

Consumer Duty

Background

Since 1 April 2024, the SLCC has been subject to the consumer duty, meaning that in taking strategic decisions we must:

- have regard to the impact of the decision on consumers
- have regard to the desirability of reducing harm to consumers
- publish information about the steps taken to meet the duty
- have regard to the guidance.

The final [Consumer duty guidance for public bodies](#) was published on 12 February 2025.

Approach

The board discussed the consumer duty at its development session in April 2024. It was agreed that a ‘test and learn’ approach would be taken to meeting the consumer duty. As such, feedback on this approach and suggestions for improvements are very welcome.

Definitions

The relevant definition of a **consumer** is: “someone who buys, uses or receives goods or services in Scotland, or could potentially do so, supplied by a public authority or other public body”. That includes actual individual consumers, but also small businesses and future consumers. Crucially, the definition only applies to small businesses in the context of them acting as a consumer based on the definition above (and not, for example, as a provider).

Harm to consumers can encompass situations that cause consumers stress, cost them money or take up their time. It can include incidents that consumers consider worthy of complaint, it could be hidden to the consumer or be structural such as access to justice issues. For example, some consumers are unaware of the services they are entitled to due to lack of awareness, resilience, or knowledge of how to access them.

A proportionate approach to meeting the duty should be adopted. This means public authorities are required to **have regard to** the two elements of the duty when making strategic decisions. They do not have to go beyond that or give them overriding weight during the decision-making process, as long as they can demonstrate that they have done this.

The **Consumer Principles** are:

- **Access** – can people get the goods or services they need or want?
- **Choice** - is there any meaningful choice?
- **Safety** - are consumers adequately protected from risks of harm?
- **Information** - is it accessible, accurate and useful?
- **Fairness** - are all consumers treated fairly?
- **Representation** - do consumers have a meaningful role in shaping how goods and services are designed and provided?
- **Redress** - if things go wrong, is there an accessible and straightforward way to put them right?

The SLCC budget and operating plan

At its meetings in November and December 2024, board agreed that the development and agreement of the SLCC budget and operating plan is a strategic decision and so is one to which the consumer duty should apply. This should apply to whole process, start to finish, from board's first consideration to the point at which it is published and laid in parliament.

Impact assessment

The table at appendix one forms the basis of the impact assessment being carried out to ensure the board has regard to the impact of the budget and operating plan on consumers and to the desirability of reducing harm to consumers. It is based on a template impact assessment provided by Consumer Scotland as part of its guidance.

It also helps to set out some of the information we will publish in our annual report to demonstrate that we have had regard to the guidance and the steps taken to meet the duty. The DoPP leads on completing the impact assessment and take responsibility for ensuring the board has the relevant information and time for discussion in order to support its consideration of this.

The updated impact assessment is available now for comment and discussion and will be updated following the board's discussion on the final budget for laying. For clarity, the sections on planning and the assessment and improvement of the proposal are unchanged since the last board meeting. The sections on the assessment and improvement of the proposal

DoPP will gather input from those discussions to complete the impact assessment and will be responsible for publishing information about the steps taken to meet the duty in the 2024/25 annual report. A short statement is included in the 2023/24 annual report to report board's consideration of the duty last year.

Appendix One – Impact Assessment

Planning

Question	Response
Do you consider this to be a 'strategic decision' in line with the consumer duty guidance? (if not, why not?)	Yes
Is this decision likely to have an impact on any/ all consumers?	This decision is likely to have an impact on consumers of the SLCC's services and an indirect impact on consumers of legal services.
Have you considered/reviewed the consumer duty guidance before planning this proposal?	The SLCC board and executive has considered and reviewed the consumer duty guidance before planning this proposal.
Has an outcomes-based approach been taken to planning this project?	Yes. This includes a focus on providing better quality services and improving outcomes for consumers, which are at the heart of the SLCC's mission and strategic aims. We have also considered how the consumer principles apply to this decision.
Have you considered how this proposal meets the consumer duty requirements?	Yes
How do you plan to meet the consumer duty with respect to this project/ proposal/ plan?	Board papers on the budget and op plan will include specific reference to the consumer duty to ensure discussions have regard to the impact of the decisions on consumers and to the desirability of reducing harm to consumers.
What plans are in place to ensure that the three requirements of the consumer duty are met?	Board papers drawing on the guidance to focus discussion on the 'have regard' requirements. DoPP tasked with leading on reporting.
What consumer engagement plans have been made?	We have a statutory requirement to consult, which includes our Consumer Panel. We also invite other relevant consumer groups to respond. Board (plus the Consumer Panel and SET) receives quarterly customer feedback reports and takes those into consideration in its discussions. No plans for specific engagement on the budget beyond this, but the op plan will contain details of any specific projects which include engagement.

