

Summary of responses to the Committee's consultation on the Review of the Scottish Parliamentary Corporate Body (SPCB) Supported Bodies Landscape

Introduction

This summary provides an analysis of key themes from the responses to the SPCB Supported Bodies Landscape Review Committee's Call for Views on their Review of the Scottish Parliamentary Corporate Body (SPCB) Supported Bodies Landscape.

This review is being undertaken in response to a recommendation in the Finance and Public Administration Committee's (FPAC) report on [Scotland's Commissioner Landscape: A Strategic Approach](#). The FPAC called for a review of the SPCB supported bodies, drawing on the evidence and conclusions set out in its report, and that the review should be carried out by a dedicated Parliamentary committee.

The SPCB Supported Bodies Landscape Review Committee call for views focused on the following themes:

- Role of SPCB supported bodies
- Criteria for creating new supported bodies
- Outcomes Measurement and Scrutiny Mechanisms
- Operational model for SPCB supported bodies

The [call for views](#) ran from 28 January 2025 to 24 February 2025 covering four weeks. A total of thirteen submissions were received from twelve organisations and one individual. Submissions to this call for views do not make up a representative sample and therefore conclusions should not be drawn based on the number or proportion of respondents. Rather, submissions should be used to provide additional viewpoints and evidence to aid the review. The committee [published the submissions on its website](#).

Role of SPCB supported bodies

The call for views asked respondents what they considered the purpose of an SPCB supported body to be and how this differed from the roles of Ministers, MSPs, or other bodies.

Several respondents explain that the overall role of SPCB supported bodies to depend on what type of body it is. The [submission from Reform Scotland](#) separates SPCB supported bodies into advocacy and integrity, the [Donaldson Trust](#) into investigatory, regulatory, policy, and human rights-focused, and [the Health and Social Care Alliance Scotland \(the ALLIANCE\)](#) into regulatory and rights based.

A number of submissions focused on the role of the advocacy/policy/human-rights focused SPCB supported bodies rather than the role of those that were integrity/investigatory/regulatory.

[The ALLIANCE](#) stated that “we felt that “regulatory” and “rights based” best fit the remit and purpose of Commissioners, whereas “investigatory” and “policy-focussed” were more about the powers they may have.”

Furthermore, the response suggests:

“The remit of “regulatory” Commissioners should be to monitor and enforce compliance with domestic legislative frameworks, standards and codes of conduct. “Rights based” Commissioners on the other hand should monitor and enforce compliance with human rights and equalities frameworks, including international treaty obligations.”

[The Institute for Government stated in its submission](#) that “Governments tend to create Commissioner positions when they see a need to give a voice to a group or an issue which might otherwise be neglected in the policy process.”

Similarly, [the ALLIANCE explained](#) its view that the role of the SPCB supported bodies is in part based in the reason for its creation, namely a public service failure:

“We also noted in our prior response that calls for Commissioners were clearly arising from a pattern of service failure. For example, the proposal for the Disability Commissioner must be understood in the context of long-established inequalities experienced by disabled people and people living with long term conditions, which have been greatly exacerbated both by the COVID-19 pandemic and the cost of living crisis.”

Additionally, the submission discusses a risk in creating a new SPCB supported body rather than addressing the underlying problem:

“This can create a powerful incentive to legislate for Commissioners, even where the fundamental issue is one of inadequate funding and resource. For both the Scottish Government and MSPs considering member’s bills, a Commissioner can be seen as a quick or “easy” win, allowing them to be seen to take action in support of a particular group or idea, even if it would not address the root problems”.

A number of submissions discussed views on the difference between SPCB supported bodies and other roles.

[Scottish Autism highlighted](#), that in its view, the difference between the roles SPCB supported bodies fulfil and that of Ministers and MSPs. It stated that Ministers work in their own “siloes area” and MSPs primarily focus on those in their own

constituencies rather than having a nationwide perspective. It also stated the view that parliamentary committees face the same issue.

Several submissions stated that an important distinction was independence from government. This allows a SPCB supported body to draw attention to a particular issue where an MSP or Minister may have to consider competing interests.

Respondents to the call for views were also asked if they considered the current powers/remit of existing Commissioners to be appropriate. A number of submissions highlight the variance between powers and roles of SPCB supported bodies and call for greater consistency.

[The ALLIANCE](#) advocates for a core set of powers and greater consistency across powers:

“We believe that there is a case to be made for greater consistency in both the role that Commissioners fulfil and the powers that they exercise in doing so...This may be especially true for regulatory Commissioners, which are largely outwith the ALLIANCE’s area of expertise. However, we feel that there is greater scope for consistency amongst rights based Commissioners.

