

Equalities, Human Rights and Civil Justice Committee
Tuesday 4 June 2024
14th Meeting, 2024 (Session 6)

Disability Commissioner (Scotland) Bill

Introduction

1. The [Disability Commissioner \(Scotland\) Bill](#) is a Member's Bill introduced by Jeremy Balfour MSP on 8 February 2024. The Bill and its accompanying documents are available on the [Bill webpage](#).
2. The Parliament designated the Equalities, Human Rights and Civil Justice Committee as lead committee on 21 February 2024. Under the Parliament's Standing Orders Rule 9.6.3.(a), it is for the lead committee to report on the general principles of the Bill, as well as accompanying documents such as the Financial Memorandum and Policy Memorandum. In reporting, the lead committee should take account of views submitted to it by any other committee.
3. The Member wrote to the Committee on 14 March 2024 to provide an [Equalities Impact Assessment](#).
4. A full written [SPICe bill briefing](#) is available on the Bill webpage.

Background

5. On 11 May 2022, Jeremy Balfour MSP lodged a draft "proposal for a Bill to establish a Disability Commissioner for Scotland". The draft proposal was supported by a [consultation document](#). The consultation closed on 3 August 2022.
6. The Member lodged a final proposal on 6 December 2022 – "A proposal for a Member's bill to establish an independent commissioner to promote and safeguard the rights and interests of disabled people". The final proposal was complemented by a [consultation summary](#), which stated that the vast majority (90%) of responses were supportive of the proposal.
7. The final proposal received cross-party support from 40 MSPs (27 Scottish Conservative and Unionist Party; 11 Scottish Labour; 2 Scottish Liberal Democrats), thus securing the right to introduce a Bill.
8. All background to the proposal process is available on the [proposed Bill page](#).

Purpose/policy objective of the Bill

9. The policy objective of the Bill, as set out in the Policy Memorandum, is to "establish a Disability Commissioner for Scotland, whose primary purpose will be to promote and safeguard the rights of disabled people".

10. The Member's intention is that the Commissioner will:

- Advocate for disabled people at a national level, promoting awareness and understanding of the rights of disabled people
- Review law, policy and practice relating to the rights of disabled people
- Promote best practice by service providers and may also promote, commission, undertake and publish research on matters relating to the rights of disabled people
- Have the power to undertake investigations into devolved matters if the issue relates to disabled people.

11. The Policy Memorandum indicates that the Member has used the Children and Young People's Commissioner Scotland as a template, noting their high-profile and the influence and impact they have on matters relating to children's rights.

Work by other committees

12. The Finance and Public Administration Committee (FPAC) is currently conducting an inquiry into the evolution of the overall landscape of commissioners since devolution, with the aim of proposing a more strategic approach to the establishment and financing of commissioners: [Scotland's Commissioner Landscape: A Strategic Approach](#).

13. As part of its inquiry, that Committee held six evidence sessions:

- [Tuesday 16 April 2024](#)
- [Tuesday 30 April 2024](#)
- [Tuesday 7 May 2024](#)
- [Tuesday 14 May 2024](#)
- [Tuesday 21 May 2024](#)
- [Tuesday 28 May 2024](#).

14. The FPAC has indicated it will continue to scrutinise financial memoranda associated with any future officeholder legislation and to draw concerns to the attention of the relevant lead committee where appropriate. The inquiry will not, however, make recommendations on the merits or otherwise of individual commissioners.

Stage 1 scrutiny, Call for Views and evidence

15. At its meeting on 5 March 2024, the Committee agreed to issue a Call for Views, to run for up to eight weeks.

16. The Committee further agreed to issue the Call for Views in accessible formats including Easy Read and BSL, via WhatsApp, and that all formats be issued simultaneously. The [Call for Views](#) was issued on 28 March and closed on Friday 17 May 2024. All [published responses](#) are available on Citizen Space.

17. Respondents included disabled people's organisations and disability groups; some cover disability generally, while others support people with specific disabilities.

18. The Cabinet Secretary for Social Justice wrote to the Committee on 16 May 2024 to provide a [memorandum](#) in response to the Committee's Call for Views.
19. The memorandum raises concern around the cost of establishing a new Commissioner, and ongoing costs, given the "extremely challenging financial climate". It states that the Scottish Government will be holding a neutral position on the Bill in order to "provide an opportunity for the following concerns about the feasibility and desirability of a commissioner role as the vehicle to advance disability equality to be explored:
 - the potential for the Commissioner to duplicate functions already undertaken by existing bodies;
 - the complex landscape which this additional Commissioner would be added into;
 - the limitations of the approach proposed in the Bill in terms of value for money and efficiency".
20. At this meeting, the Committee will begin taking oral evidence on the Bill, and will hear from:
 - Dr Arun Chopra, Executive Director (Medical), Mental Welfare Commission for Scotland
 - Stephanie Griffin, Scotland Policy Manager, Equality and Human Rights Commission
 - Nick Hobbs, Head of Advice and Investigations, Children and Young People's Commissioner Scotland
 - Jan Savage, Executive Director, Scottish Human Rights Commission.
21. Where available, written submissions from the organisations represented can be accessed on Citizen Space, with links provided in the annexe to this paper.
22. Each of the Commissions/Commissioners recognise there is a strong desire for a Disability Commissioner, but express concern about the potential for overlap and duplication between their respective remits and that of the Disability Commissioner. They also raise concern around the financial implications for both new and existing Commissioners, and highlighted the need for an intersectional approach to be taken.
23. At this session, the Committee is likely to explore issues that have been raised in responses to the Call for Views. These might include:
 - The general principle of establishing a Disability Commissioner
 - The potential risk of overlap and duplication of remits
 - Financial implications
 - Intersectionality
 - The definition of disability and potential to go beyond devolved powers
 - The Scottish human rights framework.

Next steps

24. The Committee will continue oral evidence sessions throughout June and evidence taking will resume following the Parliament's summer recess.

Clerks to the Committee
May 2024

Annexe: written submissions provided by the organisations represented at this meeting.

- [Children and Young People's Commissioner Scotland](#)
- [Equality and Human Rights Commission](#)
- [Scottish Human Rights Commission](#).