OFFICIAL REPORT
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Equalities, Human Rights and Civil Justice Committee

Tuesday 4 June 2024

Session 6

The Scottish Parliament
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CONTENTS

EQUALITIES, HUMAN RIGHTS AND CIVIL JUSTICE COMMITTEE

14th Meeting 2024, Session 6

CONVENER

Karen Adam (Banffshire and Buchan Coast) (SNP)

DEPUTY CONVENER

*Maggie Chapman (North East Scotland) (Green)

COMMITTEE MEMBERS

*Meghan Gallacher (Central Scotland) (Con)
*Marie McNair (Clydebank and Milngavie) (SNP)
*Paul O'Kane (West Scotland) (Lab)
*Evelyn Tweed (Stirling) (SNP)
Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dr Arun Chopra (Mental Welfare Commission for Scotland)
Stephanie Griffin (Equality and Human Rights Commission)
Nick Hobbs (Children and Young People's Commissioner Scotland)
Jan Savage (Scottish Human Rights Commission)

CLERK TO THE COMMITTEE

Katrina Venters

LOCATION

The James Clerk Maxwell Room (CR4)

Scottish Parliament

Equalities, Human Rights and Civil Justice Committee

Tuesday 4 June 2024

[The Convener opened the meeting at 10:00]

Disability Commissioner (Scotland) Bill: Stage 1

The Deputy Convener (Maggie Chapman): Good morning, and welcome to the 14th meeting in 2024 of the Equalities, Human Rights and Civil Justice Committee. We have apologies this morning from our convener, Karen Adam, and from Annie Wells.

Our first agenda item is an evidence-taking session on the Disability Commissioner (Scotland) Bill, and I refer members to papers 1 and 2. I am very pleased to welcome to our meeting Dr Arun Chopra, executive medical director, 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; and Jan Savage, executive director, Scottish Human Rights Commission. Thank you for your time and attendance.

I invite each of you to provide a brief opening statement before we move to questions. We will start with Dr Chopra.

Dr Arun Chopra (Mental Welfare Commission for Scotland): Good morning, and thank you for the invitation to give evidence to the committee. I will start by talking a little bit about the Mental Welfare Commission, so that you get a sense of the perspective that we are taking in today's discussion about the disability commissioner.

The Mental Welfare Commission acts as a safeguard for the rights of people with mental illness and learning disability. We achieve that by visiting people in settings where they might be detained, seeing around 1,200 people per year. We run a phone advice line, which is open to professionals, people with lived experience and carers, and take around 3,500 phone calls a year, mostly on the complex area between ethics, law and clinical practice.

We also authorise medication for people who cannot give consent due to mental illness or learning disability, per the Mental Health (Care and Treatment) (Scotland) Act 2003, and we organise around 2,700 visits a year from our designated medical practitioners. We also publish two or three investigations when things have not gone well for people with mental illness or learning disability, with the aim of sharing that learning across services in Scotland.

That is just a bit about the background to the commission and what we do. As you will have heard, one of our key focus areas is people with learning disability, which brings me on to the disability commissioner. Although we very much welcome the outcomes set out in the bill that are to be achieved for people with disabilities, we think that there might be more effective and efficient ways of achieving them instead of necessarily establishing a disability commissioner, which might lead to issues of duplication of process and function, including some that I have mentioned. We also think that there is an opportunity for clarity on safeguards and a focus on safeguarding the rights of the constituencies that we work with, including people with learning disability.

Stephanie Griffin (Equality and Human Rights Commission): Thank you for the opportunity to come along to the committee. The Equality and Human Rights Commission is Britain's equality and human rights regulator. We are also an accredited national human rights institution, although our human rights responsibilities here in Scotland extend only to reserved matters.

Our founding legislation is the Equality Act 2006, which sets out our general duty, our general powers and our enforcement powers. We might come on to talk about some of those in relation to this bill, as there is potentially significant overlap with the proposed disability commissioner's powers and duties.

There is also the Equality Act 2010, which came into force in October 2010. It provides a single legal framework for tackling discrimination and harassment and contains provisions that protect disabled people from unlawful treatment and which promote a fairer and more equal society. Together, those two acts set out a robust legal framework, of which we are the regulator. We address discrimination and promote equality of opportunity for all nine protected characteristics set out in the legislation, including disability.

It is also worth noting at this point that our regulatory approach recognises that regulation does not just mean legal enforcement action such as inquiries and investigations. It also means providing advice, raising awareness and understanding, transferring expertise and supporting organisations in their efforts to comply with the law. We also keep emerging law and policies under review.

I hope that that quick overview of our unique role and mandate was helpful, and I am happy to take any questions.

Nick Hobbs (Children and Young People's Commissioner Scotland): Good morning, and thank you for the invitation to come and speak to you today.

The role of the Children and Young People's Commissioner Scotland is to promote and safeguard children's rights. We are recognised as an independent children's rights institution, and it is worth noting that one of the groups of children who are accorded special protection under the United Nations Convention on the Rights of the Child is disabled children and young people.

There is no doubt that disabled children experience significant rights violations and that much more needs to be done to ensure that their rights are fulfilled and that public services meet their needs. We have only to look at some of the issues that our office has worked on over the past couple of years—for example, restraints and seclusion, additional support needs, fuel poverty and deprivation of liberty—to see that. We are very mindful of the issues and the strength of feeling that they rightly generate.

It is also important to understand, I think, that much of the dissatisfaction that seems to have driven the proposal to create a new commissioner comes from an implementation gap. The proposal seems to be a reaction to ineffective legal and policy implementation and the existence of significant barriers to justice, and we must consider the extent to which it will be able to address those issues.

Our office is frequently cited as the model that new commissioner proposals want to reflect. Obviously, it is enormously heartening to us that people see the value of the commissioner's office and want to emulate it, and we do think that the commissioner model can be very effective, but as the Finance and Public Administration Committee is currently examining, we need to consider proposals for new office-holders in relation to the existing landscape. Otherwise, there is a risk of creating a fragmented, confusing and ineffective system that could inadvertently create more barriers to justice. In particular, we know that children's voices and interests are often lost in organisations that are not specifically designed and run for them.

There is also a risk of setting up a new office to fail if it is not properly resourced, and we have real concerns that this one is not. That is all without considering the impact on the resources available to existing office-holders to carry out the work that they have been charged with doing by the Scottish Parliament.

I look forward to discussing all of that in more detail.

Jan Savage (Scottish Human Rights Commission): I thank the committee for the opportunity to provide evidence this morning to inform your consideration of the Disability Commissioner (Scotland) Bill.

