**Response to the Scottish Legal Complaints Commission (SLCC) consultation on their operational plan and budget for the year 2023-2024**

**By email to:** consult@scottishlegalcomplaints.org.uk

**About Us**

1. Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, we are accountable to the Scottish Parliament.

Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:

* to enhance understanding and awareness of consumer issues by strengthening the evidence base
* to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
* to enable the active participation of consumers in a fairer economy by improving access to information and support

3. Since our establishment in April 2022, Consumer Scotland has worked closely with the Scottish Legal Complaints Commission (SLCC) in recognition of its status as the single point of contact for all complaints regarding lawyers in Scotland. We are grateful for the support that the SLCC has provided to Consumer Scotland in our first year of operation and we look forward to continued collaboration, along with participation in the SLCC’s Consumer Panel in the coming year.

**Summary**

4. Consumer Scotland notes the progress made by the SLCC towards delivering the 2020-2024 strategy, and the information set out regarding the operating context for this year’s operational plan.5. We welcome the SLCC’s five stated strategic aims and note significant crossover with Consumer Scotland’s Strategic Objectives set out above.

6. Of particular interest to Consumer Scotland is the SLCC’s focus on users of their services, including both individual and small business consumers. We welcome especially the work to:

* embed accessible English within SLCC reports and decisions as part of a long-lasting culture of accessibility
* review ‘chill’ factors in terms of consumers making complaints
* review the process for collecting and reporting on user feedback
* update, test and promote consumer guides
* pursue more effective engagement with diverse consumers and consumer groups, including considering the impact of the implementation of the Consumer Duty.

7. We also welcome the continued work of the SLCC Consumer Panel. We look forward to actively participating as part of the panel to advocate for consumer rights and needs in the legal sector, and to help provide consumer-focused input to debates regarding the Scottish Legal Services Regulation Reform Bill.

**Background**

8. The Scottish Government’s Legal Services Regulation Reform Bill is due to be published in this Parliamentary year. The Bill aims to reform a regulatory system which can be slow and complex for both legal professionals and consumers to navigate[[1]](#footnote-1). The Bill presents a major opportunity to modernise and reform legal regulation in Scotland in a way which will be beneficial to the profession and to consumers. This is an area of significant interest to Consumer Scotland, and our 2023-24 Work Programme sets out our intention to contribute to the Parliamentary process.

9. At some point in our lives, many of us can require access to legal services, sometimes unexpectedly or in high-stress situations, such as divorce or bereavement. The Scottish Crime and Justice Survey 2019-20 reported that around three-in-ten adults experienced civil law problems in just the three years prior to their interview for the survey.[[2]](#footnote-2) The highly specialised knowledge required of lawyers can result in a knowledge gap between professionals and consumers, where consumers may not know what to expect on their consumer journey. These factors can combine to exacerbate the risk of vulnerability faced by consumers of legal services, and indeed it has been argued that all consumers of legal services may be inherently vulnerable.[[3]](#footnote-3) In this context a robust, accessible, timely and fair process for resolving complaints about legal services is necessary.

10. In this response, we have focused on the aspects of the SLCC operational plan that are most relevant to our remit and where we have access to evidence that can allow us to contribute an informed view. Consumer Scotland recognises the SLCC’s considerable role in the legal services landscape and looks forward to working alongside the SLCC and Consumer Panel to further our shared goals.

11. Consumer Scotland generally supports the principle of regulatory systems being levy-funded. While we do not comment in detail on the proposed levy arrangements, we note the additional costs incurred by the SLCC in relation to securing the cooperation of a minority of firms with the complaints process. We consider that these costs have potential to increase both the levies applied to responsible firms and to consumers in the event that these costs are passed on. As such, we would support consideration of measures which would ensure that additional regulatory costs, above and beyond the normal operating costs of regulatory schemes, fall more squarely on those firms who generate them.

**Response to the ‘User’ Priority Area**

12. Consumer Scotland welcomes the programme of training and development for staff, encouraging the use of accessible language in their reports and decisions. For consumers for whom English is a second language, or consumers who have literacy or comprehension issues, less accessible language could restrict their understanding of the process they are experiencing and compound the more inherent vulnerabilities they may face when accessing legal services[[4]](#footnote-4). Measures that reduce such barriers to making a complaint including those described in the operational plan are very welcome. We support the SLCC’s continued focus on this work.

13. We welcome the proposed work to deliver a project investigating the ‘chill factors’ that can discourage consumers of legal services from making a complaint. Research published by the Financial Conduct Authority found that millions of people in the UK have poor consumer experiences each year across different markets and services, and yet choose not to complain.[[5]](#footnote-5) Legal services is an area in which some consumers may struggle to assess the quality of the legal services they receive. Improving understanding about why legal services consumers don’t complain would provide valuable insight into how to prevent consumer harm.

