

Equalities, Human Rights and Civil Justice Committee
Tuesday 3 September 2024
17th 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) has been 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 has held seven 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](#)
- [Tuesday 4 June 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.

15. The Finance and Public Administration Committee took evidence on the Financial Memorandum to the Bill from the member-in-charge at its meeting on [25 June 2024](#).

16. The FPAC subsequently [wrote to this Committee](#) on 23 July 2024. The letter refers to its inquiry into the current commissioner landscape in Scotland, which "explores the evolution of the Commissioner landscape in Scotland since devolution and the extent to which a more coherent and strategic approach [...] is needed". It notes concerns expressed during its evidence-taking regarding the "already cluttered landscape, including the impact of additional costs at a time of significant pressure on public finances, the potential for overlap and duplication, and confusion around who individuals should approach".

17. FPAC notes the Member's view that "memorandums of understanding could be put in place between relevant organisations in order to set out which types of work can be carried out by each organisation and setting out procedures for how potential overlaps of work should be dealt with".
18. FPAC further notes the Member's view that "the costs incurred in establishing a disability commissioner [would] be an investment in disabled people that is long overdue", which is a point that came across quite strongly in our oral evidence sessions.
19. It indicates that it is due to report on its inquiry into Scotland's Commissioner Landscape in autumn 2024 and invites the Equalities, Human Rights and Civil Justice Committee to consider the evidence it [FPAC] heard on the Financial Memorandum alongside the conclusions and recommendations in its upcoming report.

Stage 1 scrutiny, Call for Views and evidence

20. At its meeting on 5 March 2024, the Committee agreed to issue a Call for Views, to run for up to eight weeks.
21. 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.
22. Respondents included disabled people's organisations and disability groups; some cover disability generally, while others support people with specific disabilities.
23. 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.
24. 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".
25. At its meeting on [4 June 2024](#), the Committee heard oral evidence 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.

26. At its meeting on [11 June 2024](#), the Committee heard oral evidence from two witness panels:

- Lyn Pornaro, Chief Executive Officer, Disability Equality Scotland
- Tressa Burke, Chief Executive Officer, and Karen Wylie, Policy and Participation Manager, Glasgow Disability Alliance
- Heather Fiskien, Chief Executive, and Dr Pauline Nolan, Head of Policy and Engagement, Inclusion Scotland
- Jenny Miller, Chief Executive, PAMIS – promoting a more inclusive society, followed by
- Jamie Cooke, Head of Policy and Communications, Enable
- Suzi Martin, External Affairs Manager, National Autistic Society Scotland
- Alice Struthers, Programme Director, Neurological Alliance of Scotland
- Eddie McConnell, Chair, Scottish Commission for People with Learning Disabilities (SCLD).

27. At its meeting on [18 June 2024](#), the Committee heard oral evidence from:

- James Adams, Director, RNIB Scotland
- Amy Dalrymple, Associate Director of Policy and Public Affairs, Marie Curie Scotland
- Tomas Gerrard, Bid Writer, Deaf Action
- Richard Meade, Director of Carers Scotland and Carers Northern Ireland.

28. At this meeting the Committee will hear oral evidence from:

- Kaukab Stewart, Minister for Equalities, Scottish Government
- Sarah Manson, Unit Head, Disability Equality Policy, Scottish Government
- Michelle Harrity, Senior Policy Manager, Disability Equality Policy, Scottish Government
- Jennifer Singerman, Solicitor, Legal Directorate, Scottish Government.

29. During this session, the Committee is likely to explore with the Minister issues that have been raised in written and oral evidence, as well as in the Cabinet Secretary's memorandum of 16 May. These might include:

- The general principle of establishing a Disability Commissioner
- The potential risk of overlap and duplication of remits, including the proposal for a Learning Disabilities, Autism and Neurodivergence Commissioner, and the commissioner landscape in Scotland
- Financial and resource implications
- Intersectionality
- The definition of disability

- Powers of the Disability Commissioner and potential to go beyond devolved powers
- Inclusive communication and involvement of disabled people
- The Scottish human rights framework and further powers for existing commissions/commissioners.

Next steps

30. The Committee will hold an engagement session with disabled people before concluding its evidence sessions in mid-September when it will hear oral evidence from Jeremy Balfour MSP.

Clerks to the Committee
August 2024