

# 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).**

Lead Scotland is a charity supporting disabled people and carers by providing personalised learning, befriending, advice and information services. We have projects across Scotland and a national helpline and information service. Our local services are community and home based, one to one or in small groups so that people have the right support to learn and participate. We support people to build a bridge to reach their ambitions of personal development, learning, volunteering and work. At a national level, we provide information and advice on the full range of post-school learning and training opportunities, as well as influencing and informing policy. Our response represents our views as well as our subscriber's views.

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).

Lead 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.**

10 respondents said they were fully supportive, 2 said they were partially supportive. Lead Scotland is fully supportive of the proposed Bill as we agree that the absorption of the Disability Discrimination Act into the Equality Act seems to have led to a loss in the level of protected rights for disabled people. Disability can often feel ignored in national equality and diversity agendas and not prioritised in the setting of EHRC strategic plans, leading to reduced focus on improved outcomes and therefore protection and justice for disabled people.

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**

Did not ask subscribers this question so this represents Lead's view only. Reason for previous answer applies here also.

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.

Answers from subscribers as follows:

No it must be established in law

Yes, I think law is required, otherwise things go on as before with disabled people's rights and needs not being actioned in society.

Yes i thinks so

Whether by law or a Commissioner that works collaboratively with the Scottish government, private and public services to ensure that the needs of all the varied disabilities are taken into consideration at every step of legislation, planning of adaptations or care plans.

In our current culture, each groups rights should be supported and the disabled are no exception. What worries me is if any stigma may be attached to the disabled as a result of this law.

I think this law is required. Hospitals have changed since the advent of the NHS after WW2. Patients aren't always nursed back to health - if someone is medicated and suffers side effects which make them so stiff they can't lift food to their mouth, nurses don't physically feed them. People need legally binding documents for others to speak up for them when they are unable and disabled people and their carers can fall into a legal trap if these are not initially in place. The Law can help protect disabled people, not only in the hospital environment but in all aspects of their lives.

Yes it works for children so would be a good advocate for people.

Without doubt as our voice isn't being heard and acted on in virtually every aspect of daily living but especially when accessing mainstream learning outlets

Having access to a dedicated person eliminates not knowing which body or person who to contact  
i think that treating people with fairness and dignity is required People working in the field and disabled people will know if a law is necessary  
they need to listen to disabled people more and give them to say their a opinion and saying things how they feel

Lead Scotland believes the strength of legislation is required to afford disabled people better protection and increased access to justice.

## 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.**

Did not ask subscribers this question so answer is based on Lead's view alone. A Disability Commissioner must serve all disabled people under the current legal definition of disability as a minimum.

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.**

10 said they were fully supportive and 2 said they were partially supportive. Lead is partially supportive but this role should be equally supported by a disabled people's panel or advisory group, as with the rest of the work.

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?**

11 said they were fully supportive, 1 said they were partially supportive. Lead is partially supportive but would advocate for the the promotion of best practice and learning specifically from DPO's and disabled people alongside this - perhaps the wording can be changed.

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?

Partially 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**

DPO's and disabled should not just be encouraged to be involved, they should be at the centre of this work, i.e. recruited, on panels, secretariat etc, and when appropriate training, development and compensation is offered, talented disabled people will be attracted to these roles without needing 'encouragement'.

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

Both Scottish Public Bodies and service providers

**Please explain the reasons for your response**

All 12 respondents said both Scottish Public Bodies and service providers. Lead would agree, however more detail and understanding is required on how and when the Commissioners will carry out an investigation. There are huge gaps related to disputes and complaints and appeals in regards to disabled people's access and participation in post school education so we would very much welcome the Commissioner's involvement in these cases as currently the SPSO is not equipped to adequately investigate them.

## 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

## 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.

*No Response*

## 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?

*No Response*

## 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)?

The representation is ineffective just now.

2 anonymous no

3 anonymous An advisory group could be set up covering varied sectors and areas in Scotland

4 anonymous As a result of this change, I hope that more disabled people will be comfortable to acknowledge their disability and encouraged to claim to what they are entitled. Good communication will be key.

5 anonymous The proposed Bill should dig deep into the use of ECT machines (shock therapy) in IPCU in all hospitals. It should do character checks and make sure they follow the law strictly, as well as making sure they fully understand a patients disability ie Autism, on those who have power to determine whether someone has Incapacity and propose ECT as a form of treatment. A loved one in my family suffered horrific psychological cruelty in our local hospital. He has Autism and became mentally ill, committed no crime, but was locked up in an IPCU ward. He spiralled into a nightmare because he had no "named person" form (with someone to speak on his behalf). Due to his challenging behaviour - autistic meltdowns, he was recorded as having Incapacity by a Consultant Psychiatrist who didn't bother to have an ASD specialist nurse in place for him. ECT is his WORST fear and he had a second doctor visit him in his room without any family member present, who proceeded to go into detail about ECT and that he agreed that he was to get it. I had visited him every day and even at his worst, after I personally fed him, we had conversations. He had fluctuating capacity and understood fully what ECT is. This compounded his psychological suffering and I was unable to reassure him I was going to stop it because the Named Person form which he didn't have is a legal document. Fortunately, after 2 months of complaining to University Hospital Wishaw, Scottish Gov (who only gave advice I already had) Care Commission and many other medical bodies, in the hope of intervention, the Consultant Psychiatrist decided against the use of ECT citing his medication had improved. The Bill being Law could have prevented all of the above. Hospitals should be under much more scrutiny because they are getting away with flouting the law as it is - not adhering to the Carers Act and Equality Act 2010.

6 anonymous No

7 anonymous I'd like to see more user led groups being established and greater responsibility and resources given to established disability led groups such as LEAD and GDA

8 anonymous no

9 anonymous i would like more emphasis on what disabled people actually do. Our local papers are full of well meaning people standing next to the disabled ' helping them to collect awards that the helpers have helped them acheive'. Thers disabled people are more capable than that and some of our services perpetuate the helplessness myth. This keeps people in funding and jobs - not the diasabled people who ate 'played' and half of them know it. I wpuld like the disability comissionier to sort out this issue out

10 anonymous no