



Consultation Response

Consultation on the Proposed Disability Commissioner (Scotland) Bill

The Scottish Commission for
People with Learning Disabilities
August 2022



Background

SCLD is committed to creating an environment in Scotland in which systems and culture are changed to ensure people with learning disabilities have opportunities and are empowered to live the life they want in line with existing human rights conventions. SCLD believes that the discrimination and barriers faced by people with learning disabilities and other disabled people are not inevitable. These barriers stop people with learning disabilities and other disabled people being included in society and participating on an equal basis. We welcome the opportunity to respond to the consultation on the proposed Disability Commissioner (Scotland) Bill.

Aims and Approach

As a human rights defender, SCLD is supportive of all efforts and mechanisms designed to improve the human rights of persons with a disability. We believe a Disability Commissioner can play an important role in respecting, protecting, and fulfilling the rights of all disabled people in Scotland.

In our view, the changing legislative landscape provides opportunities to develop a multi-institutional scrutiny landscape within Scotland including powers pertaining to rights within the ISCER and the UNCRPD which can achieve transformative change for persons with a disability.

Within this context, SCLD is committed to the development of the Scottish Government's planned Learning Disability, Autism and Neurodiversity (LDAN) Bill to ensure that the individual human rights of people with learning disabilities are respected, protected, and fulfilled. We believe the role of an LDAN Commission/er is of critical importance in upholding these rights and holding duty bearers to account.

Whilst we understand that all disabled people experience unacceptable levels of discrimination, there is a significant body of evidence which demonstrates that people with learning disabilities are a population for whom their human rights are most at risk.

People with learning disabilities continue to experience discrimination and barriers to accessing rights across a wide range of domains including the right to be active citizens and engage fully in civil and public life, to live in the communities of their choice, to direct their own social care and to be free from the trauma of seclusion and restraint¹. Furthermore, they have a lack of access to education², employment³, relationships⁴, and family lives⁵. We believe these barriers are structural in nature and to a considerable extent are sustained and perpetuated through existing legislative and regulatory frameworks.

Therefore, our primary concern is to support the creation and development of the LDAN Bill and Commission(er). However, will support all efforts to explore how this can meaningfully and positively interact with the proposed role of Disability Commissioner.

Within this context, we believe will be important to consider carefully how the distinct functions in a multi-institutional scrutiny landscape for Scotland, including the potential role of Disability Commissioner, will interact with each other to avoid creating duplication or contradictory approaches. In particular, we believe it is

¹ [SCLD submission to SMHLR Stage 1 \(2020\)](#)

² [ENABLE \(2016\) #IncludED in the Main?! 22 steps on the journey to inclusion for every pupil who has a learning disability](#)

³ [McTeir et al \(2016\) Mapping the Employability Landscape for People with Learning Disabilities in Scotland](#)

⁴ [SCLD \(2018\) Safe and Healthy Relationships: Empowering & Supporting People with Learning Disabilities](#)

⁵ [SCLD \(2018\) Children's Rights: Consultation on incorporating the UNCRC into our domestic law in Scotland](#)

important that more information is set out on how the role of the Disability Commissioner would interact with the provisions of the LDAN Bill, the rights set out within this and the mechanisms for monitoring and giving effect to these.

We believe it is critically important that any draft legislative measures for a Disability Commissioner have carefully and sensitively considered how the role will complement and interact effectively with the new legislation and structures in relation to Learning Disability, Autism and Neurodiversity.



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