

Proposed Disability Commissioner (Scotland) Bill - Disability Equality Scotland Response

About Disability Equality Scotland

Disability Equality Scotland is a National Disabled People's Organisation working to make life more accessible, equal and inclusive for disabled people in Scotland. We promote access in its widest sense, including access to the built and natural environment and access to the same opportunities as are enjoyed by others in our communities thus promoting a life of dignity, respect, choice, and independence. This extends beyond physical access to include access to information, access to inclusive communication and inclusion in decision-making, whether with planners over inclusive design or transport providers about accessible travel.

We are also the umbrella organisation for Access Panels in Scotland. Access Panels are made up of disabled people who volunteer to make their local community more accessible. Disability Equality Scotland supports the Access Panel Network with training, guidance, and funding to improve their outreach and capacity. Access Panels work to improve access and equality in its widest form, which means access to the physical environment, Education, Housing, Health, Transport, Leisure and Recreation and Social Justice amongst other areas.

With over 1,400 members, we represent the views of individuals with any type of impairment, as well as disability organisations and groups who share Disability Equality Scotland's values. We work with our members to promote equality for disabled people in Scotland. We regularly ask our members for their views on many diverse policy issues, which then directly feed into our policy work and government policies, plans and consultation responses.

Our Response

How this response has been formed

Our consultation response has been shaped by the views, evidence and lived experience of Disability Equality Scotland members. This was achieved based on direct engagement with members through our weekly poll format. We provide verbatim comments where appropriate to illustrate strength of feeling or personal experience.

Aims and Approach

For the week beginning 4 July 2022, we asked our members questions about the proposed aims and approach of the Disability Commissioner Bill.

Question: How supportive are you on whether there is a need for a dedicated Commissioner for disabled people in Scotland?

- Fully supportive – 89% (102 respondents)
- Partly supportive – 2% (2 respondents)
- Neither supportive nor unsupportive – 3% (3 respondents)
- Not very supportive – 1% (1 respondent)
- Not at all supportive – 4% (5 respondents)
- Unsure – 1% (1 respondent)

Question: How supportive are you on the suggested aims to consider in establishing the role of Disability Commissioner?

- Fully supportive – 83% (95 respondents)
- Partly supportive – 4% (5 respondents)
- Neither supportive nor unsupportive – 4% (5 respondents)
- Not very supportive – 1% (1 respondent)
- Not at all supportive – 5% (6 respondents)
- Unsure – 3% (3 respondents)

Existing Inequalities

The majority of our members are supportive of the Bill and believed that the Disability Commissioner has the potential to address existing inequalities that prevent disabled people from being able to meaningfully participate in society. Existing inequalities experienced by disabled people have been exacerbated by the COVID-19 pandemic and the rising cost of living. Our members shared the barriers they face across all facets of society, including fair and equal access to housing, employment, transport and justice.

“We need a voice where our worries and fears are passed over. We need a voice to tell the government about ALL the problems we face whether it be housing, bullying, access, etc. We need to tell the government that we are not second class citizens and we matter. I am fed up living in a country where we have to plan our journeys and days. It is virtually impossible for us to be impulsive and just go somewhere.”

“We as a disabled group are not represented well. It’s like we don’t exist or are shoved under the carpet. No one wants to acknowledge us, which is totally shocking in this year 2022.”

“I have been trying to find part-time employment to no avail. It’s not for lack of experience, professional and academic qualifications. I wonder if ticking the disabled box on the application form had an influence? Disabled people come in all shapes and sizes, yet we are continually put in a box. Lots of good work by a variety of people have meant that our whispers can be heard. However, we need to be heard loud, we need an advocate with clout. Therefore, I strongly support establishing the role of a Disability Commissioner.”

“It is long overdue to have a person who will have a voice in the highest level of the land - they can start by reducing the negative changes that we are having to endure with streetscapes under active travel!”

“We would be ecstatic if such a person existed. Perhaps there wouldn't be so much disability hate crime around, which we are sufferers of right now. I don't think it should be just down to the carers to speak up on behalf of disabled people. Far more power is needed to protect disabled people.”

“Having a Disability Commissioner will give people living with a range of different disabilities and long-term conditions a person to contact or look to for advice and support when they think something is being overlooked or forgotten. An example might be having issues with access to transport in a local area. The Commissioner would also be a good way for people to obtain information and advice on issues related to benefits and health issues.”

