



The Scottish Parliament
Pàrlamaid na h-Alba

Karen Adam MSP
Convener
Equalities, Human Rights and
Civil Justice Committee
c/o Clerk to the Committee

Jeremy Balfour MSP
14 March 2024

Dear Ms Adam

Disability Commissioner (Scotland) Bill

I understand that the Disability Commissioner (Scotland) Bill, for which I am member-in-charge, has been referred to your Committee for Stage 1 scrutiny.

The Non-Government Bills Unit (NGBU) has provided support to me in the preparation and drafting of the Bill. As part of that role, NGBU has carried out an Equalities Impact Assessment (EQIA) for the Bill in order to ensure that best practice has been followed and that the Bill's impact has been appropriately identified and considered. I have added my comments to the EQIA.

The EQIA is attached at the Annexe for the Committee's information.

Yours sincerely

Jeremy Balfour

Annexe

Equality Impact Assessment

Disability Commissioner (Scotland) Bill
1. Aims of the Policy
What is the purpose of the proposed policy? The Bill will establish a Disability Commissioner for Scotland, whose primary purpose will be to promote and safeguard the rights of disabled people.
What are the anticipated outcomes of the policy? The Commissioner will advocate for disabled people at a national level, using the functions set out in the Bill to promote awareness and understanding of the rights of disabled people. The member considers that the Bill will provide a dedicated champion of and for disabled people, who can influence positive change in the lives of disabled people.
Who will be affected by the policy? The policy will primarily affect disabled people, as the Commissioner's purpose will be to promote and safeguard the rights of disabled people. The Commissioner's remit will cover all disabilities, including learning and physical disabilities, fluctuating or so-called 'non-visible' disabilities. The Bill may also impact upon the carers, family or friends of disabled people, should the work of the Commissioner lead to changes in the lives of disabled people. The Bill confers power on the Commissioner to carry out investigations into by what means, and to what extent, a service provider has regard to the rights, interests and views of disabled people or a disabled person in making decisions and taking actions that affect the disabled people (general investigation) or person (individual investigation). The Bill defines a service provider as "any person providing services for disabled people or a disabled person other than an excluded provider." ¹ As a result, a service provider

¹ The Bill defines an excluded provider as "a person providing services for a disabled people or a disabled person who does not principally provide those services for remuneration or as part of their employment"

under investigation may be asked to provide documents or give evidence to the Commissioner during the course of the investigation.

In addition, the Commissioner may make recommendations following the investigations, which could include recommendations of actions that should be taken by the service provider. The Commissioner is required to report on its findings and recommendations following the conclusion of an investigation. Reports on general investigations must be laid before Parliament, while reports on individual investigations may be laid before Parliament. The Commissioner may also require a service provider to respond to any recommendation made in a report and, for general investigations, the Commissioner may make that response publicly available.

2. What is known about the diverse needs of those who will be affected by the policy

Gender* (including transgender, maternity and pregnancy)

Some of the barriers experienced by disabled people may be compounded when the person in question has an additional protected characteristic.

Evidence suggests that women are more likely than men to have a disability, with Scottish Government figures from 2022 setting out that 42% of women had reported a limiting long-term condition compared to 32% of men.² Evidence suggests that women are also more likely than men to be carers, for example around three quarters of respondents to the 2021-22 Carers Census were female.³

Disabled women may face specific challenges. For example, research by Engender and Inclusion Scotland found that disabled women and girls are more than twice as likely to experience violence during their lifetimes than non-disabled women. The research also noted that disabled women face discrimination regarding their reproductive and parenting choices, with some women noting that rather than receiving support in parenting, they lived in fear of their children being taken away from them because they are disabled.⁴

Religion and Belief

Some of the barriers experienced by disabled people may be compounded when the person in question has an additional protected characteristic.

but because of their existing family relationship, community or neighbourhood links, or friendship with the disabled person or disabled people concerned.”

² [Scottish Health Survey 2022 Main Report Volume 1 \(www.gov.scot\)](https://www.gov.scot/publications/scottish-health-survey-2022-main-report-volume-1/pages/44.aspx) page 44

³ [Carers+Census%2C+Scotland%2C+2021-22.pdf \(www.gov.scot\)](https://www.gov.scot/publications/carers-census-2021-22-main-report/pages/1.aspx)

⁴ Gender Matters in Disability briefing, Engender and Inclusion Scotland, GM (engender.org.uk), accessed 8 January 2024.