As the committee is aware, the Scottish Human Rights Commission was established via the Scottish Commission for Human Rights Act 2006, with a general duty to promote the human rights of everyone in Scotland—which, of course, include the human rights of disabled people in Scotland. As such, the first thing that we want to say is that we absolutely agree with the proposal's policy intent. More needs to be done to strengthen accountability around the human rights of disabled people, and, therefore, the intent behind the legislation to strengthen those rights is the right one. We also recognise the contribution of Jeremy Balfour MSP, who is a significant and effective champion of those rights. The bill is the culmination of many years of work in the Parliament and beyond, and we pay tribute to that.

We do, however, encourage the committee to consider whether the bill, as proposed, is the best or only model available to deliver on that policy intent. We are concerned that the proposed disability commissioner, as outlined in the bill, might be underresourced to deliver the policy intent as explored, and that its existence could create further complexities in what is already a complex, messy and inaccessible system of justice for rights holders. We think that there are potential alternative and/or complementary models that should be explored, all of which would result in the rights of disabled people in Scotland being better protected.

The timing of this stage 1 consideration aligns with two other key developments in the human rights legal framework in Scotland, which I will briefly touch on. First, the Scottish human rights bill, which we understand the Scottish Government intends to introduce in this session of the Scottish Parliament, intends to incorporate the UN Convention on the Rights of Persons with Disabilities into Scots law. We think it important that the committee establishes the extent to which such incorporation is proposed, in order to understand the impact that it might have on accountability for the rights of disabled people.

Secondly, I note that the Finance and Public Administration Committee is already in the latter stages of its inquiry into the strategic landscape around commissioners. It is looking at many of the considerations that this commission highlighted last summer with regard to the reasons behind the proposals for new commissions.

We understand that we are here for a reason and that the bill is being proposed for a reason, which is to address the accountability gap and the implementation gap between policy and experience, and the levers that exist in the system to improve experiences. We think that the starting point should be to ensure that the existing mechanisms and institutions have the necessary powers and resources to better protect the rights of disabled people.

In our view, the current mandate of the Scottish Human Rights Commission, as Scotland's national human rights institution, has deficiencies, which we have explored with the committee. There has never been a review of its mandate in the 16 years in which it has been in existence and we think that that is overdue. A review of that mandate would be a first step that would benefit all rights holders in Scotland, including disabled people.

We think that there are more definite and definitive things that the commission could develop to enhance the rights of disabled people in particular, and we can explore them further in the evidence session. We note that there are already so many effective disability champions in Scotland; indeed, Mr Balfour is one of them, and civil society is full of exceptional disability champions who are doing a wonderful job in raising awareness. We question whether we need more of that, or whether we need to focus more of our attention on the actions that need to be taken to improve the accountability mechanisms in respect of those rights.

Finally, we call on the committee to take that wider context into account—indeed, we are offering our evidence on that basis—and to make sure that the guiding principle for this morning's consideration and throughout the stage 1 process is that, whatever happens, we do not make accountability for disabled people's rights in Scotland more complex or their access to the justice system more difficult. We ask that, whatever happens, we take the opportunity to enhance disabled people's rights through the debates that we will have during the stage 1 process.

The Deputy Convener: Thank you very much, Jan. I thank all the witnesses for their opening statements. We will move to questions now, and I will kick off.

In different ways, you have all said that you support the principles behind, and the desired outcomes of, the proposed disability commissioner and the legislation that we are considering. The consultation shows strong support for a commissioner role. Why do you think that is? We have heard talk of implementation gaps and accountability gaps. What is failing? What is going wrong? Could you tell us what your organisations are seeking to do in the space? I will start with Nick Hobbs.

Nick Hobbs: In my opening statement, I referred to an implementation gap, which the deputy convener mentioned. We see that across the board in relation to children and young people for a whole range of different issues, but I think it is particularly acute for disabled children and young people. Meeting additional support needs in education is a really good example of where legislation, by and large, is pretty good, but there is a real issue around implementation and the realisation of rights within that system. In the past, we have done a lot of work in that area. We came to the Parliament a few weeks ago to present our strategic plan for the next four years, which includes a significant piece of work on education rights. The rights of children with disabilities will be a key part of how work on how children's rights to education are being realised within the system.

That is a really good example of where we are falling short on implementation, which requires there to be a focus on the legal framework and the legal mechanisms, as well as the barriers to the policy being realised and implemented. A great deal of it is, I think, unavoidably about resource, training and people's understanding of rights.

Jan Savage was right to note the significant changes that are coming, which we hope will have an impact on that. First, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 is going to be implemented from 16 July this year. That will provide an additional route for the challenge of legislation, for children and young people to take action to realise their rights and for our office to have additional powers, which is really important. It should also facilitate an on-going conversation about children's rights. I hope that, very shortly, a human rights bill will be introduced in the Parliament that incorporates the UN Convention on the Rights of Persons with Disabilities and that will provide a much stronger framework for accountability and for action where the realisation of rights is falling short of what we would all want it to be.

The Deputy Convener: I will ask Jan Savage a similar question. Where are the issues with accountability and implementation? Where is the SHRC's role working in this space?

10:15

Jan Savage: It is exactly as Nick Hobbs has outlined. We know and we agree with what disabled people tell us and what they experience almost every single day—that the intent of policy is, far too often, not being met in rights realisation in people's day-to-day lives.

At the moment, organisations such as ours have a role in monitoring that, and we do so. We monitor implementation of Scotland's performance against the UNCRPD, and we take evidence directly from disabled people's lives, working with disabled people's organisations and civil society. We report that to the United Nations, and we provide independent assessments, without fear or favour, of how disabled people's rights are being realised in Scotland.

The issue that we experience, and our frustration as an institution, which is felt by disabled people, is "So what?"

The Deputy Convener: And "What next?"

Jan Savage: Yes—and "What next?" We can monitor and, as far as I can see, the proposed new disability commissioner is to have an enhanced monitoring role and an investigatory function, but that will still not address the accountability gap—the "What next?" One of the commission's objectives in this parliamentary session is to work with the Scottish Parliament to establish where there are deficiencies in the commission's mandate to take action—for example, to raise own-name legal proceedings to take test cases through the courts where we have evidence of human rights violations that are impacting one person but that have a greater systemic impact. That would go some way to closing the accountability gap, testing the rule of law through the Scottish courts system, providing advice and guidance to duty bearers as to how to implement the legislation and having the law on the side of the rights holders.

