

Minutes

Consumer Panel Meeting

Tuesday 6 June 2023 (via Teams)

Present: Gillian Fyfe (GF), Citizens Advice Scotland (Chair)
Tracey Reilly (TR), Consumer Scotland
Chris Gill (CG), University of Glasgow
Louise Johnson (LJ), Scottish Women's Aid
Kirsten Urquhart (KU), YoungScot
Craig McClue (CM), Competition and Markets Authority

Vicky Crichton (VC), Director of Public Policy, SLCC
Susan Williams (SW), Best Practice Advisor, SLCC
Sheena Macdonald (SM), Service Experience Team, SLCC
Jamie Wilhelm (JW), Scottish Government (Item 4 only)
Rebecca Smith (RS), Scottish Government (Item 4 only)

Introduction

1. Welcome and apologies

The Chair welcomed members and introduced Mr Wilhelm and Ms Smith from Scottish Government.

Apologies were noted from Tim Mouncer (Which).

2. Declarations of Interest

No declarations of interest were necessary. The Chair reminded all members to complete any outstanding Declaration of Interest requests.

3. Approval of Minutes 7 March 2023

The Minutes of 7 March 2023 were approved, subject to a minor change in wording for item 6, to reflect the recommendations used in the final Demographic Data report.

4. Regulatory reform

The Chair welcomed Jamie Wilhelm and Rebecca Smith, from Scottish Government. Jamie Wilhelm confirmed that, following engagement with stakeholders, many of the recommendations from the Robertson Review had been incorporated into the Regulation of Legal Services (Scotland) Bill. The policy analysis and accompanying documentation explained why the recommendation for a single independent regulator was not included. He described the structure and broad content of the Bill, which sought to introduce a modern and risk-based framework. He highlighted that Law Society of Scotland would be a Category 1 regulator, with the Faculty of Advocates and Association of Commercial Attorneys falling into Category 2, as smaller regulators

with less direct consumer engagement. Chapter 3 provided for new regulators to enter the market. A mechanism was set up for review of regulators' performance and adherence to the regulatory objectives. Part 2 introduced entity regulation and creation of rules around legal businesses. The regulatory requirements would not, however, cover any third-sector organisations with lawyers as employees. Part 3 sought to establish a more proportionate and simplified legal complaints system, with greater authority for the SLCC to set their own standards and processes, and improved collaboration on trends to enhance services. Part 4 was aimed at promoting growth and competition. A range of offences was included to dissuade those holding themselves out incorrectly as being authorised to provide legal services. Restrictions on charities and third sector organisations in relation to provision of legal services were removed. Finally, the Bill was flexible enough to deal with areas of law that may need to be regulated in future.

Mr Wilhelm concluded that because the Bill required regulators to take consumer principles into account, the Consumer Panel would be allowed to make recommendations across legal services, not just on complaints, but on broader issues like entry and training.

Members were interested to hear more about the Consumer Panel's increased remit, including the ability to conduct research, and asked how this might be resourced. They pointed out that making the Panel a statutory consultee on wider issues could also have implications for the way it interacted with other stakeholders. Mr Wilhelm said there was a deliberate move to put consumer interests at the heart of the decision making and it was accepted that proportionate resourcing would be needed, although SG did not want to be prescriptive. He reminded the Panel that Parliament's call for submissions and comments on the Bill would close on 9 August, and SG would be happy to hear further from the Panel if it felt its role or remit could be refined or improved.

Mr Wilhelm added that the previous Working Group included many stakeholders whose views would be important when considering any concerns and suggestions for implementation.

LJ commented on clause 81, allowing a charity to employ salaried officers to deliver legal representation in court. Mr Wilhelm confirmed that the Bill aimed to remove restrictions and link to wider reforms. LJ asked if the Bill would make it easier for third parties to bring complaints. Mr Wilhelm responded that the Regulators and Commission would be able to initiate complaints, but the Bill would not alter the position around client or third-party complaints.

Mr Wilhelm concluded that there had been unanimous agreement that the current complaints process was too lengthy and costly, so SG had tried to remove statutory constraints while allowing also for continuous improvement, which would include the Commission's power to set standards. The LSS had indicated that it was keen to establish its own consumer panel, but SG also wanted an overarching independent statutory consumer panel.

