

R N I B

Scotland

See differently

RNIB Scotland response to Consultation on the Proposed Disability (Scotland) Bill. A draft proposal for a Bill to establish a Disability Commissioner for Scotland.

Questions

About you

1. Are you responding as:

- on behalf of an organisation - – in which case go to Q2B

2B. 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 officeholders or has been approved by the membership as a whole).

The Royal National Institute of Blind People (RNIB) Scotland is the country's leading charity working with blind and partially sighted people. We support children and adults with sight loss and help them to live full and independent lives, campaigning for their rights.

The replies are based on previous RNIB/RNIB Scotland surveys, public consultation responses, literature review and specific consultation for this response.

3. Please choose one of the following:

- I am content for this response to be published and attributed to me or my organisation

4. Please provide your name or the name of your organisation.

- RNIB Scotland

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 - YES

Questions

Aim and approach

Question 1. Which of the following best expresses your view of the proposed Bill? Please note, this is a compulsory question

- Fully supportive

Please explain the reasons for your response.

RNIB Scotland fully supports the proposal to create a Disability Commissioner for Scotland, with the powers to promote, enforce and protect the rights of all disabled people living in Scotland, within the remit of devolved matters.

We also hope that the proposal provides a fresh opportunity to consider diverse interests and welcome discussions on how a Disability Commissioner could help promote and secure rights for blind and partially sighted people living across Scotland.

In “Local Vision”, RNIB Scotland’s Manifesto for the 2022 Scottish Local Authority elections, we identified priorities for local authorities to address for people affected by sight loss across a range of public services, from social care to public transport.¹ We also laid out clear priorities for blind

¹ A Vision for the 2020s: Focus on sight loss RNIB Scotland’s Manifesto for the 2021 Scottish Parliament elections, available at: <https://www.rnib.org.uk/sites/default/files/A%20Vision%20for%20the%202020s%2C%202021%20Scottish%20Parliament%20election%20manifesto.pdf>

and partially sighted people in our manifesto for the Scottish Parliament elections in 2021.²

Blind and partially sighted people face significant barriers in their daily lives and the UNCRPD provides a valuable framework for reference.³

Question 2. 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 explain the reasons for your response.

RNIB Scotland welcome opportunities to re-consider priorities and build on a sense of greater cohesiveness amongst all disabled people in Scotland. At present there are an estimated 180,000 people living with sight loss in Scotland, and this is likely to increase to over 200,000 people by 2030.

Given the unprecedented challenges we now face, including a cost-of-living crisis, greater demands on public services, as well as an ageing population, an independent body to protect and enshrine rights of all disabled people, including blind and partially sighted people is required

Whilst existing structures promote the equality of opportunity and the protection of human rights, of all nine protected characteristics, under the Equalities Act (2010), a Disability Commissioner would ensure equal access and specific focus on the challenges which disproportionately affect disabled people, including blind and partially sighted people.

The coronavirus pandemic highlighted a sense of vulnerability of what it's like to depend on others. During this blind and partially sighted people faced huge barriers, along with other disabled people. The longer-term impacts continue to be felt. For example, the backlog in eye

² Local Vision: RNIB Scotland's manifesto for the 2022 Scottish local authority elections. Published February 2022, available in Word format at:

<https://www.rnib.org.uk/sites/default/files/RNIB%20Scotland%20Local%20Authority%20Manifesto%20WORD.docx>

³ Webpage: United Nations, Department of Economic and Social Affairs, Disability the Convention in Brief accessed 050722:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/the-convention-in-brief.html>

health services, particularly secondary care in hospitals and eye clinics, poses a very serious challenge for the NHS. Cancellations of appointments during the pandemic has resulted in much lower appointment numbers than previously and it is likely that people could be affected by irreversible sight loss as a result.

Question 3. Do you think legislation is required, or are there other ways in which this Bill's aims could be achieved more effectively?

The consultation document proposes that a Disability Commissioner would act as an independent body from the Scottish Government, funded through the Scottish Parliament, with a legal framework to safeguard the rights of all disabled people in Scotland on devolved matters, but specifically to those relating to Guiding Principles of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).⁴

This would help to protect and enshrine the legislation requirements placed on public bodies to ensure they meet their duties in respect of Equalities Act such as reasonable adjustments for disabled people.