“For any such Commissioner to have sufficient ‘teeth’, we would argue that it should have investigatory powers, as well as the power to intervene in strategic litigation. We would also consider informing and shaping the development of relevant policy to be something that should be within the remit of any Commissioner. These could be considered core, default powers for all rights based Commissioners.

“Beyond that core set of powers, additional powers should be considered on a case-by-case basis, as appropriate for a given Commissioner.”

[Age Scotland](#) similarly stated:

“The remit of Commissioners should be largely policy-based but be backed up with investigatory evidence and aligned with a rights-based approach that protects the people of Scotland. The Commissioners should provide strong advocacy for the people and to listen with an empathetic ear and provide and amplify the voices of those they represent, using their powers to influence and change regulation and policies where required.”

Some submissions also called for changes to the powers of specific SPCB supported bodies.

[The Human Rights Consortium Scotland submission](#) states that “the SHRC does not currently have sufficient powers or resources to hold Government and public authorities accountable on their human rights obligations.”

It proposes the following changes to the SHRC powers:

- “Providing advice to individuals
- Conducting investigations into specific human rights issues.

- Holding inquiries into the practices of individual public bodies.
- Monitoring and scrutinising public body reports on the implementation of rights outlined in the Bill and requiring public bodies to implement its recommendations.
- Compelling public bodies to provide necessary information for inquiries or investigations.
- Issuing binding guidance”

[Scottish Autism state in its submission](#) that although there is variance in the powers and remit of current SPCB supported bodies, there is "not currently a commissioner with the power or scope to undertake the work which we would want the LDAN commissioner to be able to."

Criteria for creating SPCB supported bodies

Several submissions to the call for views state that the Session 2 FPAC criteria “make sense”, “are theoretically sound” or are “adequate” however a number of submissions highlight changes or considerations relating to the criteria.

[The submission from the Donaldson Trust](#) advocates for the continued use of “intentionally broad” criteria so that the Scottish Government could “establish, or reform as they see fit”.

[Together \(Scottish Alliance for Children's Rights\)](#) and [the ALLIANCE](#) submissions suggest that there is a need for the criteria to be used more consistently and rigorously. Similarly, [the ALLIANCE explained](#) its view that in relation to the more recently proposed SPCB supported bodies, the effectiveness and use of the criteria may not be understood until the Stage 1 vote:

“It could equally be argued that the effectiveness of the criteria only becomes clear at a Stage 1 vote on legislation. For example, several of the recently proposed Commissioners have arisen from Members’ Bills. It may very well be that Parliament will collectively bear the criteria in mind and, should such bills be formally introduced, vote against Commissioners it feels go against them at stage 1.”

Other submissions were clear that the criteria need to be updated and improved. [The Human Rights Consortium Scotland](#) indicated that this was in a large part due to the changing and increasing expectations of the public sector over the past two decades since the criteria were originally created.

Specific suggestions for changes to the criteria included:

- Adding a criteria related to “independence” as this part of what attracts people to the idea of a SPCB supported body
- Adding a criteria related to engagement and participation of individuals in the activity of the organisations

- Cross reference the criteria with the Paris Principles
- Adding a requirement for a robust impact assessment (EQIA) into the criteria

[The submission by the Institute for Government](#) also highlights a view that several additional themes that should be considered in relation to the criteria:

- SPCB supported bodies must be adequately resourced
- SPCB supported bodies must be given appropriate powers to perform their role
- Consideration must be given to whether a SPCB supported body should have one person with the “burden of representation or whether it would be better to establish a multi-person Commission with a chair.”

Outcomes Measurement and Scrutiny Mechanisms

Accountability was a key theme in the call for views submissions. Questions were asked relating to outcomes measurement and prioritisation, and Parliamentary Scrutiny.

Outcomes Measurement

The [submission from Reform Scotland](#) argues that there is a need to treat advocacy and integrity bodies differently, including measurement of their outcomes, scrutiny, and accountability:

“While certain output measurements, such as response times etc, can be recorded, even then, a one-size-fits-all approach could not work due to the different size and scope of the various bodies. The office holders are not a homogenous group and while some have some capacity to determine their workload and priorities, others are demand-led.”

[The Human Rights Consortium Scotland](#) and [the ALLIANCE](#) advocate for greater integration and alignment with existing international human rights frameworks. [The submission from the Human Rights Consortium Scotland](#) states:

“The international human rights framework which already applies in Scotland, as it does in the rest of the UK, provides a clear and detailed approach to highlighting which priorities must be addressed. Much greater integration and alignment of existing human rights mechanisms could provide much greater clarity on what issues are being addressed and what outcomes are being worked towards.”

