

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

Representative organisation (trade union, professional association)

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).

The Scottish Association of Social Work (SASW) is part of the British Association of Social Workers, the largest professional body for social workers in the UK. BASW UK has 21,000 members employed in frontline, management, academic and research positions in all care settings. There are over 10,000 registered social workers in Scotland around 1,500 of whom are SASW members. This comprises staff working in local government and the independent sector, across health and social care, education, children and families, justice services, as well as a growing number of independent practitioners.

SASW's key aims are:

- Improved professional support, recognition, and rights at work for social workers,
- Better social work for the benefit of people who need our services, and
- A fairer society

Effective social work practice involves recognising the abilities of people with lived experience and drawing on strengths-based perspectives to empower and support people to make everyday decisions and pursue their life choices. They support people to maximise control over their own lives and over the services and care they receive through the principles of co-production and collaboration.

Social workers across all specialisms (adults, justice, mental health and children and families) work with disabled people. Social workers uphold and promote access to the same human rights for adults with lived experience of disability as for any other citizens, embedding their values and ethics into rights-based practice that makes a difference to people's lives. They will also seek to understand the individual challenges and barriers that disabled people face and will work with them to provide support where appropriate.

This response was prepared by the SASW staff team, including Professional Officers and Policy Lead, based on the principles and values of effective social work practice. We also shared the consultation with our members to ask them to consider submitting individual responses and to encourage colleagues and those who use social work services with lived experience of disability to do the same.

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).

Scottish Association of Social Work (SASW)

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.)

Fully supportive

Please explain the reasons for your response.

SASW believes that having a dedicated Disability Commissioner would be a positive step in helping to amplify the voices of disabled people across all aspects of society and ensuring that decisions taken at policy level always consider the needs, views and experiences of disabled people. The role could help strengthen participation of disabled people in all aspects of decision making by establishing an important link between disabled people and decision makers, including politicians and public bodies. The Disability Commissioner could also act as a point of contact and representative for disabled people and, crucially, would work to represent and promote all disabilities. This is particularly important for people with hidden or fluctuating disabilities who might feel that their disability is not as widely known or recognised. Overall, SASW believes that the Disability Commissioner would help to safeguard and advance the rights of disabled people in Scotland. We welcome Mr Balfour bringing forward this Bill and hope it receives universal support across the parliament.

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

As stated in our previous response, there is a space in Scottish society for a dedicated Disability Commissioner to represent the views, needs and interests of disabled people. Disabled people face different challenges and have unique perspectives on policy areas that requires specific consideration in all aspects of decision making. Some disabled people might experience communication challenges or feel unsure about how to make their views heard, which can feel disempowering and exclusive from processes. In order for the human rights of disabled people to be upheld in Scotland, it is crucial that they have a mechanism by which they are comfortable using to put forward their views, be heard and considered equally. The Disability Commissioner in its own right is a means by which this can happen but is also a position that will work to strengthen this process, working to engage and empower disabled people from all backgrounds. It is important to recognise that disabled people face different challenges and have different experiences based on a range of factors, including age, sexuality, geographical location, income etc. Having a dedicated commissioner who acts as a point of contact and will take a person-

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centred approach at all times is vitally important for helping to champion the rights and views of all disabled people.

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.

SASW supports the use of legislation in this instance. By creating the position in law and giving legal authority to its roles and responsibilities, it gives the remit strength, credibility and more public exposure. For example, a role which has no legal authority to initiate a general investigation into devolved matters or be involved in devolved legislative reform risks making the role more symbolic as opposed to one that can take meaningful action. Additionally, it also makes the role fully accountable as it would have a legal requirement to report to the Scottish Parliament and presumably scrutinised on the work being carried out.

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.

As previously stated, one of the important aspects of this role is its importance of representing all disabilities, especially those that are hidden or fluctuating. The role offers a good opportunity to raise public awareness of hidden and fluctuating conditions more widely and focus efforts on strengthening the voices of people who might previously have felt their hidden or fluctuating condition has excluded them. It would be discriminatory to exclude any disabilities from the scope of this role and SASW stresses that all disabilities need to be included.

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.