At the moment, as a national human rights institution, we do not have that lever available to us, although it is available to other national human rights institutions, including the EHRC in different parts of Great Britain. That is a deficiency in the mandate that we believe the Scottish Human Rights Commission should work with the Parliament to address. We would say that that should happen in addition to the bill. If it is the will of the Parliament to progress with a disability commissioner, we will still require an amendment to the Scottish Human Rights Commission's founding mandate in legislation to enable that lever to exist. It will then exist for disabled people and for all people. That is a really important principle when it comes to the protection of human rights.

The Deputy Convener: My colleagues will pick up on potential overlaps and duplications, but, if we do agree about having a disability commissioner, is the SHRC concerned that certain commissions or commissioners will potentially have powers that the national human rights institution does not have? Does that cause the SHRC concern?

Jan Savage: There is definitely a concern about that. We already have mechanisms in place to work in partnership with other organisations. If a new disability commissioner were to be set up, we would seek to arrange a memorandum of understanding, and we would make it work. However, there is a provision in our legislation that makes it clear that we must not duplicate the work of other organisations. The first potential unintended consequence that could arise from the proposed commissioner is that our commission would not be able to do as much of the monitoring work as it currently does in respect of disabled people's rights. That is one concern. The second concern is that, as proposed—and as you have outlined, deputy convener—the disability commissioner would have a power of investigation, which the Scottish Human Rights Commission does not have for all people living in Scotland. There is a definite disparity there, and that starts to create, if not a hierarchy of rights, a hierarchy of routes to access justice for particular groups of rights.

The Deputy Convener: Stephanie Griffin, in your opening remarks, you talked about the extent of the EHRC's powers. Where do you see problems with implementation and accountability? Has the EHRC had any thoughts about examining that area in detail?

Stephanie Griffin: If it is all right, deputy convener, I will start by saying that I was not particularly clear in my opening statement, but I put on record that we are fully supportive of any proposals to ensure that disabled people's voices are heard across society, including in relation to the development of legislation and policy. The policy objectives that are set out in the policy memorandum include objectives that we are fully supportive of, including the promotion of awareness and of an understanding of the rights of disabled people.

I will reflect on your first question as well. We can understand the appetite to do something to ensure that the inequalities that are faced by disabled people draw focus and are acted on. As we mentioned in our written response to the committee's call for views on the bill, our recent state-of-the-nation report on equalities and human rights outlined and highlighted the fact that, although experiences for disabled people have improved in some areas, there remain stark inequalities in many areas of disabled people's lives in Scotland. Some of those inequalities are referenced in the bill's policy memorandum.

In that context, it is clear that greater commitment and action are needed to tackle the inequalities that are faced by disabled people in Scotland. To reflect on what others have said, that comes down to the implementation gap and, unfortunately, resource.

From an EHRC-specific perspective, we consider that the current requirements of the equality legal framework are a key lever in tackling inequalities. The requirement of the Equality Act 2010 and the Scotland-specific duties in relation to mainstreaming should mean that listed bodies already consider equality in their work. The Scottish Government is also clear that that should happen, and it has plans to refresh its own mainstreaming strategy.

As a regulator, we know that listed bodies' compliance with some aspects of the Scotland-specific duties and the public sector equality duty can be patchy. Alongside our regular regulatory work to improve compliance, we have worked closely with the Scottish Government on the review of the public sector equality duty in Scotland to consider and act on recommendations to make the Scotland-specific duties and public sector equality duty in Scotland more effective. We consider that a better focus would be on improving the Scotland-specific duties and making sure that that framework works, in addition to our role.

This answer is very EHRC focused, but some examples of our role, including the unique legal powers that we utilise, are in our recent announcement about the Department for Work and Pensions investigation, whereby, under our current powers, we are examining and investigating serious concerns that have been raised, including cases involving the death of claimants. That is an example of using our powers to further the rights of disabled people and investigate how some of the systems and processes that are in place have gone wrong.

As well as our role, with the unique legal powers that we utilise, it is important to consider the work that is already done by others on the panel, as well as that of a vibrant civil society that includes the wide range of national, regional and local disabled people's organisations that represent disabled people generally and people with specific conditions.

To go back to what Jan Savage said, the implementation gap is an issue, as is resourcing. Rather than set up a new body and direct resources to it, a better course of action might be to consider some of the issues around the resourcing of existing bodies.

In summary, we agree that not enough is happening to tackle the inequalities that disabled people face, but I am not sure that we are convinced that the answer is another commissioner.

The Deputy Convener: Thanks very much.

Arun Chopra, in your opening comments, you set out what the Mental Welfare Commission does, and it is helpful to see it in that context. You have very clear evidence of where the accountability and implementation gaps are, yet you also say quite clearly that the bill may not be the right route to a remedy. In the work that the Mental Welfare Commission does, where are the challenges around those gaps of implementation and accountability?

Dr Chopra: When it comes to the implementation gap, there are issues of resource, culture and policy and legislative drivers. I will illustrate that with two examples, to help the committee to think about that.

In the work of the commission, through the phone line and our visiting of people in settings where they are detained or even in informal settings, we see a delay in getting people with disabilities home. They spend longer in hospital than someone who does not have a disability. We know of that gap, and the "Coming Home" report is about that gap. How do we implement the report's recommendations and close that gap? Some great initiatives have already started, but there needs to be a much more targeted focus on closing the gap that exists in relation to the implementation of the "Coming Home" report's recommendations.

Another area to address, which Nick Hobbs touched on in his opening statement, is restraint and seclusion. That is an area where there is not enough of a policy and legislative driver. We monitor the use of the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000, which are two big pieces of legislation that have a profound impact on people with disabilities. Currently, there is no legislative requirement for the Mental Welfare Commission to monitor how many people are restrained and how many people are subject to seclusion. However, we know from our visiting work and our phone line conversations that people with disabilities are much more likely to be subjected to restraint or seclusion. Therefore, would it not be helpful if there was a requirement that restraint and seclusion are also monitored? That is a policy issue that might need legislation, so that restraint and seclusion are among the safeguarded interventions that get monitored. That would probably lead to a greater fulfilment of the rights of people with a disability than having a champion who will make those points clearly. We already know about those points and the existing gaps.

There are other examples, but those are two measures that would make a difference for people in relation to closing the implementation and accountability gap.

The Deputy Convener: That is very helpful. You have touched on safeguards and, in your opening remarks, you talked about the need for greater clarity around safeguards. Can you say a little more about that? Safeguards mean slightly different things in different contexts. In relation to your work, what are you talking about when you talk about safeguards for disabled people?

