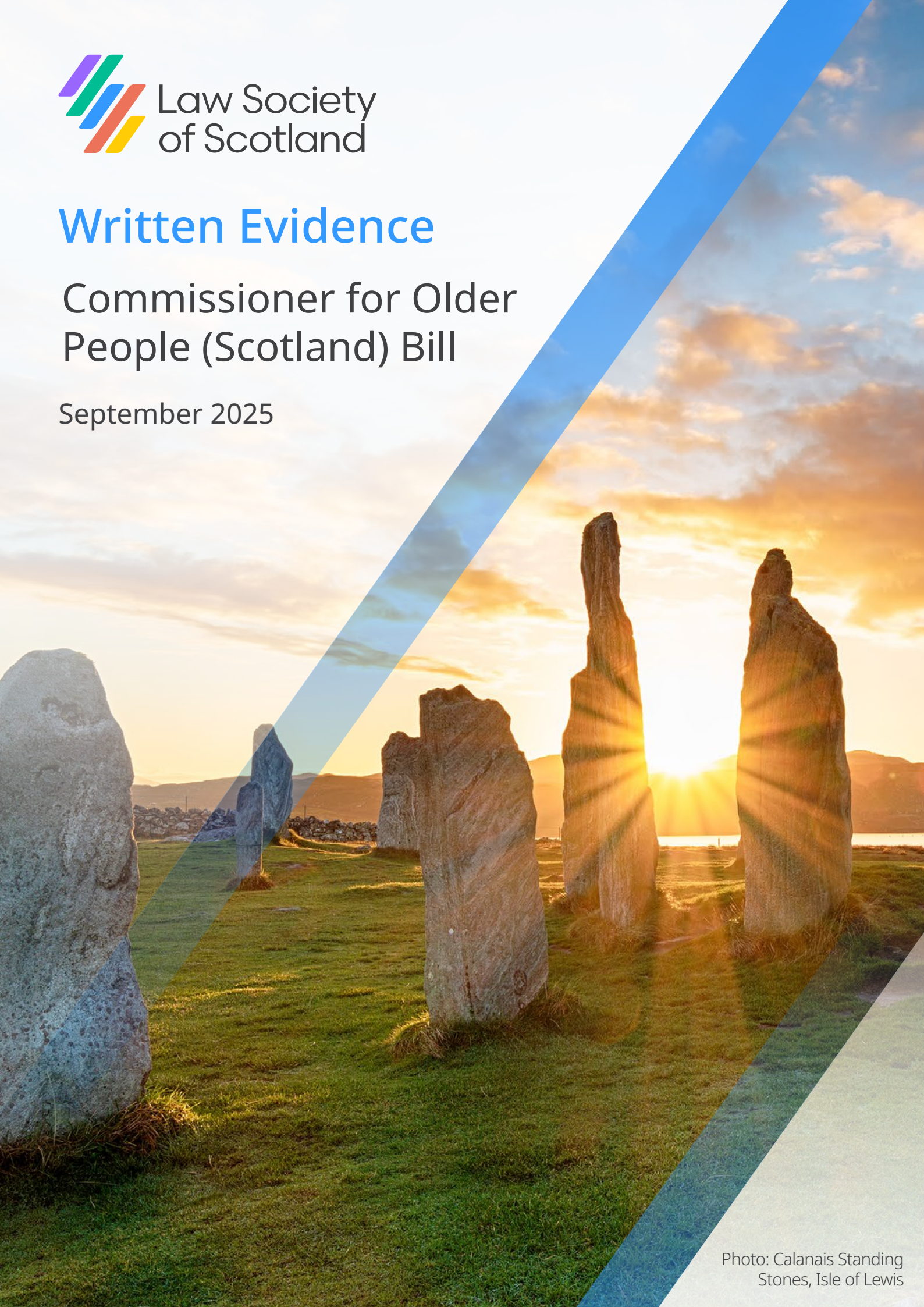


Written Evidence

Commissioner for Older People (Scotland) Bill

September 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

We welcome the opportunity to consider and respond to the Equalities, Human Rights and Civil Justice Committee of the Scottish Parliament's call for views¹ on the Commissioner for Older People (Scotland) Bill ("the Bill").² We have the following comments to put forward for consideration.

Questions in the call for views

1. What impact do you think the creation of a Commissioner for Older People would have on different individuals and groups within Scottish society? Please provide a brief explanation of the reasons for your views.

We recognise that Scotland has an aging population.³ As a result, the needs of the older generation must be carefully considered by policy-makers to ensure a joined-up approach which responds to the needs of this aging population. The creation of a Commissioner for Older People is one way in which the cooperation needed to ensure such an approach could be facilitated and the rights of older people promoted and safeguarded. We recognise the important role that Commissioners can play in providing independent scrutiny.

