

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)

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).

ME Association

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 opposed

Please explain the reasons for your response.

We support the full potential for the proposed Disability Commissioner and supporting office, on the basis that powers are embedded in this independent office to ensure that full social integration of disabled lives

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

across all ranges and forms of disabilities gets driven forward in all aspects of our society. Constriction of the scope and authority of the proposed office would easily devalue the project.

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

While great progress has been achieved in many aspects of integrating disabled people fully into society, there is still a lot of progress to be won, both for the less challenging forms of well-recognised disabilities, and for still-discounted forms of chronic illness which range from incompletely to negligibly recognised as disabilities.

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.

Robust legal duties and powers are prerequisites for the office being effective, but whether this would best be achieved by separate but fully coordinated integration of new and existing legislation, or by comprehensive, coordinated statutory instruments extending existing legislation, or by reform of existing legislation into a new act, is a matter for expert legal judgement. While some potential overlap between duties and powers under existing legislation and new duties and powers given to the Disability Commissioner's office are bound to be necessary, the points of transfer between should both be clear and be enactable promptly and reliably.

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?

Fully 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.

The purpose of the Disability Commissioner role could not be achieved without a clear comprehensive understanding of the whole range of disabilities to be served. We are pleased that ME is named in the supporting information, and the wide range and variance in disabilities it presents provides a good example of the complexities and fluctuations which have to be understood and of the contradictions which occur within any view of evolving need. With a large patient population, ME represents much of the issues which continue to be less well recognised and served, and can help to illustrate the range of differing rarer chronic illnesses which present similar complexities for achieving full integration of disability.

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.

While the Disability Commissioner's office cannot be expected to fully police all aspects of continuing delivery of full integration, there should be a general duty for any responsible body or person to report comprehensively to the office, and robust abilities for the office to intervene and direct redress of issues where they deem suitable. Therefore the Disability Commissioner has to have the authority and instruments to be able to ensure that laws and policies will achieve and uphold full integration standards

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?

While the Disability Commissioner's office and its authority must be able to resist interference in the achievement and upholding of its purpose, it must also be required to operate in coordination with other sources of expertise in agreeing what is best practice where such practice involves wider concerns.

But the scope of such involvement could be onerous compared to other core issues in the necessary purposes of the office, so some practical limitation to the depth of involvement in measuring and evaluating best practice should require some consideration in finalising the responsibilities of the office.

ME again offers an example here, where there has been an ongoing divide in medical practice and medical insurance views, involving how the nature of the condition is recognised, and, from that, what is or isn't recognised as safe medical treatment. While the Disability Commissioner's office could have enough information on how aspects of a divide such as this would be likely to interfere with the rights of these disabled patients, there would need to be limits on how it appends its view to medical bodies' arbitrated view of the issue.

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 practice – would this be through focus groups, internships, paid roles etc

A wide range of representation is necessarily included here, particularly while there is still a lot of further integration for all disabled people to be achieved. So this will initially be a significant component of the activities of the Disability Commissioner's office, and although it may be scaled down once the primary aim of the office is achieved, it will still remain an important activity which will necessarily have to represent the full range of disabilities and needs.

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

Both Scottish Public Bodies and service providers

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

Please explain the reasons for your response

Public bodies responsible for delivery of support for disabilities, and for achieving full integration in service delivery, plus government agencies enacting policies, and even politicians, in addition to those delivering services and supporting disabled people's functioning, should all be open to scrutiny by the Disability Commissioner, with ultimate scope for being pursued by the Commissioner when that is the most effective recourse.

But balance between recourse to existing avenues of pursuing default, and ability to simply qualify the activities of other jurisdictions with responsibilities for pursuing compliance, as part of a general approach to require improvement in practice, should be achieved with as light a touch as possible, particularly in consideration of the size and viability of smaller bodies involved.

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.

The Disability Commissioner's office itself will require a substantial budget particularly during the development years until it achieves its goal. There will also be costs involved in delivering full support and integration of those with disabilities, which will be more immediate and are likely to be more easily measurable, compared to potential cost benefits from those with disabilities being able to contribute to society, which are and will remain significantly dependent on addressing other healthcare, education and socioeconomic deficits and imbalances.

But funding this basic social improvement is a necessary function of an integrated, humanitarian society

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.

Existing imbalances, including inherent prejudices and traditions, and overly reactive defensive positions affecting minorities, have the capacity to cause problems with implementation, whether hampering uptake of opportunities for improving integration, or aggravating review and resolution of issues. Promotion of positive understanding of participation in a humanitarian society, and the sustainable benefits to all individuals, should drive down sources for many current and potential problems.

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?

In isolation, it is unclear whether this law could end up saving or still costing some money on balance, but as part of integrated improvement in social and financial cohesion across the population and policies from our democratic government, this will help to ensure that our society moves towards a sustainable future.

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)?

Without knowledge of the work that has gone into developing this proposed bill, it is not easy to see how to find the increased scope in development that is needed to flesh out the details of the bill to make sure that a white paper is fully realistic and potentially enactable.