

Mobility and Access Committee for Scotland (MACS)

Consultation Response: The Need For A Disability Commissioner

Background:

The Mobility and Access Committee for Scotland (MACS) is a non-departmental advisory public body. Within the founding legislation the Scottish Ministers have defined the overall aim for MACS as follows:

“MACS will consider such matters relating to the needs of disabled persons in connection with transport as the Committee think appropriate and give advice to Scottish Ministers”.

MACS Strategic Remit is:

- To give Scottish Ministers advice on aspects of policy, legislation and practice affecting the travel needs of disabled people.
- To take account of the broad views and lived experiences of disabled people when giving advice.
- To encourage awareness amongst disabled people in Scotland of developments, which affects their mobility, choices and opportunities.
- To work closely with SG and ensure our work programme complements the work being undertaken by the Inclusive Mobility and Transport Committee (IMTAC), the Disabled Persons Transport Advisory Committee (DPTAC), **the Scottish Human Rights Commission, the Equality and Human Rights Commission (EHRC)** and other organisations, **voluntary** and statutory.
- To promote the travel needs of disabled people with designers including transport planners and operators so that these are fully taken into account in the development of vehicles and infrastructure and delivery of services.
- To monitor and evaluate the effectiveness of our work against the above aims and objectives in improving travel opportunities for disabled people in Scotland.

MACS annual work plans set out an overview of the work that we plan to do from April through to end March each year in pursuit of our five high level objectives. Part of this work ensures we:

- Engage with disabled people (listening, learning and advocacy), and
- Engage and collaborate with key stakeholders (providing advice, challenge and scrutiny)

As well as engagement with disabled people and collaboration with key stakeholders MACS takes opportunities to provide advice and guidance through using what we have heard and what we have learned to respond to relevant consultations. We believe that the consultation on “The need for a Disability Commissioner” fits within this scope.

Engaging with disabled people and collaboration with key stakeholders.

MACS members reach out and use their existing networks to listen and understand the challenges and needs of disabled people in relation to accessing and using public transport (including using transport as an enabler to their human rights i.e. accessing healthcare, employment, social activities etcetera). We take account of these broad views and lived experiences when giving advice, informing policy development and encouraging awareness amongst disabled people in Scotland of developments affecting their mobility, choices and opportunities.

Where we feel an area needs a deeper level of engagement we undertake this through polls/surveys to gather evidence, roundtable discussions, conferences, committee wide discussion or themed webinars. This helps define our high level objectives and inform our policy advice as well as underpinning the advice we give to Scottish Ministers and other stakeholders.

MACS welcome the opportunity to respond to the “Consultation on the need for a Disability Commissioner in Scotland”.

As well as providing this response from the basis of lived experience and listening to the voices of experts by experience - as part of our listening, learning and advocacy remit - we feel that there are opportunities to reflect on and consider more recent reports detailing the current position and disabled people’s concerns around exclusion and discrimination in the knowledge that disabled people have been disproportionately impacted by the public health pandemic, which has exacerbated many of the underlying inequalities particularly in accessing essential services, enabling human rights and in our wider societal structures.

MACS would signpost to the report by Glasgow Disability Alliance (GDA), “Triple Whammy”, which highlights the impact and the societal gap between disabled people and non-disabled people as we attempt to move on from the public health crisis. The report looks at disabled women’s lived experience of Covid-19, where engagement with their members demonstrated that, “although everyone was in the same storm, we most certainly have not been in the same boat”.

For disabled people there have been fewer lifelines within reach and particular inequality for disabled women quickly emerged. This was due to a triple whammy of being disabled, being a women and being impacted by the existing inequalities being exacerbated by Covid-19:

<https://gda.scot/app/uploads/2022/03/GDATripleWhammy-Summary.pdf>

Preparation

In preparing our response to this submission MACS used its members lived experience, our existing knowledge and reflected on the knowledge gained through our submission to the Consultation on the Public Sector Equality Duty (PSED) and our work in collaboration with The Alliance and Disability Equality Scotland on the 20 minute neighbourhood aspirations, which “pulled out” many areas of inequality and exclusion for disabled people:

MACS Submission to the Review of the PSED consultation:

www.transport.gov.scot/our-approach/accessible-transport/mobility-and-access-committee-for-scotland-macs/mobility-and-access-committee-for-scotland-macs-response-to-the-review-of-the-public-sector-equality-duty-psed/

Report on 20minute neighbor hood aspirations:

<https://www.alliance-scotland.org.uk/blog/news/exploring-scotlands-20-minute-neighbourhoods-final-report-published/>

During our submission scoping, MACS also had a discussion with Jeremy Balfour MSP, who is proposing this parliamentary member’s bill, followed by a committee wide discussion on key point and questions posed in the consultation. Below is a summary of these discussions.

MACS is pleased that the issue of the inequalities for disabled people is being drawn attention to with this members bill proposal. It is crucial to acknowledge that the situation has deteriorated for disabled people since the pandemic.