However, we have previously highlighted the potentially crowded landscape of Commissioners and of organisations which do, could or should discharge functions relevant to the functions of the Bill.⁴ Such organisations

¹ <https://yourviews.parliament.scot/ehrcj/commissioner-for-older-people-scotland-bill/>

² <https://www.parliament.scot/bills-and-laws/bills/s6/commissioner-for-older-people-scotland-bill>

³ <https://www.nrscotland.gov.uk/publications/projected-population-of-scotland-2022-based/>

⁴ See for example our response to the 2023 consultation on the Proposed Commissioner for Older People (Scotland) Bill (https://www.lawscot.org.uk/media/1mplu3i0/23-10-23-equ-mhd-proposed-commissioner-for-older-people-scotland-bill_.pdf), our written evidence on the Disability Commissioner (Scotland) Bill (<https://www.lawscot.org.uk/media/5w4lt4h4/disability-commissioner-s-bill-written-evidence.pdf>), our consultation response on the Scottish Government's proposals for a Learning Disabilities, Autism and Neurodivergence Bill (<https://www.lawscot.org.uk/media/uxybdlfq/24-04-21-mhd-crim-equ-ldan-bill-consultation.pdf>)

include in particular the Mental Welfare Commission for Scotland, Equality and Human Rights Commission, and Scottish Human Rights Commission. We are concerned that the creation of another Commissioner could become a recipe for confusion, overlapping responsibilities, and inefficient use of resources. This may be a particular issue for older people, as intersectionality may increase with age—meaning that older people with, for example, mental health or human rights issues, may have several places to take their concerns. As well as being confusing for individuals, there is a risk that each commissioner or other relevant body will not gain a full overview of issues within their remit.

We also note the recent report of the Finance and Public Administration Committee of the Scottish Parliament⁵ which concluded that “Continuing the trend for creating new advocacy-type SPCB supported bodies is not sustainable”⁶ and called for “a coherent structure, with enhanced accountability, budget-setting, and scrutiny mechanisms, as well as effective delivery and measurement of outcomes.”⁷ The subsequent SPCB Supported Bodies Landscape Review Committee concluded in their final report in June 2025 that “the SPCB supported body landscape should not be expanded to include new advocacy type SPCB supported bodies.”⁸ We welcome the SPCB Supported Bodies Landscape Review Committee’s recommendations on a new formal process for considering future proposals to create new such bodies.⁹

Consideration should be given to how existing roles can be strengthened and coordinated to ensure that the aim of promoting and safeguarding the rights and interest of older people is met, as well as considering non-legislative measures to ensure that law, policy and practice take into account the specific needs of this group.

2. Do you have any comments on the proposed roles and responsibilities of a Commissioner for Older People in Scotland as set out in the Bill?

See our comments above, at question 1.

3. What are your views on the proposed age range (over 60s) covered by the Commissioner’s remit?

See our comments above, at question 1. We agree that, if a Commissioner is established, the age range covered by the Commissioner’s remit must be clear.

⁵ <https://digitalpublications.parliament.scot/Committees/Report/FPA/2024/9/16/9987d9fc-1699-4bfd-84ef-a742adf776c8#Introduction>

⁶ *Ibid*, at para 143

⁷ *Ibid*

⁸ <https://digitalpublications.parliament.scot/Committees/Report/SSBLRC/2025/6/19/ebc80c58-7bea-4a4a-9c6d-b5811cd016ac>, at para 148

⁹ *Ibid*, at paras 150– 153.

While some of the issues that older people encounter become prevalent on retiring from the workforce such as poverty, and as such having the remit of the Commissioner start in line with the state pension age could be justified, we consider that a clear point for when the Commissioner begins to have a remit is necessary. As the national retiral age is different according to a person's birth date and is regularly reviewed, it does not provide a consistent point at which the Commissioner's remit would commence.

4. What are your views on the proposal that the Commissioner should be independent of Government?

See our comments above, at question 1.

5. Given that a number of other bodies have similar functions to some of those proposed for the Commissioner, how best do you think the proposed Commissioner's remit can avoid duplication with existing officeholders?

See our comments above, at question 1. If a Commissioner is established, careful co-ordination and communication between the various commissioners should be assured, and if necessary, a body such as the Equalities and Human Rights Commission could be assigned to the role of chief co-ordinator between the various commissioners. The scale of the demographic change within the country is such that it would be hard for one organisation to oversee all of the changes needed to facilitate our older people and all developments that will be needed. If we had an Older People's Commissioner, then this would assist in facilitating co-operation and the long-term planning that would be needed to provide innovative and effective solutions thus ensuring that our older population feel that they have a voice and are being heard within and by Scottish society.

6. Please provide any other comments you have on the Bill.

See our comments above, at question 1.



For further information, please contact:

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