What plans do you have for ensuring appropriate consumer engagement is undertaken throughout the entire process?	Customer feedback and ongoing day-to-day engagement informs operational planning. Specific feedback on proposals at consultation stage.
What approach are you taking to ensure you meet the requirements of the consumer duty? E.g., impact assessment?	Using impact assessment to assess consideration. Full public consultation including targeted engagement with consumer groups to gather evidence (see below).

Evidence gathering

The guidance notes that authorities should make full use of the data already available to them where possible before to minimise workload.

Question	Response
Has sufficient evidence been gathered to evaluate the outcomes of this project and meet the consumer duty?	Yes
What consumer engagement has been undertaken?	Existing customer feedback plus the dedicated budget and operating plan consultation (which includes targeted engagement with consumer groups).
Have any evidence gaps been identified? Could these be filled with further consumer engagement?	No. The consultation received two detailed responses from consumer groups and representatives and one response from a legal regulator.

Assessment and improvement of proposal

Question	Response
Have you assessed the impact of the proposal on consumers?	Yes, in its meetings in November and December 2024 the board considered the budget and operating plan proposals, including the impact on consumers through the commitment to, and level of funding available for, specific consumer-focused improvements plus general improvements to the

	<p>complaints process and regulatory system that may benefit consumers.</p> <p>At its March meeting the board considered responses to the consultation from Consumer Scotland and the Consumer Panel. Those responses were broadly in favour of the proposals. Comments on specific operational projects will be considered as those projects are taken forward.</p>
Have you identified alternative options that would improve outcomes for consumers?	<p>In November 2024 board considered proposals for additional resource to support further work in some specific areas including stakeholder engagement and policy development, making our service more visible and accessible to consumers, and work to support our independent Consumer Panel. It was agreed that additional funding would be made available to support stakeholder engagement and policy development. It was agreed that additional funding to support accessibility and the Consumer Panel was best considered once the Regulation of Legal Services Bill has completed so that resource can be best targeted where needed in response to new powers and duties.</p> <p>No further alternative options were identified through the consultation process. However, at its March meeting to agree the final budget and operating plan, the board considered whether sufficient focus is given to two key issues – compliance with the letter and spirit of the UNCRC, and trauma-informed practice. It was agreed those should be considered further in finalising and implementing the operating plan.</p>

Decision

The guidance requires the authority to consider the results of the previous stages, agree any changes to the proposal and set out clearly how we have met the consumer duty for this particular strategic decision. It notes it may be necessary to weigh up competing interests and potential harm to different groups of consumers and that consideration of the impact on consumers in vulnerable circumstances may also carry significant weight.

Question	Response
How does the final decision impact on consumers?	<p>The decision impacts on consumers through the commitment to, and level of funding available for, both specific consumer-focused improvements and general improvements to the complaints process and regulatory system that may benefit consumers.</p> <p>The decision on the budget and operating plan commits resource to a number of projects to improve accessibility and inclusion for service users as well as agile work to make ongoing improvements to the complaints process, and to support and implement legislative changes that will bring further opportunities for improvement.</p>
Why were alternative options not chosen and what would have been the outcomes for consumers in these scenarios?	<p>No specific alternative options were considered, but board did discuss feedback from stakeholders on the option proposed as well as considering proposals for additional resource to support further work in some specific areas including stakeholder engagement and policy development, making our service more visible and accessible to consumers, and work to support our independent Consumer Panel. Some of that work is funded in the chosen decision.</p> <p>Other work was postponed until the Regulation of Legal Services Bill completes so that resource can be best targeted where needed in response to new powers and duties.</p>
Was the best option for consumers chosen? If not, why not?	<p>The board's duty is to ensure that sufficient funding is delivered to support delivery of the SLCC's statutory duties. It must take into account the impact on consumers, the needs of users of its service and the impact on practitioners, who fund the SLCC's work.</p> <p>In balancing those considerations, the board believes that the best feasible option for consumers was chosen, ensuring a continued focus on improvement and accessibility within the SLCC's wider improvement work.</p>

Publication

The authority must publish the information no later than 12 months after the end of period to which it relates.

Question	Response
How will you publish the steps taken to meet the duty?	<p>This will be published in our annual report. Details on some of the consultation considerations will also be published along with the final budget.</p> <p>However, board also agreed to publish the full impact assessment to aid transparency and demonstrate genuine engagement with the requirements of the consumer duty.</p>

Evaluation of the approach taken to meet the duty

Question	Response
Did you meet the four statutory duty requirements of the consumer duty?	Yes
Did your approach to meeting the duty help improve outcomes for consumers? If not, how could this be improved in the future?	It's not yet clear if this approach will help improve outcomes for consumers, but we will monitor the impact of the work committed to in this budget and operating plan, including through evaluating potential improvements for consumers.
Is there anything that could be changed to improve the approach to meeting the duty in future?	More targeted consumer engagement might help to inform decision-making in future, depending on the nature of decision under consideration. However, for this decision the statutory consultation process, which includes consultation with our independent consumer panel and other consumer groups, was felt to be the best approach.