Dr Chopra: I fully accept that they mean different things in different contexts. I am talking about safeguards in the context of the Mental Health (Care and Treatment) (Scotland) Act 2003 and the Adults with Incapacity (Scotland) Act 2000. My organisation is charged with delivering some of those safeguards. For example, if someone is detained for more than two months and they are still receiving medication without their consent, we will ensure that a designated medical practitioner goes out and checks that the treatment is appropriate and legally authorised. Another example of a safeguard is that, if someone is being detained in an emergency setting, it is not just a doctor who makes that decision but a social worker who is a mental health officer.

Our acts and legislation have in-built safeguards. Where I am coming from in this conversation is that I think that we could enhance safeguards, particularly for people with disabilities. Because of the way in which the 2003 act is framed, we already have to specify whether someone has a mental illness, a learning disability or a personality disorder. It would not be a huge leap to put in place additional safeguards so that someone with a disability—specifically a learning disability—gets home earlier and does not get restrained as much. That would require an additional set of eyes and monitoring with purpose to prevent them from experiencing some of the gaps that we have spoken about this morning.

The Deputy Convener: Thank you very much. That is really helpful.

Meghan Gallacher (Central Scotland) (Con): Good morning, panel. I have listened with interest so far to what you have said about the potential introduction of a disability commissioner. In its submission, the Glasgow Disability Alliance—one of the largest disability organisations in Europe, with more than 5,000 members—has said:

> “Despite knowing about the work, especially, of the Scottish Human Rights Commission ... and the Equality and Human Rights Commission ... the consensus is that now, more than ever, Scotland needs a Disability Commissioner whose sole focus is on disabled people”.

We know that organisations have had powers, and we have spoken this morning about potential extensions of powers to make a difference, but it is clear that disabled people still feel disadvantaged and as though they are at the back of the line when it comes to knowing and exercising their rights. How will that change if we do not have a disability commissioner? Jan Savage, can I start with you?

10:30

Jan Savage: I am happy to start.

It goes back to the statement that I made at the start. I hear everything that the Glasgow Disability Alliance has said. It—and everyone else—is quite right to be outraged about the status of rights realisation for disabled people in Scotland, full stop.

The question that we are asking ourselves here is about the purpose of a disability commissioner in that space. It appears to me that the proposal seeks to do three things, the first of which is to have a visible champion—that is, someone who is, bar nothing else, there to stand up for and promote the rights of disabled people. For visibility’s sake, it is often important that that person be someone from the disability community—a disabled person themselves. That is the champion element.

The second element is the monitoring—that is, keeping watch over what is happening in respect of disabled people’s rights. Currently, some organisations have that responsibility, including the organisations that you have just referenced and, to an extent, the SHRC.

The third element is the accountability—in other words, the “So what?” question. As far as I can see, what has been proposed even through Mr Balfour’s bill adds no new levers of accountability into the system, beyond those that already exist in the context of the children’s commissioner’s mandate around investigations or the sorts of research and monitoring that the SHRC can currently undertake.

It would be helpful to take Mr Balfour’s proposal through those steps. If this is about having a champion, a potential route exists for it to have merit. However, alternative routes could be considered; for example, the Scottish Human Rights Commission could be empowered to have more members of the commission appointed by Parliament, one of whom could be given the specific remit of being a champion for disabled people’s rights. Our legislation currently prevents that from happening, so such a route would require an amendment to our legislation. However, it could be done.

Another alternative would be to amend our legislation to create a stronger monitoring team with a more permanent monitoring focus, which would be like, say, the rapporteurship model that we have talked about previously. That team would have the permanent, specific function of monitoring the rights of disabled people in Scotland. Currently, a staff team of 14 people monitors the enjoyment of human rights of everyone in Scotland across all the treaties, so we have to focus our time appropriately through the UN treaty monitoring cycle. However, if we had a permanent function in that respect, that could be an alternative route to achieving the proposed intent.

The final gap is around accountability and the levers to achieve change. As I have explored already, none of the current commissions has the appropriate levers. If that objective were to be achieved, it would be appropriate for it to be delivered through the Scottish Human Rights Commission, so that a lever was in place for all people and all rights. There are, therefore, alternative routes to consider.

Of course, there are conversations to be had with other places. We are talking here about a parliamentary commissioner, but if there is a need for a champion or a tsar-type model, that conversation could be picked up separately with the Scottish Government. What it all comes down to, though, is that the issue is absolutely valid, but we need to consider the proposal's purpose and intent and the question of what is genuinely the best route to achieving it.

Nick Hobbs: I agree with everything that Jan Savage has just said. It is useful to try to think about what we are trying to achieve through the bill and to separate that into those different strands.

Perhaps restraint provides a good example of where some of the challenges will come from. If we are talking about a champion role here, something to think about is what people see when they look at some of our offices. They see the profile—that is, commissioners talking in the media and appearing in Parliament—but the fact is that what can be achieved in that respect without a whole load of work behind the scenes and actual enforcement powers and teeth might sometimes be a bit overestimated.

The first investigation that our office carried out was on restraint. Although we made really strong recommendations, we were unable to get the Scottish Government to take any action on them until we worked with the Equality and Human Rights Commission to bring legal proceedings against it, which resulted in a commitment to produce guidance.

At the end of last year, the four organisations represented here, plus The Promise Scotland, wrote to the Scottish Government, calling for a commitment to creating a coherent legal framework on restraint and seclusion across all settings where children are in the care of the state. We did that, in large part, because we recognised, as Arun Chopra has touched on, the extent to which restraint and seclusion have a disproportionate impact on disabled children and young people. It would be nice to think that one additional voice would tip the balance and get the Scottish Government to act, but, to be honest, I think that that is very unlikely.

What will shift the dial is, once the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 is in force, whether there are opportunities, possibly through our office, for children and young people to directly access their rights through the Scottish courts. Unfortunately, that is what will be required. As Jan Savage has said, it is about the power that we need and the route that we need to take to shift the issue. We know what the issue is—indeed, people have been talking about it for a considerable time—but the problem is trying to get those in power to take action on it.

Meghan Gallacher: From reading the submissions and from feedback that I have had from the disabled community and disability charities, I know that people cannot wait. Action is required now if they are to feel valued and part of something wider that protects them and which encompasses their rights. That is where the buffer is, and there have been explanations as to what could be done to enhance their rights. Do the witnesses support the creation of, for example, a learning disabilities, autism and neurodivergence commissioner?