Scope of the Disability Commissioner Role

Definition of Disability

For the week beginning 11 July 2022, we asked our members a question about the definition of disability featured in the consultation.

Question: How supportive are you of the Disability Commissioner role covering physical, mental, hidden and fluctuating conditions as defined under the Equality Act 2010?

- Fully supportive – 67% (30 respondents)
- Partly supportive – 18% (8 respondents)
- Neither supportive nor unsupportive – 7% (3 respondents)
- Not very supportive – 2% (1 respondent)
- Not at all supportive – 4% (2 respondents)
- Unsure – 2% (1 respondent)

Our members acknowledged the importance of covering a broad range of disabilities, as outlined in the Equality Act 2010. Some respondents believed that certain disabilities are overlooked, and it is therefore

important for the Disability Commissioner to have a thorough understanding of the broad nature of the definition.

“It is vitally important that the Disability Commissioner covers all disabilities; physical, mental, hidden, and fluctuating conditions as featured in the definition set out in the Equality Act 2010.”

“As mental health and fluctuating conditions are often ignored, if they are part of the remit of the Disability Commissioner then people know who to turn to.”

“I hope that the Commissioner takes fluctuating conditions seriously. The attitude of bodies such as the DWP towards fluctuating conditions is scandalous and getting help for these is long overdue.”

“Persons with hidden, or fluctuating conditions, need to have the confidence that the Disability Commissioner understands each criterion. Disabled people must be assured the Disability Commissioner, working independently on their behalf understands, not only the legislation, but each and every aspect of the difficulties disabled persons face each day in Scotland.”

It is also important that the social model of disability is embedded throughout the Bill. This is the understanding that what makes someone disabled is not their medical condition, but the attitudes and structures of society.

“I believe that the focus should be social model based: what adjustments does the person need and are these reasonable to provide. That removes the need for someone having to 'qualify' as disabled under the current definition.”

“The Bill must follow the social model of disability – people are disabled by society and not their disability.”

Reviewing Laws

For the week beginning 18 July 2022, we asked our members a question about the role of the Disability Commissioner in reviewing legislation passing through the Scottish Parliament.

Question. How supportive are you of the Disability Commissioner having a role in reviewing laws and policies that might impact on disabled people?

- Fully supportive – 74% (46 respondents)
- Partly supportive – 15% (9 respondents)
- Neither supportive nor unsupportive – 3% (2 respondents)
- Not very supportive – 0% (0 respondents)
- Not at all supportive – 0% (0 respondents)
- Unsure – 8% (5 respondents)

The majority of our members are supportive of this proposal and believed that the Disability Commissioner must be independent from government and have appropriate powers to conduct investigations into matters if they see that the issue is of particular significance to disabled people.

“A Commissioner must have teeth by being able to carry out investigations when necessary.”

“They need to have appropriate powers and be independent of Government.”

“The Commissioner should review all the disability laws as they are all outdated and does not meet today's disabled people's needs. It should also have enough power to fine companies, organisations and to be able to investigate complaints. At the moment nearly all the laws relating to disability are flouted without any recourse.”

There was recognition from members that the policies and laws that impact disabled people are likely to be wide-ranging. As such, some concerns

were raised on how manageable this would be for a Disability Commissioner and their support team.

“One issue I do see with this is that disability influences every aspect of life and would have an impact on most laws. This could result in an unworkable workload.”

“Whilst I can very much see the benefit of a Commissioner reviewing all relevant laws impacting disabled people, this is a very wide remit and it would therefore have to be appropriately resourced.”

“I fully support the introduction of a Disability Commissioner but we have to consider the workload if reviewing all relevant laws. If this is not manageable then it would completely undermine the purpose of the Commissioner.”

Engaging with Disabled People

For the week beginning 18 July 2022, we asked our members a question about the level of engagement the Commissioner will have with disabled people.

Question. How supportive are you of encouraging involvement of disabled people and Disabled People’s Organisations in the work of the Disability Commissioner?

