

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.

an individual

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".)

Professional with experience in a relevant subject

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation.

Former Commissioner SHRC

Please select the category which best describes your organisation

No Response

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).

Susan Lee Kemp

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.

Given the number of individuals with disabilities and the number of family members affected as well as the relative invisibility of their challenges in the public and political worlds this is an excellent idea.

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

Expertise, specificity of focus and earmarked resources are key and this is only really possible with a dedicated 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.

Legislation plus. In other words legislation is needed to ensure the duty to create and fund the position and its secretariat (entirely independent of government and accountable to parliament). Additional means would include regular reviews reporting to parliament on how / whether the needs of this population and their families and employers are being addressed by public and private sector. This needs to be additional to treaty body reporting in the human rights field: the treaty member is the UK and thus there is often only summarised attention given by the treaty body to the issue as regards the devolved parliaments and governments. Dedicated funding is also crucial - overworked under funded NHRIs necessarily have less capacity to hold government to account on the full range of issues. Scotland is no different.

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 Commissioner would presumably have a unique role as compared to charitable bodies, NGOs and other civil society groups in the sense that it is a public office with a regulatory oversight role entirely independent of government funding.

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.

This is a huge task and would only be possible for prioritised Bills. It would be interesting to analyse the role and of the civil service - specifically GLSS and research units' efforts on this topic via Equalities and Human Rights Impact Assessment, any gaps, and the role of the NHRIs and Law Society.

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?

I am not an expert in issues faced by those with disabilities but my view is that there his proceeds must be bottom up ie starting with people experiencing these challenges. How to access hard to reach constituencies is a perennial problem in any human rights work and top level bodies often rely on civil society groups. Despite this it is still very hard to reach the views of people not already active and connected on the issue. Academics and legal aid sector lawyers may be a good additional resource for navigating this challenge. The perennial search in all fields for fixed checklists of "best practice and lessons learned" can be useful and is obviously attractive for those providing funding and services but should not lose sight of allowing flexibility to respond to individual needs and changes.

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

Focus groups, individual surveys (both expensive but crucial) along with internships / fellows / secondments / visiting professional positions (all should be paid positions since otherwise they exclude candidates without other sources of income. Trades Unions would also be important I would imagine as well as DPOs.

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

Both Scottish Public Bodies and service providers

Please explain the reasons for your response

Yes the power to investigate is important but it obviously requires staff, funding, time and access to information. It should be discussed distinct from individual casework in the sense that if individual cases are to be pursued the office of the Commissioner would potentially be overwhelmed very quickly. Some consideration should be given to the respective roles of the Commissioner, solicitors, CAS, advocacy groups and even MPs and MSPs in representing individuals and whether / how a Commissioner investigation power would complement that casework and have bigger impact / added value. Likewise EHRC has undertaken thematic investigations including I think recently on disabilities and the criminal

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

justice system. SHRC has a range of powers and the issue of expansion is live. Discussions with the legal directors of these bodies and with the CYPCS would provide expert reflections on this topic.

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.

Depends on where the public funding comes from and how much of a financial burden it is to report / engage with the office of the Commissioner. At the same time however, to the extent that this Commissioner helps public bodies and private providers front load their approach to the challenges faced by persons with disabilities they can save time and money they would spend dealing with enquiries, legal claims, poor health outcomes, increased benefits, public complaints, bad publicity and so on. At the macro level of course ensuring that more people with disabilities can fully participate in public life and the employment market is a plus for society and the economy.

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.

Potentially there would be claims that every protected characteristic under the EA needs a Commissioner or that the existing framework adequately covers the issue. Obviously there are persons with disabilities in every one of the other characteristics. My impression is that

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 impact of poverty and its relation to some social security benefits, tax raising powers are significant factors adding to problems faced by persons with disabilities and solutions do not lie solely within devolved powers. Some consideration should be given to the new developments in legal and policy reform in Scotland in the field of economic social and cultural rights how oversight of both devolved and UKGOV actions can be achieved.