Stephanie Griffin: The potential issues that we are talking about in relation to this bill are the same that we would raise in relation to the establishment of a learning disabilities, autism and neurodivergence commissioner. Ultimately, it is for the Scottish Parliament to decide how it allocates its resources and which bodies it wants to set up, but some of the issues that we are raising now in relation to duplication—we might come on to some of the specifics in that regard—exist in relation to establishing a learning disabilities, autism and neurodivergence commissioner. The complication is that, with regard to remits and duplication, the situation will become even more tangled and difficult to navigate if another two commissioners are created on top of the commissions that are represented here and in civil society, given the powers and actions that are currently being taken.

I am not sure whether that was helpful. I have not examined the proposal in any detail, but I think that that would be our general position.

Meghan Gallacher: It was helpful, because I am concerned that some sections of the disabled community would have a commissioner while others would not.

Dr Chopra: I totally agree with Stephanie Griffin. There would be a real risk of duplication. If you were someone with a learning disability who also had a mental illness, or even if you had a learning disability alone, where would you go if you felt that your rights were not being upheld? First, you would contact the service. You could go down the route of contacting the Scottish Public Services Ombudsman, or you could speak to the Mental Welfare Commission, but you could also end up speaking to any of the other commissioners, including an LDAN commissioner.

As a result, there would be the potential for duplication, which would make things more difficult for people. Jan Savage talked about the landscape already being quite complex, and such a commissioner would add another degree of complexity without necessarily making things any easier for people in relation to what rights they should expect to have and how those rights would be safeguarded. There would be real risks in that regard.

Of course, a lot of things could be achieved through a learning disabilities, autism and neurodivergence bill. The commissioner would be only one part of it, but there are so many tangible safeguards that we could provide. Making that real would involve the clear allocation of accountability for delivering those safeguards to existing commissioners and service providers, instead of considering an additional commissioner as a way forward.

Meghan Gallacher: That was helpful.

The Deputy Convener: Paul, is there anything that you want to pick up on in that space, before I bring in Evelyn Tweed?

Paul O’Kane (West Scotland) (Lab): I do not think so. The issue has been well covered.

The Deputy Convener: Evelyn, over to you.

Evelyn Tweed (Stirling) (SNP): Good morning to the panel, and thanks for your answers so far. From what you have said, you all agree with the premise of the bill and that it is required, but I am picking up that you are anxious that it is potentially underresourced. Stephanie Griffin mentioned that the funding that is to be used for the bill could be used in a better way to fund existing organisations. The Scottish Government is saying that it will probably have to set aside at least a million pounds in the first year but, as I said, you have said that there is an underresourcing issue. How could your organisations use that funding to achieve the aims of the bill? I ask Stephanie Griffin to answer first.

Stephanie Griffin: We are not funded by the Scottish Parliament—that is the main thing for me to flag here. As a commission with limited, defined resources, there is always more that we could do. Nonetheless, over the years, the Equality and Human Rights Commission has focused on issues relating to disabled people, whether through our DWP investigation or our disabled people and housing inquiry. Within the resources that we have—and given that, obviously, we are focused on all nine protected characteristics—we feel that we have been able to do some good work in relation to furthering equality for disabled people.

It is a generalisation and a cliché, but the more resource that you have, the more that you can do.

Nick Hobbs: It may be useful if I say a little about why we are concerned about the provisional resourcing level that has been allocated to the proposed disability commissioner’s office. The financial memorandum anticipates three policy staff and one admin staff member, with the potential to go down to a 0.5 admin staff member if a shared services model is in place.

The first thing that jumps out in comparison to our office is that there are no participation staff. As a number of members of the committee will be well aware, participation is a huge part of what we do; it is absolutely integral to ensuring that children and young people feel that the office is working for and with them. There is a significant resourcing need in having someone in the office who is able to provide that level of expertise to the rest of the staff group so that we can really ensure that participation is at the heart of everything that we do, and that is an acute necessity for the disability commissioner as well. You cannot rely on a website and leaflets to communicate with disabled children and young people. Rights holders will have a legitimate expectation that they will be meaningfully included in the commissioner’s work, which I simply do not think is provided for.

There is also no provision for legal or investigation staff. Our experience is that an investigation needs to be understood as a legal process. It is not simply a piece of research with some additional powers attached to it. You are potentially at risk of being challenged around acting beyond your legal powers if you are not careful to construct those things properly. There is therefore a question about the extent to which the commission will be able to exercise those powers. Investigations can also be complex and resource intensive to undertake, particularly in terms of staff time.

Elements of our offices are very visible to people, but an awful lot happens under the radar, under the water and behind the scenes. One aspect of that relates to the statutory obligations on us as a public body. There is a whole range of compliance duties that most people who look at our offices would be entirely unaware of, and not all of that work can be done by shared services.

I will give you a couple of quick examples. There is an anticipation from Jeremy Balfour that the office would need to be included within the Public Services Reform (Scotland) Act 2010. However, a couple of schedules where it would need to be listed have been missed out, and those schedules come with responsibilities. I would expect that the office would have to be listed as a corporate parent in relation to the Children and Young People (Scotland) Act 2014, which would place on it a requirement to prepare a plan.

10:45

The office would be captured by all manner of pieces of Scottish Parliament and Westminster legislation that relate to public bodies. We have just gone through an unexpected process in relation to the Public Sector Bodies (Websites and Mobile Applications) (No 2) Accessibility Regulations 2018, with which I am sure you are all intimately familiar. Those regulations allow the UK Government to scrutinise public bodies' websites and to require significant changes to be made in short order. That process involved an unexpected cost to us and a significant investment of staff time that we had not anticipated. There are various pieces of legislation that will impose those kinds of duties on the commissioner, and I do not think that the implications of that have been thought through.

Further, it is important to bear in mind the audit requirements that all public bodies are subject to, which ensure that we are using public funds appropriately. Those can be hugely time and resource intensive for our corporate services team, which blocks off three or four months in order to get through audit, and there is a significant cost attached to that, as well.

It is important to understand all of that in order to get where we are coming from when we talk about a lack of resources. When you set up a new body, you are dealing with not only the set-up costs but the fixed costs around staffing, pension contributions and information technology, and all of that comes before you get to the point at which the money that you are investing is delivering work on the ground.

With regard to the question of what more we could do with additional resource, one of the most frustrating things about working for a body such as the ones that are represented on the panel is that we are always butting up against the limits of our resources, which means that we have to make difficult and challenging decisions about what we prioritise and what we work on.