Additionally, the [Human Rights Consortium Scotland](#), [Scotland's International Development Alliance](#), and [the ALLIANCE](#) suggest that outcomes should relate to [Scotland's National Planning Framework \(NPF\)](#). [The Human Rights Consortium Scotland](#) states:

“Far more could be made of these existing processes if Scotland were to align its National Planning Framework and other national and local processes including the national budget with explicit integration of our existing human rights obligations. This would then enable the Scottish Government to develop annual Programme’s for Government which in turn would be based on human rights focussed priorities with desired outcomes based on the evidence that those whose rights are most at risk have already shared on multiple occasions.”

[The Equality and Human Rights Commission recommend](#) that new public bodies should be subject to the Public Sector Equality Duty and Scottish specific duties. This would then require them to publish a set of equality outcomes. The submission clarifies that a listed authority must:

“(a) take reasonable steps to involve persons who share a relevant protected characteristic and any person who appears to the authority to represent the interests of those persons; and

(b) consider relevant evidence relating to persons who share a relevant protected characteristic.”

Similarly, several submissions also raised the view that outcomes should be selected and prioritised by those in the groups being represented by the SPCB supported body.

[Independent Age](#) states:

“The selection and prioritisation of such outcomes should be developed through a process of consultation with older people and organisations representing their interests. Consultation should also be undertaken with parliament. We believe this would help deliver long-term cross-party support and consistency in approach over time.”

[Scottish Autism suggests](#) that there should be “sector-specific targets and outcomes for particular populations. The submission further explains:

“For example, autistic people and people with learning disabilities often have poorer health outcomes, life expectancy and experience disproportionate exclusion from education and employment when compared to the outcomes for the population as a whole.”

[Together \(Scottish Alliance for Children's Rights\)](#) also express a view that for SPCB supported bodies need to demonstrate outcomes in ways that are transparent, measurable, and relatable to children and young people.

The submission advises that outcomes measured should include “changes in law, public policies and practices, that have a benefit to society and defined constituent groups. This could also include actions towards a preventative agenda which would be realised in the medium to longer term.”

It was also noted in the submissions that delivery and demonstrability of outcomes is also heavily reliant on effective scrutiny.

Committee Scrutiny

The call for views asked respondents to what extent is the current model of parliamentary committee scrutiny was appropriate and how it could be improved. Several submissions stated the current model of committee scrutiny was appropriate however, they also present a number of recommendations:

- Several submissions, including that by [the Human Rights Consortium Scotland](#), call for a more “inclusive and comprehensive approach” which includes broader engagement during scrutiny with individual rights holds and civil society groups and organisations.
- [The Human Rights Consortium Scotland suggest](#) “scheduling time for committee-led debates subsequent to the conclusion of committee scrutiny”.
- [Scottish Autism advocate](#) for committee scrutiny be used to “amplify the recommendations of commissioner reports and investigations (where these powers exist) and to question how these are to be taken forward and implemented by the Scottish Government.”
- [Scotland's International Development Alliance state](#) that committee scrutiny should be “against pre agreed outcomes and potential impact. Public support for commissioners might also be measured”.

A number of submissions were also wary of increased standardisation of scrutiny as the SPCB supported bodies all have distinct roles and remits. [Together \(Scottish Alliance for Children's Rights\)](#) state that “any standard introduced should reflect this diversity, rather than treating them all the same”.

Additionally, [Scottish Autism argued](#) that committee scrutiny in its current form “does not in and of itself mean that the recommendations made by commissioners are implemented”.

Submissions also discussed committee scrutiny in the wider context of the Scottish Parliament and the Scottish Government highlighting that increasing numbers of SPCB supported bodies are putting more pressure on the financial resources and time of the Scottish Parliament.

Several submissions highlighted that outcomes measurement and committee scrutiny were important. [Scottish Autism stated in its response](#), “the issue is less around accountability of the commissioners to parliament and more around the accountability of public bodies and services.”

Operational model of SPCB supported bodies

The call for views asked respondents how the SPCB supported bodies model should be structured. A number of respondents did not have a view on the operational model of SPCB supported bodies. [Dr Ian Elliott calls](#) for more research on the topic in his submission.

Those submissions that did include views on the operational model for SPCB supported bodies focused on several key features.

[Dr Ian Elliott explained](#) his view that the current landscape of organisations “labelled as Commission or Commissioner contributes to the significant confusion around these bodies”. He states that to rectify this challenge:

“The role and function of Parliamentary Commissioners should be clear and consistent. There should also be clarity over what type of body should be called a commissioner and what should not.”

Several submissions highlighted the need for a SPCB supported body to be responsible for their own budget. [The Institute for Government stated in its submission](#) that this should include a research budget where appropriate, support staff, and external communications capability.

[Age Scotland noted](#) agreement with the current model in which “the terms and conditions of appointment and annual budget continues to be set by the Scottish Parliamentary Corporate Body (SPCB).”