In this case legislation and appropriate Memorandums of Understanding would need to be established, to ensure a Disability Commissioner, had effective powers to act and uphold rights of disabled people in Scotland. Any commissioner without capacity to scrutinise, investigate or take on individual cases for review, would likely be ineffective.

Scope of the Disability Commissioner Role

Question 4. 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.

A key responsibility of a Disability Commissioner would be involving organisations which exist for people affected by a particular condition or

⁴ [Guiding Principles of the Convention | United Nations Enable](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/guiding-principles-of-the-convention.html) webpage visited 21/07/2022:

<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/guiding-principles-of-the-convention.html>

impairment/s, whilst also unifying disabled people across the impairment spectrum, where there are shared experiences of barriers and injustice.

The social model of disability provides a useful concept for a Disability Commissioner in Scotland to base its work and definition of disabled people. It is created by disabled people, primarily because of society's response to them but also because their experience of the health and welfare system made them feel socially isolated and oppressed.⁵

Question 5. 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?

- Fully supportive

Please explain the reasons for your response.

Acting as an independent body, which can scrutinise, and where necessary, intervene on behalf of disabled people in Scotland in devolved legislative reform and policy development would be key to the effectiveness of a Disability Commissioner.

We would welcome discussions on how a Disability Commissioner in Scotland would complement existing provision to effectively enable blind and partially sighted people on an individual level access their rights and entitlements, for example, through the Equality Act and reasonable adjustments.

Question 6. 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?

The Disability Commissioner in Scotland should embody and operate as a model of best practice and effectively demonstrate and utilise its

⁵ The Social Model of Disability by Grant Carson, a Scottish Accessible Information Forum (SAIF) publication 2009, available at: <https://www.inclusivechoice.com/The%20social%20model%20of%20disability.pdf>

functions to proactively reach out to disabled people across Scotland. For example, involving people with lived experience in key areas of its work, promoting inclusive communications, and employing disabled people or those who identify as disabled, as employees.

Question 7. 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 practice – would this be through focus groups, internships, paid roles etc.

Disabled Peoples' Organisations (DPOs) play a specific and important role in ensuring lived experience shapes and determines policy, legislation, and delivery. However, whilst RNIB Scotland does not have a view on what mechanisms would work best, it would be important to discuss how to do this within the wider third sector and roll out models of best practice to ensure a truly representative voice and maintain a range of accessible involvement methods.

Question 8. Who should the Disability Commissioner be allowed to investigate?

- Scottish Public Bodies
- Service providers (any person providing services for disabled people) Both Scottish Public Bodies and service providers

Please explain the reasons for your response.

Powers of investigation would help the office of Disability Commissioner realise its position as an effective voice for disabled people in Scotland. Clear decision-making processes and accountability structures on how investigations are taken forward and carried out, whether it be on behalf of individuals or collective groups, would ensure the Commissioner operates in a fully transparent manner and builds trust amongst disabled people.

There would be a requirement for careful consideration of whether to intervene or not in certain matters, so investigations are fully transparent and avoid conflict of interests.

Financial implications

Question 9. 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. It would be expected that any new Commissioner would create costs associated with it, including salaries, of its staff and running costs.

Equalities

Question 10. 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?

Please explain the reasons for your answer and if there are any ways you think the proposal could avoid negative impacts on particular people?

Any legislation implemented to enshrine rights of disabled people should enhance and complement existing laws and regulations, for example the Equality Act 2010, Mental Health (Care and Treatment) (Scotland) Act 2003, etc.

RNIB Scotland supports the idea of an independent body with the powers to intervene and scrutinise legislation and policy in relation to devolved matters within the context of the UNCRPD.⁶ We would also welcome further discussions on models of engagement which a Disability Commissioner could use to ensure a truly representative picture, as well as using existing mechanisms, to avoid duplication. As a sight loss charity, we naturally wish to realise the best possible outcomes for blind and partially sighted people living in Scotland.

⁶ Webpage: United Nations, Department of Economic and Social Affairs, Disability the Convention in Brief accessed 050722:
<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/the-convention-in-brief.html>

Sustainability

Question 11. 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?

No response.

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?

General

Question 12. 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 national sight loss pathway must become a reality regardless of where blind and partially sighted people live in Scotland to prevent a “postcode lottery” situation where access to services and support, depends on where you live. We would welcome dialogue on how a Disability Commissioner for Scotland would represent the diverse needs of disabled people in areas across Scotland, including remote and rural locations as well as towns and cities.