For example, a disabled person may face discrimination and abuse due to their disability and their religion or belief.

Age*

Some of the barriers experienced by disabled people may be compounded when the person in question has an additional protected characteristic.

Research at a UK-level suggests that older people are more likely to be disabled, with 11% of children, 23% of working age adults and 45% of those who were state pension age or older found to be disabled.⁵

Evidence suggests that older people may be less likely, or less able, to access the internet. A 2023 briefing by Age UK reports⁶ that many older people are not accessing the internet, with around 2.7 million people aged over 65 (around a fifth of people of that aged group) in the UK not accessing the internet. Further to this, it reported that 3.7 million people aged over 65 had never used the internet. Being unable to access the internet may have an impact on older people with disabilities. For example, if they have mobility issues, it may be helpful to order groceries online to be delivered. Another example would be if a person with a learning disability found it difficult to go out and meet new people, they may find it easier to join an online club and socialise online.

In addition, some respondents to the member's consultation on his proposed Bill noted the challenges faced by disabled children and young people, for example, in accessing suitable education and in having suitable adjustments put in place in an educational setting.⁷

Disability*

The purpose of the Bill is to make a positive impact on the lives of disabled people in Scotland.

The Member believes that disabled people face many barriers in their day-to-day lives. Some of the challenges faced by disabled people are demonstrated below:

- disabled people are more likely to live in poverty, with Scottish Government research showing that families with at least one disabled member were more likely than families without a disabled member to live in relative poverty after housing costs⁸;
- disabled people are significantly more likely to experience food insecurity than non-disabled people (18% compared to 5%), rates of material deprivation are

⁵ [CBP-9602.pdf \(parliament.uk\)](#)

⁶ Offline and Overlooked | Campaigns | Age UK, accessed 11 January 2024. Hyperlink?

⁷ [consultation-summary-disability-commissioner-final.pdf \(parliament.scot\)](#)

⁸ [Poverty and Income Inequality in Scotland 2019-22 \(data.gov.scot\)](#), Scottish Government

higher among disabled people and living costs are generally higher than for non-disabled people⁹;

- the employment rate is lower for disabled people than non-disabled people. In addition, a higher proportion of disabled people than non-disabled people leave school with little or no qualifications;¹⁰
- disabled people are more likely to earn less than non-disabled people, with the UK disability pay gap in 2020 estimated to be 24.8%.¹¹

Evidence also suggests that the issues highlighted above were compounded by the Covid-19 pandemic and the cost-of-living crisis.

It should be noted that each disabled person will have different circumstances and experiences and therefore the needs of disabled people are diverse and cannot be generalised.

Ethnicity and Race

Some of the barriers experienced by disabled people may be compounded when the person in question has an additional protected characteristic.

For example, as noted above, disabled people are more likely than non-disabled people to be living in poverty. Research also shows that a black or minority ethnic person in Scotland is twice as likely as someone from a white Scottish/British background to experience poverty.¹²

In addition, should someone not speak English, they may face difficulties in accessing information or services for disabled people.

Sexual Orientation

Some of the barriers experienced by disability people may be compounded when the person in question has an additional protected characteristic.

For example, a 2020 report on the experiences of disabled people accessing self-directed supported and social care in Scotland highlighted examples such as a lack of accessible LGBT+ events in rural areas, making it difficult to meet people and a concern from some individuals that, should they have to employ support workers, the workers may not be accepting of their sexuality and thus may not want to work with them.¹³

⁹ [Scotland's Wellbeing - Measuring the National Outcomes for Disabled People \(www.gov.scot\)](https://www.gov.scot/publications/wellbeing-2020/pages/10-disability.aspx), Scottish Government

¹⁰ Labour Market Statistics for Scotland by Disability, Scottish Government ([www.gov.scot](https://www.gov.scot/publications/lms-scotland/pages/10-disability.aspx))

¹¹ Labour Market Statistics for Scotland by Disability, Scottish Government ([www.gov.scot](https://www.gov.scot/publications/lms-scotland/pages/10-disability.aspx))

¹² <https://www.crer.org.uk/blog/new-research-from-crer-ethnicity-and-poverty-in-scotland-2020#:~:text=In%20Scotland%2C%20someone%20from%20a,a%20white%20Scottish%2FBritish%20background.>

¹³ [My Support My Choice: People's Experiences of Self-directed Support and Social Care in Scotland- National Report, October 2020 \(sdsscotland.org.uk\)](https://sdsscotland.org.uk/wp-content/uploads/2020/10/My-Support-My-Choice-Report-October-2020.pdf)

Marriage and Civil Partnership

No known diverse needs.

