

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

Public sector body (Scottish/UK Government/Government agency, local authority, NDPB)

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).

ILF Scotland is a public body, governed by a Board of Directors, appointed by and accountable to Scottish Ministers.

ILF Scotland operates as a discretionary fund providing financial awards to over 3,000 disabled people in Scotland and Northern Ireland to help them live independently. Our funding enables individuals to pay for care so that they can be supported in their homes and within their local communities.

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).

Dr Emma O'Neill, Senior Policy Officer. Independent living Fund 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.

In principle we are supportive of the proposed Bill, and as one of the public bodies subject to the scrutiny of a Commissioner, we would welcome the potential functions of the role. We have indicated partially supportive of the Bill as the role needs further consideration, particularly the level and need for appropriate powers to enforce action when identified. Our concern is that in the absence of appropriate powers, the role becomes tokenistic and no real, substantive change is realistic for disabled people.

In principle we are supportive of the proposed Bill, and as one of the public bodies subject to the scrutiny of a Commissioner, we would welcome the potential functions of the role. We have indicated partially supportive of the Bill as the role needs further consideration, particularly the level and need for appropriate powers to enforce action when identified. Our concern is that in the absence of appropriate powers, the role becomes tokenistic and no real, substantive change is realistic for disabled people.

We are aware of the ongoing work relating to the National Care Service, The consultation to the bill states: 'There was relatively high support for a charter of rights and responsibilities and agreement that there should be a Commissioner for social care. It was thought that a Commissioner would give people accessing care and support a voice and provide assurance that complaints would be addressed properly. Concerns related to fears of an additional layer of bureaucracy and to structural issues such as independence.' It is unclear how the two roles would coexist but there should be some consideration and clarification provided within the Bill or it's subsequent guidance.

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?

Partially supportive

Please give the reasons for your response

Legislation on the rights of people with disabilities is often unenforced. This can be a low priority for those with multiple areas of responsibility. A commissioner to oversee that existing laws are adhered to, as well as new legislation successfully introduced, would be of great benefit to all disabled / neurodiverse 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.

Yes legislation is needed that incorporates and enforces the same principles as the UNCRPD. In the absence of legislation there is a risk that the role can become tokenistic, and identified actions can't be fully progressed / enforced.

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

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

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.

All types of health conditions / impairments including fluctuating conditions as indicated in the Equality Act (2010) should be covered by the Commissioner. We are aware of the particular challenges those with fluctuating conditions have in receiving the recognition they need to access support or assistance.

It would be important to establish at the outset how the Commissioner would engage with existing bodies / organisations, and how links can be made with the existing work they do to avoid duplication, and strengthen the overall actions or outcomes. In particular, the relationship/overlap with the Mental Welfare Commission for Scotland and the Scottish Commission for Learning Disability would need further clarification.

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?

Partially supportive

Please explain the reasons for your response.

A Commissioner should have an important role in reviewing laws and policies, however not at the exclusion of any other body / organisation or individual. They should have a unique position of oversight of the range of perspectives across all health conditions / impairments, and the best ways these can be represented. Independence from Government is critical.

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?

It could be useful to have a central point for this type of promotion. As previously mentioned, it would be important to consider who is already acting in this capacity to avoid duplication / confusion.

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

It would be pointless for a Commissioner not to engage with, and be accountable to, disabled people and DPOs; this would be a crucial link in identifying and evidencing what issues and work is already taking place within this community. How a Commissioner would engage with others should be coproduced prior to any practical work taking place in order to learn and understand how individuals / DPOs would want this to happen. In practice a clear mechanism on how this would work is essential.

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

Please explain the reasons for your response

This is a difficult question to answer as there are mechanisms in place already such as the SPSO and the Care Inspectorate. However if there are gaps within these existing structures then the Commissioner role could be helpful. We are cautious though not to add an additional layer of investigation, or duplication of existing investigative powers.

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.

We would anticipate additional costs for public bodies and service providers in terms of the additional staff time / resources needed to provide requested information or as part of an investigative process.

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.

At this early stage, we feel there could only be a positive impact for disabled people.

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?

When disabled people are empowered to live full and productive lives, as equal participative citizens, this benefits the social, cultural and economic life of the community

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)?

Ideally the candidate for this role would have lived experience of disability and clear understanding of a broader range of disabilities in order to truly represent the needs of those they are there to represent. Lived experience is essential because it brings unique insights and understanding of the barriers and challenges disabled people face in their day to day lives.

It is unclear from this consultation how the role will be monitored and evaluated to determine if it is genuinely making a difference for disabled people that is tangible and evident at a grassroots level.

Cognisance should also be had in relation to the development of the National Care Service and its proposals to develop a new complaints procedure.