14. Consumer Scotland also supports the proposed work to review the process for collecting and reporting on user feedback and to update, test and promote consumer guides. Consumer Scotland welcomes the SLCC’s commitment to engage with both consumer organisations and also a more diverse range of consumers. In this context it is notable that research continues to show lower levels of trust and satisfaction with legal services among consumers from ethnic minority backgrounds.[[6]](#footnote-6) We also support the SLCC’s intention to contribute to work around implementing the Consumer Duty and look forward to working with the SLCC in relation to this.

**Response to the ‘Improvement’ Priority Area**

15. We welcome the SLCC’s continued promotion of early complaint resolution. As the SLCC has itself consistently argued,[[7]](#footnote-7) the timely resolution of complaints benefits both consumers and firms by limiting the financial, emotional, and time cost of such processes to all involved.

16. A continued focus on preventing common causes of complaint will also benefit both firms and consumers, especially given the potential for consumer vulnerability highlighted above. We welcome the production of bite-sized videos to share SLCC’s statutory guidance as a positive step towards increasing the accessibility of SLCC’s guidance.

17. We look forward to continued engagement regarding the upcoming Legal Services Regulation Reform Bill as the Bill progresses.

**Response to the ‘Digital’ Priority Area**

18. Consumer Scotland welcomes SLCC’s commitment to tracking the usage of Artificial Intelligence (AI) and ‘Big Data’ in legal services. Safeguarding consumer data is an important consideration and there remains high levels of unease about the use of AI and its ramifications for data security in the legal sector[[8]](#footnote-8). Developing a better understanding in this area, especially related to the potential risks and benefits that AI implementation and the use of ‘Big Data’ may have for legal consumers will be beneficial.

19. We also welcome the commitment to ensuring information and guidance are available online as well as offline as this will reduce barriers for consumers to access advice and support. Finally, given the commitment to accessibility noted elsewhere, we welcome the proposed digital exclusion checks, aimed at embedding accessibility into the SLCC’s processes.

**Response to Plans for the Consumer Panel**

20. Consumer Scotland recognises the Consumer Panel’s independence from the SLCC and is keen to support its work, including by participation on the panel.

21. We welcome the commitment to learn from best practice regarding child-friendly complaints procedures to inform SLCC processes. Children are not always considered to be consumers, but there may be circumstances in which they need legal representation. In such cases, child clients will likely be extremely vulnerable[[9]](#footnote-9) and may require additional measures to be put in place to reflect this.

22. Consumer Scotland welcomes the Consumer Panel’s focus on shaping the progress of the Legal Services Regulation Reform Bill, and the commitment to ensure consumer input to the ongoing Parliamentary debates related to the Bill.

23. We welcome the intention of the Consumer Panel to promote increased provision of research and other work which gathers and amplifies the views and experience of consumers.

1. [Research report - Legal services in Scotland (publishing.service.gov.uk)](https://assets.publishing.service.gov.uk/media/5e78cc9b86650c296f6eda63/Research_report_-_Legal_services_in_Scotland_publication.pdf) [↑](#footnote-ref-1)
2. [Civil justice statistics in Scotland: 2019-2020 - gov.scot (www.gov.scot)](https://www.gov.scot/publications/civil-justice-statistics-scotland-2019-20/) [↑](#footnote-ref-2)
3. [Vulnerability-in-legal-services-research-FINAL-REPORT.pdf (legalservicesboard.org.uk)](https://legalservicesboard.org.uk/wp-content/uploads/2022/06/Vulnerability-in-legal-services-research-FINAL-REPORT.pdf) [↑](#footnote-ref-3)
4. [MAKING LEGAL INFORMATION ACCESSIBLE (legalcapacity.org.uk)](https://legalcapacity.org.uk/wp-content/uploads/2020/10/CLARiTYReport-FullFinal-PDF.pdf) [↑](#footnote-ref-4)
5. [15 million Brits suffer in silence as they lack confidence to complain | FCA](https://www.fca.org.uk/news/press-releases/15-million-brits-suffer-silence-they-lack-confidence-complain) [↑](#footnote-ref-5)
6. [2021-01-13\_BAME-user-experiences\_FINAL.pdf (legalservicesconsumerpanel.org.uk)](https://www.legalservicesconsumerpanel.org.uk/wp-content/uploads/2021/01/2021-01-13_BAME-user-experiences_FINAL.pdf) [↑](#footnote-ref-6)
7. [2020-21 Annual Report Our focus on early resolution (scottishlegalcomplaints.org.uk)](https://www.scottishlegalcomplaints.org.uk/about-us/who-we-are/our-annual-report/previous-annual-reports/slcc-annual-report-2020-21/2020-21-annual-report-our-focus-on-early-resolution/) [↑](#footnote-ref-7)
8. [UK: AI in legal services barriers 2022 | Statista](https://www.statista.com/statistics/1266130/consumer-barriers-to-using-ai-legal-services-in-uk/) [↑](#footnote-ref-8)
9. ["All lawyers should be equipped to deal with young clients" | Just For Kids Law](https://www.justforkidslaw.org/news/all-lawyers-should-be-equipped-deal-young-clients) [↑](#footnote-ref-9)