

## ECONOMY, ENERGY AND FAIR WORK COMMITTEE

### CONSUMER SCOTLAND BILL

#### SUBMISSION FROM Consumer Panel of the Scottish Legal Complaints Commission

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1. What are your views on the Bill overall? How far do you think the Bill will achieve what it sets out to do? Are there gaps in the support currently available to consumers? How would Consumer Scotland fill these gaps? What priorities should Consumer Scotland have?

*The SLCC Consumer Panel welcomes the proposed introduction of Consumer Scotland and recognises that the body could have a valuable role in providing support to consumers as a whole. Whilst the aims of "reducing harm to consumers" and "increasing confidence among consumers" are laudable, it is not clear what this means in practice or how it will be measured. It may be preferable to provide some further clarity on this.*

*We are of the view that there are currently gaps in relation to provision for vulnerable people and are pleased to see that the bill proposes that Consumer Scotland must have regard to the interests of vulnerable consumers.*

*Consumer Scotland's priority should be to ensure that in carrying out their functions, such as investigations these result in tangible improvements in the protections for consumers and changes in behaviour of businesses not deemed to be acting appropriately in terms of their relationships with consumers.*

2. The Scottish Government recognises that there are already many organisations working with consumers in Scotland. The Bill would therefore require Consumer Scotland to work in collaboration with other bodies where appropriate. How does Consumer Scotland fit in with other bodies operating in this sector? How could Consumer Scotland help streamline services? Will the legislative provisions ensure Consumer Scotland does not duplicate existing work?

*Given the proposed funding and staffing set out, the Panel is of the view that it is unlikely that Consumer Scotland will be in a position to provide face to face guidance or direct guidance as a matter of course to consumers. In this respect it may be that it does not interfere with the work of existing bodies within the citizens advice network who provide*

*individual representation on a regular basis. It will however be important to make clear the separation between responsibilities and jurisdiction for Consumer Scotland and such organisations to avoid duplication.*

3. The Bill would provide Consumer Scotland with powers to provide advice; represent the views of consumers; collect information; organise research; and carry out investigations. Scottish Ministers are able to add to, vary or remove functions as required. Do you think Consumer Scotland has the necessary powers to make a difference to consumers in Scotland?

*Whilst these powers represent positive ways in which CS may be able to influence businesses and support consumers in general terms, the SLCC Consumer Panel is of the view that in order for more meaningful protection for consumers, the ability for CS to award redress in the form of compensation to consumers, as well as the power to impose sanctions on businesses would be more likely to bring about significant improvements in consumer protection.*

4. Consumer Scotland would have a duty to consider the interests of vulnerable consumers, including disabled, older, low income and rural consumers. Do you think the creation of Consumer Scotland will make a difference to your consumer problems, or the problems of the consumers that your organisation deals with?

*We would hope this would be the case. It is not clear from the Bill though to what extent the vulnerable groups referred to in Section 6 (6) will actually be represented in the new body. Formal representation or the establishment of an advisory group on vulnerable consumers would be ways of enhancing this.*

*The SLCC Consumer Panel also note that the definition of ‘vulnerable people’ is narrow in the Bill and this will require additional clarification, possibly in the Act itself or, if not then in the explanatory notes or statutory guidance. It should, for example make reference to people who could be considered ‘vulnerable’ due to circumstances they find themselves in, as opposed simply to particular characteristics. For reference, the Domestic Abuse (Scotland) Act 2018 contains very helpful guidance in the explanatory notes. In addition, the SLCC’s own guidance ‘Consumers at Risk of Vulnerability’ (<https://www.scottishlegalcomplaints.org.uk/about-us/consumer-panel/vulnerable-consumers/>) may be a helpful reference.*

5. Most consumer protection powers are reserved to the UK Parliament. Consumer Scotland won’t be able to change reserved laws or require UK-wide bodies to do anything. Will this limit how effective it can be? How should Consumer Scotland tackle consumer issues which are affected by reserved powers?

*Yes, potentially. We are aware however that the body will have to operate within the legal parameters which are already established.*

6. The Scottish Government intends that information about consumer problems will be widely shared between organisations so that action can be prioritised (see the Policy Memorandum, paragraphs 21 and 22). There are legal and organisational barriers to this sort of information sharing. Do you think it can be achieved in practice?

*Yes. The ability to share information on these matters should not be constrained by matters such as concern around data protection. A collaborative approach to information sharing should be adopted by CS with a view to ensuring businesses and organisations are aware of the requirements to provide information to CS in certain circumstances. The SLCC Consumer Panel is of the view that the information which would be required from businesses and organisations in relation to consumer matters could be provided without compromising personal information.*

7. The Bill creates a new duty on public bodies to consider the impact of their policies on consumers. How can Consumer Scotland ensure that this makes a practical difference to consumers? How do you think the duty should operate?

*The SLCC Consumer Panel welcomes this in principle but is conscious of the fact that it could easily simply become a 'tick-box' exercise for public bodies if Consumer Scotland does not provide some scrutiny. As an example it would be more useful if Consumer Scotland were to consider auditing a sample of public bodies on a rolling programme to ensure these bodies can demonstrate how they have considered the impact of their policies on consumers and what they have done to mitigate any concerns.*

*In relation to most of the draft Bill a precise definition of 'consumers' is not required, this will often be defined on a 'common sense' basis, specified in more detail for particular projects or work (using a relevant and appropriate definition in that context), and mechanisms are in place for security of Consumer Scotland and its planned work if there are concerns it has defined consumer too broadly or narrowly at any time.*

*However, for a duty on other bodies to be meaningful it is suggested there will need to be considerable work in guidance, under s21, to either give clarity that each body subject to the duty will define what a consumer is, or a definition given.*

*The SLCC Consumer Panel would welcome Consumer Scotland having the authority to encourage, or potentially even compel public bodies to collect proportionate disaggregated data. In addition it may assist Consumer Scotland in achieving positive change for consumers if it had the power to report organisations or particular matters to the Scottish Parliament for further scrutiny or inquiry where it identifies through exercise of its functions, concerning patterns of behaviour.*

8. Are there any other aspects of the Bill you would like to comment on?

*Nothing further to that included above.*