This is evidenced by the increase in hate crime experienced by disabled people and the increase in loneliness and social isolation.

<https://yoursayondisability.scot/weekly-poll-results-covid-19-physical-distancing-week-beginning-25-may/>

In addition although we are over two years on from the start of the pandemic many people have lost the support they received via social care, be it care packages to assist with their health and social care, 1-1 support or through the support of local groups for example. The lack of social care provision is impacting on disabled people, including those with hidden disabilities. This impact also includes disabled people being more susceptible to social isolation

and loneliness, which evidence shows results in deterioration of mental health and an individual's health and wellbeing:

<https://www.alliance-scotland.org.uk/wp-content/uploads/2021/12/Learning-from-changes-to-social-care-during-COVID-19.pdf>

This means it is **timely to review the current situation** and despite a number of existing levers and organisations aimed at reviewing and improving the situation for disabled people, huge problems remain and in some ways have worsened. That suggests what we are currently doing is not enough to make effective change. We need to do more and we also need to do things differently if we look to deliver improved results and reduce inequalities.

Therefore, MACS as a committee, is fully supportive of the Disability Commissioner Role **but** only if the role has the power, influence and connections it needs to have, to effect change and a compliment the existing structure that will allow the role to work with existing bodies such as the Equality and Human Rights Commission (EHRC) and the Scottish Human Rights Commission (SHRC).

Currently we have the Equality Act 2010 that arguably builds on the Disability Discrimination Act of 1995, making disability one of the protected characteristics. There are some concerns that the wider focus has resulted in a loss of emphasis on disability. But equally is there an argument to properly focus on inclusion, which would ensure that all the characteristics are included and the intersection between them?

The Disability Commissioner would need to work with both the individual and the intersectional aspects like gender and race for example.

Levers also exist for increased inclusion at public sector level through the Public Sector Equality Duty (PSED) and Equality Impact Assessments (EqIAs) at organisational level but experience has shown that there is little accountability or meaningful early engagement with experts by experience.

It is also currently common practice for engagement to happen too late in a process, after decisions have been made, projects established, new policies drafted etcetera and therefore not in the spirit or good practice or in the intent of the statutory instruments:

<https://www.equalityhumanrights.com/en/publication-download/equality-outcomes-self-assessment-tool-public-authorities-scotland>

Equality Impact Assessment:

<https://archive2021.parliament.scot/abouttheparliament/25487.aspx>

The Disability Commissioner **must** have the ultimate levers to ensure accountability and be inclusive at all levels as reflecting the views of wider communities. It is therefore important that the Commissioner role would be separate from government and be employed by the Scottish Parliament to enable the effectiveness of the role and the ability to provide independent scrutiny.

We would expect that the post holders would work with existing organisations such as MACS, Disabled People's Organisations (DPOs) and Disability Organisations (DOs) who have lived experience, expertise and detailed knowledge of the areas they represent and would elevate and amplify the voice of experts by experience and have good mechanisms to achieve this through grass root engagements alongside other well established routes of delivery.

MACS would expect the Disability Commissioner to work from the perspective of a social model of disability. This would mean that they would have a role to influence societal attitudes and through this reduce hate crime, loneliness and social isolation and prevent rhetoric we are hearing like benefit scroungers and infection carriers etcetera in the media. This would include, encourage and enable people to report disability hate crime and other breaches of the Equality Act 2010. We have heard many cases of people no longer leaving the house through fear of being subjected to disability hate crime and this is evidenced in the increase of crimes reported.

Human rights must underpin the work of the Disability Commissioner, ensuring effective working with the EHRC and SHRC to support this approach. As Scottish Government seeks to embed human rights (taking a human rights based approach to all policy development) within the legislation in Scotland including the Convention of the Rights of Persons with Disabilities (CRPD) the time would be ripe for the Disability Commissioner to influence this.

Also as the UK Government consults on a new Bill of Rights to replace the European Convention of Human Rights (ECHR) there is a potential risk to the freedoms and protections disabled people need and rely on. It's important that all involved are cognisant of this and again a Disability Commissioner could play an important role throughout this process.

We believe the key to the success of a Disability Commissioner will lie in the remit and drive of the post holder and their objectives, which should tie into the new equality outcomes setting process proposed in the consultation on the review of the PSED (Proposal 5 – a new equality outcome setting process), which will set new national equality outcomes, to be adopted by listed authorities, whilst still giving scope to them to set their own outcomes, and to involve those with lived experience in setting these outcomes, which chimes well with the Democracy Matters agenda.

However, **these outcomes must** be developed and agreed with user groups such as people sharing protected characteristics under the Equality Act 2010 and the Disability Commissioner could be a driving force to ensure this happens.

In conclusion MACS is fully supportive of this proposed new role of a Disability Commissioner, with the caveats listed above.

We feel strongly that the Disability Commissioner should have lived experience of being disabled. This could be either as a carer or a disabled person (including hidden disabilities).

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