It is crucial that all proposed legislation is considered and scrutinised from the perspectives of disabled people. SASW envisions the Disability Commissioner having an important role in engaging disabled people in consultation processes on proposed legislation, being called to provide evidence to committees and providing advice to government ministers and officials on legislative proposals. The Disability Commissioner should also promote ways that disabled people can engage individually in the legislative process, including bringing forward petitions and how to engage with their MSPs, MP and local councillors.

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?

Fully supportive

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

It is crucial that the Disability Commissioner regularly engages with service providers, key stakeholders and the third sector in order to represent their views and take forward any issues on their behalf. We would also expect the Commissioner and their office to be in regular contact with social workers. The Disability Commissioner should act as link between organisations and the policy makers and also aim to bring stakeholders and organisations together to promote and share best practice and learning. We would also hope that the Disability Commissioner could provide guidance to key stakeholders and organisations to support them in their work and aims to advance the rights of people with disabilities. Overall, we would expect the Disability Commissioner to consult with key stakeholders and groups and use their expertise and networks to achieve the aims of the role to safeguard and promote the rights of disabled people. It is therefore important that there is an explicit responsibility in the remit of the Disability Commissioner to protectively engage with and seek to build relationships with services providers, key stakeholders and third sector organisations on an ongoing basis.

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

As explained in the previous response, it is important for the Disability Commissioner to actively engage with and involve disabled people and organisations representing disabled people in all aspects of their work. Ensuring that their views are represented and heard in decision making processes and that they are aware of how to engage with these processes themselves should be a vital part of the role. It is also important the commissioner takes an active role in identifying situations where disabled people are being misrepresented or not being given a channel by which to express their views and working with DPOs and Centres for Inclusive Living to address these gaps. As mentioned in earlier parts of this consultation, some disabilities are hidden or fluctuating and are therefore of a higher risk of being overlooked or having fewer opportunities to be heard. In terms of how all this would work in practice, we would hope that the Disability Commissioner will ensure that a good proportion of their time is spent being visible and working in communities. This includes visiting DPOs and making a strong effort to meet with disabled people through community based groups, schools and workplaces to engage with them directly and inform them of how they can get involved in the work of the Disability Commissioner. Creating work experience opportunities, internship schemes and open days at the commissioner's offices where disabled people can visit and see first hand the work of the commissioner are all positive steps that we would like to see taken.

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

Both Scottish Public Bodies and service providers

Please explain the reasons for your response

SASW believes that the Disability Commissioner's power to investigate should be in line with the Children and Young People's Commissioner. This means that they can investigate cases where they have reason to believe that the rights of a person are not being upheld. Clear criteria will need to be set out to make sure that the power of investigation is not abused. We would want to see the same limits to the power of investigation in place for the Children and Young People's Commissioner being applied to the Disability Commissioner. On that basis, if another body in Scotland has the power and responsibility to investigate an issue (for example, the Equality and Human Rights Commission or the Care Inspectorate), then the

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commissioner should not investigate. Instead, they should seek to refer to those bodies where applicable and necessary and provide any support to those bodies if required.

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 increase 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.

SASW notes that the consultation documents acknowledges that there will be costs involved with the setting up and operation of the office. We would hope that the annual operation costs would be consistent with the costs of the Children and Young People's Commissioner which, according to the last financial year, was £1.3million per annum. Given the wide-ranging remit we would hope the Disability Commissioner would have, including the need to engage with groups and be visible in communities, it becomes more challenging to reduce costs. However, we would not want to see a focus on reducing costs lead to a dilution of the role. Ensuring that service providers and public bodies are focusing on early support may increase costs initially but would result in longer term benefits. As stated in the consultation document, it seems that the Scottish Parliament will have responsibility for the vast majority of the costs and so it will be up to the parliament to determine how much spend can be allocated to the role.

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.

We can see no potential negative impacts of this Bill on particular groups in society. It would improve inclusivity for different individuals in society by involving more people in policy and decision making.

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?

This Bill could improve the wellbeing of disabled people by ensuring that their rights are promoted and safeguarded. It would help to break down barriers to participation and promote inclusivity by improving employment and independence. This in turn would have a positive impact on society more widely, including socially and economically. We can foresee no potential negative impacts of this Bill on the sustainability of society.

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)?

No Response