Although my organisation always gives careful consideration to the extent to which issues disproportionately or differentially impact on particular groups of children and young people who are accorded special protection under the UNCRC, there are always issues in relation to which we do not have the resource that we need in order to be able to go and do work. That issue might become more acute after July, when the opportunities for the office to engage in litigation will start to come through. I would not be at all surprised if we have to say no to a lot of potential cases simply because we do not have the staff capacity and budget to take them all forward. We will have to make some careful and deliberate decisions about the cases that we get involved in.

Evelyn Tweed: You are all doing jobs as part of the bigger picture, and you have all agreed with the premise of the bill and what it is trying to achieve. What I am trying to get at is an answer to the question of whether, even though we are talking about only £1 million in the first instance, those resources could be used more effectively to meet the aims through the existing organisations. Does anyone else want to comment on that?

Jan Savage: I completely endorse everything that Nick Hobbs said about the costs of setting up, running and managing a public body and ensuring efficient and effective use of public funds. It costs money to do all of that, for all the reasons that Nick Hobbs outlined. That is an issue in the context of setting up new public bodies to look after and uphold people's rights because, ultimately, the more public bodies we set up to do that, the more public money is diverted to the running and administration costs of public bodies, rather than being spent on the work of upholding people's human rights through policy work, legal work and, importantly, participation work.

In answer to the question of whether we could do more with that money, I refer the committee to the conversations that we have been having with the Finance and Public Administration Committee in respect of the review of the current commissioner landscape and the idea of taking a more strategic approach to that.

I will not mention specific figures today for what I am about to discuss, but I commit to sharing them with the committee at a later point. We are going to submit a further written submission to the Finance and Public Administration Committee outlining exactly where we see the current deficiencies in the commission's mandate after 16 years, what powers and general duties we would like the committee to consider for the commission, and what we believe the implementation costs of those would be. Our proposal does not involve set-up costs, obviously, but we would be looking at extending the general staff team and enhancing our ability to take forward more cases.

Specifically, we would be looking at removing the restriction on the commission providing advice to individuals, including disabled people, which is something we cannot do at the moment. We would also look at the cost of raising legal proceedings, which Nick Hobbs outlined. We would not be doing that every five minutes, but it can be quite an expensive thing to do, and that needs to be considered.

On people's participation in the commission's work, we do not have a general duty to include people in our work in the same way that the children's commissioner does under section 6 of the Children and Young People (Scotland) Act 2014. We believe that that is a deficiency in our mandate, and we would like that to be achieved differently.

Our core budget this year is £1.4 million—I note that just to be clear with the committee. That budget is to uphold all those human rights for all those people across Scotland. I think that that ballpark figure, which we will give to the Finance and Public Administration Committee, will be of interest to you.

On the other elements, such as the notion of a rapporteurship model or a dedicated team with a champion in the commission who is focused solely on the rights of disabled people in Scotland, it is fair to say that setting up a team of the same size and scale as the one that is proposed in the Disability Commissioner (Scotland) Bill—a team of three plus administration—within the context of the Scottish Human Rights Commission would, of course, cost a lot less, because you would not have the set-up costs of a brand-new public body to contend with.

I hope that that is helpful. I commit to providing those figures to the committee in writing.

Dr Chopra: It is a fantastic question: what would we do with £1 million? I totally agree with what my colleagues have said, but I would want to consider that in my team and with disability groups. One area where there is a gap is investigations. I do not think that we are doing sufficient work on investigating when things do not work out for people with disabilities, and particularly people with learning disabilities.

In other jurisdictions of the United Kingdom, there is a programme that investigates any death of a person with learning disability, but we do not have that up and running in Scotland. In fact, we are far behind in many areas. Not every death in detention is investigated in Scotland. Healthcare Improvement Scotland does not investigate all incidents, either, and people can wait ages for a fatal accident inquiry through the coronial system. There is a real gap around that investigation work. That power is mentioned in the bill and also in the Patient Safety Commissioner for Scotland Act 2023. I think that we all recognise that that is a gap in the Scottish landscape.

If there was £1 million going, my priority would be to sort out the investigation landscape with the aim of improving things and making clear recommendations to prevent such things from happening to any other family or person.

Paul O'Kane: The discussion so far has been interesting. We have touched on the importance of intersectionality when it comes to human rights. Do you want to expand on that and on why it is crucial that we reflect on the bill with that at the forefront of our minds? Would you like to add anything on the need for an intersectional approach?

Jan Savage: That is a great question. As I said in my opening statement, human rights are universal, interdependent and indivisible. That is the fundamental framework that protects all our human rights. One of the issues that has been raised by the bill is the potential to create a hierarchy of rights. The question that that raises for us all is whether we define an individual and their rights by a characteristic. If a disabled person is an older woman, or a woman who identifies as LGBT, where does that person go in respect of remedy for their human rights?

The human rights commission that has been set up in this country and commissions that have been set up in countries across the world are all accredited by the United Nations as national human rights institutions that protect all those human rights and offer the same routes to remedy for every citizen equally. That is an important principle for everyone's access to the justice system in relation to human rights. The bill would create a different route for disabled people and start to create different levels of scrutiny and accountability for different groups of rights. The precedent that that would set is probably more concerning than the justification for doing it. That is definitely a concern from the perspective of access to justice and the Scottish human rights legal framework.

Stephanie Griffin: I agree with what Jan Savage has said. Reflecting on our work at the Equality and Human Rights Commission, I note that one of the benefits of being the regulator of the Equality Act 2010 and its nine protected characteristics is that we can take an intersectional approach to our work. I am thinking in particular about how we keep the law and policies under review in respect of all nine protected characteristics, considering any evidence that we have of intersectional issues. In that context, we consider an intersectional approach as being of the utmost importance when upholding rights.

We know that the law or policy might impact differently on disabled women and men and that services might meet the needs of white disabled people, for instance, but not those of disabled people from certain ethnic minorities. Our state of the nation report "Is Scotland Fairer?", which I referred to earlier, notes that disabled people face particular issues in relation to socioeconomic inequality. One of our findings was that disabled people are more likely to experience worse living standards than non-disabled people, and the proportion of disabled adults in poverty increased between 2012-13 and 2019-20. In that context, an intersectional approach is really important, and any commissioner who was focused solely on disability would have to be cognisant of such intersections and build that into their work.