- Fully supportive – 88% (54 respondents)
- Partly supportive – 7% (4 respondents)
- Neither supportive nor unsupportive – 3% (2 respondents)
- Not very supportive – 0% (0 respondent)
- Not at all supportive – 0% (0 respondents)
- Unsure – 2% (1 respondent)

Our members strongly supported meaningful engagement with disabled people and Disabled People's Organisations to ensure that lived experience drives positive change.

“This post must be representative of all disabled people and disabled support groups. This post MUST be a genuinely independent "voice of disabled people" with respect to the Government but MUST only be influenced and moderated by disabled groups and disabled individuals.”

“The lived experiences are absolutely vital - can't stress this strongly enough!”

“The Commissioner must work with you (DES), Inclusion Scotland, EHRC Scotland, SHRC, LAs and a variety of DPOs.”

“It is imperative that the work of the Disability Commissioner continually and consistently includes the voices of disabled people.”

“The Disability Commissioner could have a steering group that would have representations from all interested groups - seeing as we now have the technology - the internet. There could also be hybrid group meetings.”

“I'm fully supportive of disabled people and Disabled People's Organisations being involved in the work with the Disability Commissioner. In fact, I would say it was vital as it gives them the chance to give a view of how something will affect disabled people. Maybe disabled organisations could get together to elect people for this role. I do also think that it is important for any disabled organisations or charity to get involved if they have concerns about something that is being done at any point in time. We need to remember that this would be something completely new and as a result this will be a learning curve that we might need to adapt and change in the early stages.”

At Disability Equality Scotland we are the umbrella organisation for Access Panels, which are made up of groups of disabled volunteers, who work together to improve access and inclusion in their local communities. Access Panels are concerned with 'access' in the fullest sense, including: roads; employment; education; health; transport; the countryside and leisure and recreation.

Access Panels provide a valuable service in their communities, including:

- Engaging with local authorities and other public bodies on access matters and independent living
- Examining and advising on building warrant applications and planning
- Undertaking site visits

Many take on specific projects, such as:

- Researching and publishing local access guides for disabled people and tourism
- Disseminating information on access and independent living
- Offering advice and guidance to architects and designers

Access Panels can help their communities in many ways including:

- Creating a better physical environment for all
- Assisting local authorities, public bodies and designers to meet their statutory obligations
- Promoting full social inclusion
- Encouraging people to take ownership of what happens in their own communities
- Keeping access and independent living issues to the fore

More information about Access Panels can be found at:

www.accesspanel.scot

We strongly recommend that the Disability Commissioner engages closely with Disability Equality Scotland members and the Access Panel Network across Scotland.

Inclusive Communication

To effectively engage with disabled people, it is essential to embed inclusive communication throughout all aspects of the Bill. Inclusive communication means ensuring that individuals receive information and communication support in a format that matches their communication strengths and preferences.

- Some people may require the support of a British Sign Language interpreter or an electronic notetaker
- Some people may require information in alternative formats, such as audio, Easy Read or large print

It was noted by one respondent that the initial consultation process for the proposed Disability Commissioner Bill is not available in a range of accessible formats, such as Easy Read and British Sign Language.

“Where are the accessible versions of this consultation document? By not providing this they are preventing some disabled people from giving their views on what they want. It is worrying that when laws are being proposed that will affect the lives of disabled people, they are being excluded from the very discussions about what should be done. The law fails at the very first step.”

At Disability Equality Scotland, we host the Inclusive Communication Hub (www.inclusivecommunication.scot), a website that features resources, and good practice guidance to help improve knowledge and awareness of inclusive communication across Scotland. The Hub also features a series of case studies, which provide practical examples of how organisations can adopt inclusive communication in their ways of working and general day-to-

day communications. An up-to-date blog signposts to the latest inclusive communication news, events, and training. The Hub is a vital resource that can be utilised by the Commissioner and support team to help with embedding inclusive communication in their processes.

We have the expertise to convert information into Easy Read, an accessible format that uses simple, jargon-free language, shorter sentences and supporting images. In addition, we deliver an Easy Read training course which aims to give individuals and organisations the skills and knowledge to produce basic Easy Read documents. The course is delivered through a series of online modules designed to allow participants the opportunity to challenge existing knowledge, to explore practical examples, to experience converting complex document content and to reflect upon and evaluate the process. Further details of the Easy Read translation service and Easy Read training course can be found at: www.disabilityequality.scot/easy-read

Financial Impact

For the week beginning 25 July 2022, we asked our members a question about the costs associated with establishing a Disability Commissioner.