Several submissions also stated the importance of an SPCB supported body to be independent from the Scottish Government. [The Human Rights Consortium Scotland’s submission](#) recommend using the Paris Principles as a guide stating:

“HRCS believes that a focus on independence, an ability to deal with individual cases, an ability to hold public bodies to account, responsiveness to people’s lived experience, integration of human rights obligations and participation and engagement must be key elements, as must a regularly reviewed and updated remit and function and appropriate levels of finance to enable a Commission/Commissioner to fulfil its role.”

[The response from Age Scotland](#) suggests that SPCB supported bodies “should be accountable to the Scottish Parliament and the public. There should be development, and open and transparent publication of workplans annually on a mandatory basis with reporting provided on key milestones and outputs identified at the end of the proposed year, which should contribute to the overall outcomes of a programme”.

Specific models were also mentioned in several responses. [The ALLIANCE advocated](#) the for the “rapporteurship” model:

“We would particularly draw attention to the SHRC’s specific use of the word “champion” in this section, which reflects the language used in many of the calls for Commissioners. We therefore believe this model has the potential to deliver on the principle of those calls, without the costs of establishing a range of separate Commissioners offices or accompanying risks of fragmentation, and with the benefit of building up knowledge, expertise, skills and effective ways of working within a single organisation.”

However, [Together \(Scottish Alliance for Children's Rights\)](#) raise concerns in its [submission](#) regarding the use of a rapporteurship model in relation to the Children and Young People's Commissioner:

"The UNCRC and UN Committee are clear that upholding children's rights requires a specific children's NHRI with an independent mandate to monitor the implementation of the UNCRC. ENOC is clear that children's NHRIs must be protected against their powers being reduced. Restructuring or combining commissioner offices risks weakening their impact. Distinct roles must be maintained. There are concerns about Scotland's commitment to children's rights if commissioners are merged or altered in any way that impacts their autonomy."

Several respondents also highlighted a more general need for the model. [The submission from Age Scotland](#) summarises this stating:

"We believe that to be truly effective there should be understanding by the public, and by public services of the role of the Commissioners, and as such continual public promotion of their offices should occur."

Sharing services

Several submissions to the call for views highlight the importance of sharing services. [Scottish Autism state](#):

"We believe that the sharing of back-office functions across commissioners is a sensible and practical step which could reduce the cost to the public purse without disadvantaging those who rely on commissioners to advocate and uphold their rights."

Several submissions raised several challenges with sharing services. One barrier raised in the call for views was independence being a key feature for an SPCB supported body. Respondents suggested that this may hinder the ability for these organisations to share offices or back-office personnel with the Scottish Government.

[Together \(Scottish Alliance for Children's Rights\)](#) shared concerns regard to [Children and Young People's Commissioner Scotland] CYPCS sharing office space because the current CYPCS office space was designed to meet the organisational need to engage with children on a regular basis.

This is echoed in [the submission from the Human Rights Consortium Scotland](#) which state that:

"Institutions, whatever their purpose and remit, must be flexible, engaged with people where they are and focused on the achievement of outcomes. Concerns about shared services and offices is a luxury few of us can afford."

[Age Scotland also argue](#) there is a need to give "serious consideration of how to share resources and complimentary administrative functions to save financial duplication". The submission goes on to suggest that this might be mitigated through shared "finance operations, HR, payroll, procurement functions and how to

share office space, particularly if it is under occupied and with enough consideration before lease arrangements are due to expire”.

[Independent Age present](#) the use of shared services by the Welsh Older People’s Commissioner as an example of good practice. Specific examples included:

- "The Commissioners, Public Services Ombudsman and the Auditor General for Wales formally meeting regularly to share planned work programmes, identify opportunities for joint working and share knowledge, skills and experiences;
- A joint Memorandum of Understanding between the Commissioners;
- Shared joint procurement between the Commissioners and Ombudsman such as internal audit service in both 2016 and 2021;
- Policy meetings at officer level to share work plans, identify areas of collaboration and share best practice;
- The sharing of organisational policies and procedures;
- The use of my office accommodation for the Children’s Commissioner and staff to be able to hot desk;
- Joint work with the Children’s Commissioner creating an intergenerational resource hub to encourage and support schools and groups of older people to establish intergenerational groups; and
- Joint statements with the Children’s Commissioner and Future Generations Commissioner on intergenerational solidarity.”

However, the submission also states that “the OPC for Wales noted that the responsibility for financial reporting was legislatively with their office and the risks of any sharing of that function would outweigh any potential benefits”.

Several submissions also looked at the wider context that sharing services and the SPCB supported bodies sit within. [The Donaldson Trust stressed in their submission](#) that rather than focus on efficiencies, especially given the relatively small proportion of spending SPCB bodies make up, the focus should be on “outcomes for the people who will benefit from the change in direction Commission(er)s should bring”.

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