Dr Chopra: I totally agree with what Stephanie Griffin has just said. It has reminded me of something that I said to the deputy convener at the outset. I gave an example of a safeguard whereby, when someone is detained under an emergency detention certificate, they get a social worker—a mental health officer—so that it is not just one professional, a medic, who is making the decision. Mental illness counts as a disability if it falls within the framework of both the Equality Act 2010 and the definitions in the Convention on the Rights of Persons with Disabilities, particularly for those mental illnesses that last a long time.

Thinking of the individual safeguard that I mentioned to the deputy convener and the intersectionality that comes with ethnicity, I add that we have monitored how the Mental Health (Care and Treatment) (Scotland) Act 2003 has been working for the past 15 years, and we have shown that, if someone is white Scottish, they are much more likely to have a social worker as part of their detention process. A person in Scotland who is black or comes from another minoritised ethnic community is much less likely to get that safeguard. There is a huge intersectionality issue there.

A few years ago, we published on our website a report called "Racial inequality and mental health services in Scotland". We have shown the intersectional nature of what happens when someone with a disability comes from a particular minoritised group: they are much less likely to get that safeguard. Touching on what Jan Savage said about ensuring that safeguards are there for everyone, I note that making a safeguard mandatory disproportionately improves things for people from minoritised groups.

Paul O'Kane: The point about the Equality Act 2010 is interesting, and the interaction between the bill and the 2010 act will be relevant. It would be interesting to get your view on that, Stephanie. Specifically, I note that the Equality and Human Rights Commission had raised some concerns about overlap. The bill mentions inclusive communication. How does that interact with the need for reasonable adjustments, as set out in the 2010 act, and is it blurring the lines in relation to what each piece of law should do? It would be good for the committee to hear your view on that.

11:00

Stephanie Griffin: Thanks for that question. There are indeed a number of aspects of the bill in that respect. If the bill is agreed and a disability commissioner is established, there might be some overlap with our remit.

You mentioned inclusive communication. That is in other pieces of legislation, but a definition of the term is missing. The Social Security (Scotland) Act 2018 includes a provision on inclusive communication, and Social Security Scotland did a lot of work off its own bat to work out what that might mean in the context of benefits. We have interacted with Social Security Scotland about how it has done that.

On inclusive communication, the bill states:

> "The Commissioner must have regard to the importance of communicating in a way that ensures that disabled people who have difficulty communicating or accessing information in relation to speech, language or otherwise can express themselves and access or receive information".

I am not clear on what inclusive communication means in that context that is any different from what the reasonable adjustments duty is under section 20 of the Equality Act 2010. That section is quite clear that there is a duty on service providers to make reasonable adjustments to remove or reduce barriers that disabled people face. That is an anticipatory duty.

I am not 100 per cent clear on what the legislative gap is—that is, what is the bill trying to achieve that is not already achieved by the reasonable adjustments duty?

In relation to wider issues, such as duplication or overlap of remit, every function that is set out under section 2 of the bill has the potential to overlap with the ECHR's existing functions. I will not take up too much time by going through every function in the corresponding aspects of the Equality Act 2006 that established the ECHR and gave us our powers, so I will just say that there is quite a lot of overlap. Almost every provision corresponds directly to a provision of the 2006 act.

In our consultation response, the main issue that we have focused on is the potential for significant overlap with the proposed powers of investigation. As I have previously alluded to—I do not know whether I have given enough detail on this—we have powers of investigation in relation to suspected unlawful acts under the Equality Act 2010, including the discrimination, harassment and victimisation of disabled people. We can compel evidence. It is an offence not to comply, which is enforceable in court.

A recent example, which I have already given a couple of times, is our DWP investigation to establish whether successive Secretaries of State for Work and Pensions have committed unlawful acts under the 2010 act. The investigatory power in the bill appears to overlap with our powers and be significantly weaker in that the legal enforcement powers that we are afforded by the Equality Act 2006, which include applying for interdicts and instigating judicial review, are missing.

Section 6 of the bill attempts to address some of those issues by providing that an investigation cannot take place if it is the function of another person, and there are provisions on consulting the bodies whose role it might be. However, a risk still remains that that proposed power, not least in relation to individual investigations, strays into conduct that is prohibited by the Equality Act 2010, particularly discrimination, and is therefore outwith devolved competence.

I know that that is an EHRC-focused answer. It does not touch on the fact that a number of organisations, statutory and otherwise, are operating in this space as well. However, that overlap with the 2006 act is of particular concern to us.

Nick Hobbs: I wonder whether I could come in on the point about duplication, or is a question coming on that?

The Deputy Convener: No, go for it.

Nick Hobbs: I want to reflect some of what Stephanie Griffin has said, with a particular focus on the children's commissioner's office. We are concerned to ensure that we do not inadvertently restrict the ability of existing office-holders to undertake work. The investigation power in the bill obviously mirrors our investigation power—it is almost a cut and paste.

We have a provision, which is reflected in the bill, about non-duplication of

"work that is properly the function of another person".

That can be complex to navigate. It will become increasingly complex as the Disability Commissioner (Scotland) Bill seeks to add an additional provision that does not exist in our legislation, so that, even in cases where the disability commissioner considers that an investigation would duplicate the work of another body, they could still carry it out. They would be required to consult, but they could still proceed with an investigation. We are concerned that, in practice, that could result in our being cut out of work that would, in our view, properly be the role and responsibility of the children's commissioner's office.

The Deputy Convener: Is there anything else from Paul O'Kane? I see that he is happy with that. We had Marie McNair online to ask a couple of questions, but she dropped off. Have we been able to get her back? I see that we have not. If we can get her on in the next couple of minutes, we will. In the meantime, I will carry on.

In our conversations so far, there have been a couple of questions specifically on participation and engagement with different groups of disabled people and members of the diverse and varied disability community across Scotland. Where do you think that the challenges lie in having a commissioner in this area?

I suppose that that follows on from what Meghan Gallacher was talking about, with regard to how we understand disability in the round. Rather than having a disability commissioner, how would you see us tackle some of the potential tensions, and perhaps even conflicts, within the whole context for disabled people in Scotland?

Jan Savage: We are talking about a community that is not homogeneous—it is very diverse, as are all communities in every walk of life. I think that that would be a challenge for the disability commissioner, as one champion with a very small team and—as Nick Hobbs outlined—a projected budget that is, as far as I can see, insufficient to allow them to get out properly and encourage participation in the commissioner's work.

The experience of the SHRC in our current monitoring work on how disabled people's rights are being ensured is that it involves partnership work with civil society organisations. That is the best that the SHRC can currently do, because we are prevented from engaging with individuals or providing advice. However, that points to the duplicative nature of what a disability commissioner would add to the current landscape.