Question. What financial impact do you think this Disability Commissioner could have if it became law?

- A large increase in costs – 15% (6 respondents)
- Some increase in costs – 46% (19 respondents)
- No overall change in costs – 15% (6 respondents)
- Some reduction in costs – 0% (0 respondents)
- A large reduction in costs – 0% (0 respondents)
- Unsure – 24% (10 respondents)

Our members reflected on the financial impact of the Bill on organisations who may have to alter their practices resulting in increased costs. Some respondents believed that any initial rise in costs to organisations will be offset by increased engagement and custom with disabled people.

“There is likely to be some increase in costs as changes are implemented but hopefully this will be balanced by getting things right from the start so that there is less cost in retrofitting bad designs/planning etc.”

“Although the Commissioner will have a cost impact due to running costs, I would expect that the overall impact to be cost neutral. Ignoring disabled rights when drafting laws leads to numerous costs such as court cases; loss in productivity of disabled people; reworking laws and so forth. Getting it right at the start means that these costs are not incurred which should either result in zero cost or even some reduction in costs. Of course, measuring this is difficult if not impossible but "right first time" is a well-known principle.”

Our members believed that the costs associated with the Disability Commissioner are justified in order to take meaningful action to address inequalities. Some respondents believed that it will ultimately lead to reduced costs and more financial security for disabled people in Scotland.

“This will be money well spent to address the inequalities faced by disabled people. I think it will also lead to better financial outcomes for disabled people. For example, increasing measures to reduce the disability pay gap so that disabled people are employed and earn a fair salary.”

“Disabled people spend more money than most people, we suffer due to the cost of living. If we have someone fighting for us, it will reduce the cost of things for disabled people. Help disabled people earlier, you save money in the long run, regardless of the initial cost.”

“£1.3m is 2 pence per week for each person with a disability in Scotland. If we are not worth 2p per week, I despair!

Conclusion

At Disability Equality Scotland we are fully supportive of the proposed Disability Commissioner (Scotland) Bill.

When reflecting on the aims and approach of the Bill, the Disability Commissioner has the potential to address existing inequalities that prevent disabled people from being able to meaningfully participate in society. We support the definition proposed in the Bill to cover a wide range of disabilities as outlined in the Equality Act 2010. The Disability Commissioner and their support team must have a thorough understanding of the broad nature of the definition and to approach all aspects of the Bill from the social model of disability.

The Disability Commissioner must be independent from government and have appropriate powers to conduct investigations into matters if they see that the issue is of particular significance to disabled people. To achieve this, it is vital to meaningfully engage with disabled people and disabled people’s organisations, including direct involvement with Disability Equality Scotland members and the Access Panel Network across Scotland. The principles of Inclusive communication must underpin all aspects of the Bill so that disabled people receive information and communication support in a format that matches their communication strengths and preferences.

About Us

(Note: Information entered in this “About You” section may be published with your response (unless it is “not for publication”), except where indicated in **bold**.)

1. Are you responding as:

- an individual – in which case go to Q2A
- on behalf of an organisation? – in which case go to Q2B 2A.

Which of the following best describes you?

- Politician (MSP/MP/peer/MEP/Councillor)
- Professional with experience in a relevant subject
- Academic with expertise in a relevant subject
- Person with lived-in experience of a physical disability
- Person with lived-in experience of other types of disability than physical
- Person without a disability.

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

2B. Please select the category which best describes your organisation:

- Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- Commercial organisation (company, business)
- Representative organisation (trade union, professional association)
- Third sector (charitable, campaigning, social enterprise, voluntary, non- profit)
- Other (e.g. clubs, local groups, groups of individuals, etc.)

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).

3. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation
- I would like this response to be published anonymously
- I would like this response to be considered, but not published (“not for publication”)

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or “not for publication”.)**

Contact details: Disability Equality Scotland

Please provide 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. **(Note: We will not publish these contact details.)**

5. Data protection declaration

- I confirm that I have read and understood the [Privacy Notice](#) to this consultation which explains how my personal data will be used.

If you are under 12 and making a submission, we will need to contact you to ask your parent or guardian to confirm to us that they are happy for you to send us your views.

- Please ONLY tick this box if you are under 12 years of age.