CG pointed out that although the Bill provided more flexibility on procedure, there was still provision for a Review Committee, and he wondered if that might not cause bottlenecks. He wondered if there might be a surge in judicial reviews. Mr Wilhelm responded that the drafters had tried to balance all stakeholder views and provide for

checks and balances. The previous consultations showed general support for a simpler process, as the Court of Session was viewed as inaccessible to many, and a review mechanism was both ECHR-compliant and more flexible, in line with the ombuds approach. SG did not anticipate many judicial reviews, and felt these would probably only be raised on very specific legal issues.

GF pointed out that Panel members' own organisations would be considering their own submissions, and the Panel as a whole would consider its own engagement. She thanked JW and RS for attending. They left the meeting at this point.

VC noted that the Bill had not supported the proposals for a single, independent regulator and the SLCC would continue to express its views on that, whilst noting that within the confines of the chosen model, the Bill had achieved many of the aims and allowed for the SLCC to work more effectively, to have greater oversight to enhance learning from complaints. The SLCC would also welcome the greater focus on addressing entity regulation and improvement. However, on complaints, there was still a concern that conduct issues would involve a handover to another organisation, which was a difficulty for consumers.

GF said that she would strongly support the Panel making a separate response from the SLCC, focusing on whether the Panel believed the Bill was sufficiently robust in reflecting the consumer interest. She noted there may be some push-back on the extension of the Panel's remit, so it would be useful to counter those in advance. Members agreed that a strong statement on resourcing and funding was needed, particularly since additional work required of Panel members could have an impact on capacity in their own, already-stretched, organisations. They felt that the additional research powers could be very positive, and closer work with other regulators could be beneficial, but were aware of sensitivities around independence and would be keen to discuss this further. They might wish to re-state some of the initial points made.

All members agreed that they were happy for VC and GF to prepare a draft. They commented that their own organisations would be making submissions on different aspects.

VC & GF

5. SLCC Feedback

VC tabled the Q3 customer feedback report, noting that some changes were still to be made following the Board's feedback. She confirmed that the data would be presented in the current format until end June 2023, but that a different format was being considered for future comparisons over a single and multiple years.

CG commented that because this was such a small sample, it was difficult to reach firm conclusions. He queried whether it was possible to show numbers as well as percentages, and asked that the customer feedback table be clarified. He felt that more explanation on mediation figures would be useful.

VC said the SLCC was planning to draft a short 'you said, we did' report, summarising broad indicative comments and reporting on the SLCC's response, which included implementing practical steps and feeding comments into the reform debate. This would be published with the next annual report. Members agreed that this was a useful and important step.

6. Service Experience Team (SET)

SM reported that SET had continued to implement the service delivery complaints process and it would continue to seek comments from the very few complaints dealt with. The SLCC staff were happy to be the first point of contact with a complainer, and the website was being updated to provide an interactive tool to direct any complaints immediately to the relevant person. SET continued to work to implement best practice around document and website accessibility, with guidance that could be tailored to service users' requirements. It was also creating a supportive toolkit, including guidance on telephone conversations. Future projects would include consideration of other feedback models.

7. Demographic Data - who makes complaints?

VC reported that she and GF were finalising some of the wording and getting the charts in the report as clear as possible. She would circulate the link once the final report and press release were released.

8. Consumers at risk of vulnerability: social content

The Panel were provided with the link to a short video which was intended to build awareness of the Consumer Panel's work and previous report on vulnerability. Members who had managed to see the video found it clear and helpful, and offered to share links to other training resources that would hopefully be in place next year. It was agreed that if no other members had comments, by 16 June, the video would be released.

All - 16 June

Administration and AOB

9. Members were happy to continue holding future meetings on MS Teams but commented that an in-person meeting may be helpful when discussing the workplan for the following year, particularly in relation to the Panel's proposed extended remit.

10. Dates for the next meetings were confirmed as:

Tuesday 5 September 2023

Tuesday 5 December 2023

Tuesday 5 March 2024

Tuesday 4 June 2024