3. Is there enough information to help understand the needs and/or experiences of those affected by the policy**Gender* (including transgender, maternity and pregnancy)**

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

The Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking. Any issues relating to gender could be raised in such consultations.

Religion and Belief

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

The Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

Any issues specific to religion and belief could be raised in such consultations.

Age*

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

The Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

Any issues relating to age could be raised in such consultations.

In addition, the Commissioner is required to communicate in as inclusive a way as possible. It is therefore considered that steps will be taken to ensure that older people who cannot access the internet can effectively communicate with the Commissioner and engage with the Commissioner's work.

Disability*

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

The Commissioner's purpose is to promote and safeguard the rights of disabled people. It is therefore expected that, in undertaking their role, the Commissioner will be highly knowledgeable of the needs and experiences of disabled people.

The Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

In addition, the Commissioner is required to communicate in as inclusive a way as possible and, so far as practicable, any reports published by the Commissioner must be made available in a range of formats accessible by disabled people.

The Commissioner may also undertake or commission research on matters relating to disabled people. This may help the Commissioner to understand the needs and/or experiences of disabled people.

Ethnicity and Race

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

However, the Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

Any issues relating to ethnicity and race could be raised in such consultations.

Sexual Orientation

Yes, enough information is available to understand the needs and experiences of those affected by the policy.

The Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

Any issues relating to sexual orientation could be raised in such consultations.

Marriage and Civil Partnership

No diverse needs have been identified for this group and therefore no further information required.

However, the Bill requires the Commissioner to encourage the involvement of disabled people in the work of the Commissioner. This includes the requirement that the Commissioner consults disabled people and organisations which work with and for disabled people on the work that the Commissioner is undertaking.

Any issues relating to marriage and civil partnership could be raised in such consultations.

If not, what other information is required

None.

4. What does the information given say about how the policy might impact positively and negatively on different groups

Gender* (including transgender, maternity and pregnancy)

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people, regardless of their gender. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and gender.

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any gender as a result of the Bill.

Religion and Belief

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people, regardless of their religion or beliefs. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and religion/beliefs

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any religion or belief as a result of the Bill.

Age*

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people,

regardless of their age. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and age.

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any age as a result of the Bill.

Disability*

The policy is that the Commissioner will safeguard and promote the rights of all disabled people

The information set out in sections 1-3 above demonstrates that the policy is expected to impact positively on disabled people and that there are not expected to be any negative impacts on disabled people a result of the policy.

Ethnicity and Race

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people, regardless of their ethnicity and race. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and ethnicity or race

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any ethnicity or race as a result of the Bill.

Sexual Orientation

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people, regardless of their sexual orientation. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and sexual orientation.

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any sexual orientation as a result of the Bill.

Marriage and Civil Partnership

The policy is that the Commissioner will safeguard and promote the rights of all disabled people. The Bill is therefore expected to have a positive impact on disabled people, regardless of their marriage or civil partnership status. In addition, the Commissioner may be able to make a positive difference where disabled people face specific issues as a result of their disability and marriage or civil partnership status.

The information set out in sections 1-3 above demonstrates that there are not expected to be any negative impacts on people of any marriage or civil partnership status as a result of the Bill.

Completed by the Non-Government Bills Unit: 14/3/2024

*Although not a protected characteristic, carers should be given specific consideration in this category (e.g. the potential impact on those who care for older people).

Member's Comment on NGBU's Equalities Impact Assessment

Evidence gaps identified

No evidence gaps were identified.

Member's comment:

I am happy with the details provided in this Equalities Impact Assessment and that no evidence gaps were identified. I agree that some of the barriers faced by disabled people may be compounded when the person in question has an additional protected characteristic and that each disabled person will have different circumstances and experiences and the Commissioner will need to have due regard whilst carrying out their work.

Adverse impacts identified

No adverse impacts were identified.

Member's comment:

I am happy with the details provided that there are no adverse impacts identified and that the Disability Commissioner is seen as being able to advocate for all disabled people regardless of sharing any other protected characteristics.

Completed by Jeremy Balfour MSP, 14/3/2024