



ALBA | CHRUTHACHAIL

Scottish Government Consultation: [Learning Disabilities, Autism and Neurodivergence Bill](#)

Submitted: April 2024

Consultation Questions

Please note that only relevant questions were responded to, with answer included below.

Statutory Strategies for Neurodivergence and Learning Disabilities

Which of these proposals do you agree with (if any), please tell us why?

Creative Scotland is the funding, development and advocacy body for the arts, screen and creative industries in Scotland.

We know that those with neurodivergent characteristics can often find it difficult to access funding opportunities to support their artistic and creative practice, and that the same people can often encounter barriers in participating with and engaging in creative activity. We are also aware that participation in culture can help to address issues faced by those who are neurodivergent, such as isolation, loneliness or a difficulty to engage with more traditional methods of communication and expression. We are therefore supportive of measures which seek to address and remove any barriers to participation in the cultural and creative sectors, either as an audience, a past time or a career.

Creative Scotland is supportive of the creation of a national strategy which involves people with lived experience in its development to help guide work in this area. We also support the proposal that it should be reviewed every 5 years and would ask that any review is done in consultation with those delivering the national strategy. Although we do not have specialist expertise in this area, we recognise the importance of defining those groups included in the scope of the proposed bill (and how these relate to wider definitions of disability), to ensure that no groups in society are inadvertently disadvantaged.

Is there anything else that we should consider in relation to strategies?

We would urge that consultation on the creation of strategies extends as widely as possible and includes public bodies, third sector and civil societies and other interested parties to enable the strategies to be realistic and focussed in terms of delivery.

Mandatory Training in the Public Sector

Do you agree with this proposal, please tell us why?

Creative Scotland would be supportive of providing training to the public sector in this area. Our staff are public facing and would potentially benefit from such training. We would also support the incremental approach to training, prioritising certain services.

In addition, we would ask that there be flexibility to allow any training to be tailored based on job role and the types of communication. For example, at Creative Scotland, we communicate with funding applicants across many different departments in the organisation. These can be from initial contact with the funding team, which undertakes eligibility checks, to assessors and consulting with the assessing officers to formal contracts being agreed via the legal team. In these cases, the idea of having a single mandatory all-purpose training feels somewhat inadequate, as each team communicates with a different purpose and will have different constraints around how communications can be adapted.

Is there anything else that we should consider in relation to mandatory training?

We would ask that the resourcing and rolling out of training is considered carefully, both in terms of financing the training and in terms of staff capacity to undertake such training. In addition, it would be helpful to allow some flexibility for some public sector bodies to be able to decide how, when and who should undertake such training.

Inclusive Communications

Which of these proposals do you agree with (if any), please tell us why?

Creative Scotland is broadly supportive of providing inclusive communications, but we would need to see greater detail on the specific public sector bodies that it would apply to before commenting further.

In relation to Proposal 4, it is not clear which public bodies this would apply to. In addition, we can foresee some conflict with Freedom of Information (FOI) legislation. This legislation states that a request must be made in written or permanent format and include the requestors full real name so this could be a potential conflict. That element would therefore need to be considered within this legislation.

FOI legislation does permit for a third party to make a request on behalf of another individual, as long as they disclose who is the true requestor. If any changes to this current workaround is required, this would impact on the FOI legislation.

Is there anything else that we should consider in relation to inclusive and accessible communication?

Important to note that public sector bodies are already subject to a number of obligations to provide communications in various formats and languages and that this Bill should align with those already set out and not duplicate. Again, we would highlight the resource implications of providing alternate forms of communication and ask that public sector bodies be properly resourced to enable high quality materials to be produced.

In addition, we would encourage consideration of tiered approach to inclusive communications, where key information/documents can be offered in inclusive formats as standard, and more detailed information can be provided in an alternative format upon request. This would offer a level of flexibility and be less demanding on capacity and resources.

Data

Which of these proposals do you agree with (if any), please tell us why?

As a public body which distributes public funding, we already collect data around equalities characteristics, so in principle, would support proposal 3 about data collection as set out in the consultation document. We would also support that this duty would only apply to relevant public bodies, which provide services and that these bodies are carefully considered.

Is there anything else that we should consider in relation to data?

Creative Scotland would welcome guidance around how best to collect this data, if it were one of the public bodies required to do so, along with details of how the data would be analysed and used. If we are not one of the public bodies cited, it would be very useful if the analysis of the data could be shared, to enable us to better understand the needs of those with learning disabilities and who are neurodivergent.

We would also note that, if we were one of the public bodies cited, we would require clarity around the data to be collected and note that we would likely need to ask our funded organisations to collect some of this data. The majority of the organisations in our sector are small and medium sized and are often funded for short, time-limited projects, so we would encourage that any data collection should be in proportion to this.

Independent Advocacy

Which of these proposals do you agree with (if any), please tell us why?

We would need further details on the duty set out in Proposal 1, to be required of all public bodies on this issue before being able to comment further.

Is there anything else that we should consider in relation to independent advocacy?

Again, we would highlight the resource implications of these proposals and ask that these are fully resourced to enable successful delivery. This is especially around capacity building regarding knowledge of independent advocacy, that would have to be developed within the organisation.

Employment

Do you agree with this approach? Please tell us why?

We would require more detail, especially around the element regarding Fair Work and highlighting the best practice around disability and equality training. How will this be implemented and what standard would employers be required to reach? How would this be different from what is already required and recommended under the Equalities Act? We would anticipate that, within our own organisation, there would be an element of upskilling for our own staff and it would be useful if support around this can be sourced and implemented, as well as the resourcing to allow this to be successful.

A large number of organisations which work in the creative and cultural sectors are small to medium sized, often with only two or three core staff. If this were to be implemented, then we would ask that consideration be given to the proportionality of the ask and appropriate support available for staff in those organisations.

Relating to this, we would have to consider the size of any data sets that we would have from these organisations and consider whether these would be able to be collated, due to issues with anonymity.

Accountability

Which of the 5 options set out above do you think would best protect, respect and champion the rights of neurodivergent people and people with learning disabilities? You can select multiple options if you wish.

Option 3, Option 5

Please give us your views:

If extra regulatory and enforcement powers are going to be given either to a new Commissioner or to existing bodies, then the duties that public bodies are required to fulfil must be crystal clear, along with the standards which must be met in that delivery. Those duties and their fulfilment should align and not crossover with existing and proposed legislation around Equalities, UNCRC and Human Rights.

We would welcome option 3 as a positive action which could raise awareness of how to meet the needs of neurodivergent people and people with learning disabilities. We would express concern that this is compliant with the Equalities Act 2010, and does not then disadvantage representation of other protected characteristics.

Option 5 would be welcomed to enable all public bodies to better understand how to meet the needs of neurodivergent people and people with learning disabilities.