It is critical that such a role is costed well, because it takes money and time to get out and about and engage with people in order to listen deeply, and to do that well and ensure that the process is fully accessible. There would need to be checks in place to ensure that people's views are appropriately represented and heard, and the commissioner would then need to close that circle and feed back to people on what the impact of that engagement has been.

That takes a lot of energy, time and expertise that is quite different and distinct from policy or legal expertise. That is one of the challenges that the disability commissioner would face under the model that is currently proposed, but it would be a challenge for any of our organisations to engage appropriately, and perhaps better. Commitment to engagement with existing strong civil society organisations is definitely the route through that.

The Deputy Convener: Does anyone else want to pick up on that point?

Dr Chopra: I totally agree with what Jan Savage said about that aspect being a particular challenge. This group is quite diverse, so ensuring that their voices are heard is not easy, and it requires time and effort to engage with people.

In legislation, the Mental Welfare Commission board has to have an advisory committee that is made up of people who come from diverse groups and would have cause to influence the way in which our board makes decisions about what we choose to do. That is one model that could be put forward if we were to go down the route of having a disability commissioner.

Before I worked in Scotland, I worked out in New Zealand. The equivalent to the Mental Welfare Commission there has a board that is set up to include people with lived experience, so they determine what happens. That is another model in existence. It is crucial to have that lived experience to determine what route an organisation takes, and there are such models available in different places.

The Deputy Convener: Nick Hobbs outlined that the lived experience and participation of young people are vital to the role of the Children and Young People's Commissioner. Would you like to add anything else on that, Nick?

Nick Hobbs: Only to say that one of the strong and consistent messages that have come from our engagement with children and young people, certainly in the seven or so years for which I have been with the commissioner's office—and before that, I am sure—is that they want face-to-face engagement from us. There is sometimes an assumption that, because children and young people are very digitally literate, predominantly, they are looking for online engagement, but what comes across strongly is that they want us to go to the places where they feel comfortable. They want to be able to develop those relationships, and they want to be able to build trust by sitting down and spending a bit of time with you.

Therefore, the level of resource, time and commitment that is required to do that properly is significant. It also affects, very prosaically, things such as travel budgets, because you need to be able to go to places that are outwith the central belt. You need to be able to go up to the Highlands and Islands and you need to be able to go and see the communities where children and young people are, because they want you to engage in their spaces.

The Deputy Convener: Thanks. Stephanie, is there anything that you would like to add?

Stephanie Griffin: I do not have much to add. I agree fully with what each of the witnesses has already said. The only other point that occurred to me as others were speaking is the potential for consultation fatigue. A lot of DPOs—disabled people's organisations—whether they are national, regional or local, or whether they focus on disability generally or on specific conditions or impairments, do an awful lot of heavy lifting in responding to consultations by the Scottish Parliament and in engaging with bodies such as ours. If a disability commissioner is to be established, there is a real need for the EHRC, as well as the commissioner, to focus on working with other bodies, sharing information and taking from DPOs some of that burden of repetition and replication that is put on them.

The Deputy Convener: Your point about sharing information is interesting. We have not really touched on the barriers to sharing information across existing organisations, never mind an additional one, so that is something for us to consider as well.

Given what you said about participation, as the committee progresses through its gathering of evidence at stage 1, are there people, groups or organisations that you think we absolutely must talk to and that we must ensure are on our list over the coming weeks? Do you have any suggestions or ideas?

Nick Hobbs: I will say what you would expect me to say, which is children and young people. However, I recognise that the committee is having to deal with a process that has timescales attached to it. Therefore, it is a matter for you to determine what is realistic and what is doable over the time period that you have available.

Jan Savage: DPOs are very important as a route to ensuring that the voices of disabled people directly inform the inquiry. I also recommend having conversations with the clerks or the convener of the Finance and Public Administration Committee in respect of its parallel inquiry. As I alluded to earlier, some insight from the Scottish Government bill team, or from the cabinet secretary or the minister, on the human rights bill would be essential, because an understanding and appreciation of the Scottish legal framework around the UNCRPD in Scotland in particular is critical to informing how the accountability mechanisms need to shape around disabled people's rights in Scotland. Some early insight for the committee on that point would be very useful.

The Deputy Convener: Thanks, Jan. Your point about the work that the Finance and Public

Administration Committee is doing is well made. We will look with interest at the additional material that you send it—if you could also share it with us, that would be great.

Dr Chopra: If possible, it would be helpful to hear from the learning disability, autism and neurodivergence bill team. It would also be helpful to speak to the directorate about progress on the Scottish mental health law review. There is a section around accountability and governance within that, where there are proposals and recommendations. It would be helpful to hear where things are at with that process, because it will impact on this bill. It might be helpful to have evidence from Healthcare Improvement Scotland, which creates guidance and guideline notes for the care and treatment of people, many of whom have disabilities. It might be helpful to see what its thinking is in this space.

The Deputy Convener: Thank you. We have not been able to get Marie McNair back online. Are there any final points or comments that you want us to we hear before you leave?

11:15

Jan Savage: Just one, if I may. Across the panel this morning, we have all expressed how significant some of our organisations' concerns are around rights violations for disabled people in Scotland today. In particular, the human rights of people with learning disabilities and autism have been raised on a number of occasions. That is a core priority focus for our commission this year, and we will be publishing an output later this year, highlighting the human rights framework around long-term detentions of people with learning disabilities and autism in forensic mental health settings. Although we have not concluded that piece of work fully, it is likely that we will find evidence of quite significant human rights violations.

My final reflection at the end of this evidence session is about what the proposal for a disability commissioner would add, beyond what we can do currently, which is to bear witness to the issue, verify it, share it with Parliament, publicise it and highlight it to the Scottish Government. That is the bigger question that I would like to leave with the committee. All that any of us cares about is ensuring that there is an improvement in the system that creates some form of accountability lever that takes us beyond that. Whether that is done through a disability commissioner or by enhancing the powers and general duties of existing bodies, fundamentally, that is the only question that matters.

The Deputy Convener: Thank you all very much. I am aware that we have three different types of commission in front of us this morning, so it has been really interesting to hear about your different perspectives, reporting mechanisms and accountability structures. That is something for us to take on board and to consider as we progress with this work.

Thank you very much for your time and for the evidence that you have given us. I am sure that you will be hearing from us in due course as we progress this work. We will move into private session.

11:17

Meeting continued in private until 11:31.

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