, race, religion or belief, sex or sexual orientation.

What impact could this proposal have on particular people if it became law? If you do not have a view skip to next question.

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people.

A Disability Commissioner would have a positive impact for people living with a disability and their families.

Sustainability

Q11. Any new law can impact on work to protect and enhance the environment, achieve a sustainable economy, and create a strong, healthy, and just society for future generations.

Do you think the proposal could impact in any of these areas? (If you do not have a view then skip to next question)

Please explain the reasons for your answer, including what you think the impact of the proposal could be, and if there are any ways you think the proposal could avoid negative impacts?

Ensuring more disabled people have access to employment would help create a stronger and healthier society and economy.

General

Q12. Do you have any other additional comments or suggestions on the proposed Bill (which have not already been covered in any of your responses to earlier questions)?

We are concerned that the Scottish Government's strategy for disabled people "A Fairer Scotland for Disabled People" 2016 published it's final progress report in March 2021 and that there were no recommendations for next steps. The progress report referred to the future National Care Service and post-pandemic recovery, but these simply highlight the need to ensure that the rights and voices of disabled people are at the heart of both. A Disability Commissioner could ensure this happens.

Cerebral Palsy Scotland are happy discuss any aspect of our submission further and to support further developments of this proposed Bill. We would like to be kept informed of its progress.