



## RESPONSE TO SCOTTISH GOVERNMENT'S CONSULTATION ON A BILL TO ESTABLISH A CONSUMER BODY FOR SCOTLAND

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September 2018

### About the SLCC Consumer Panel

The SLCC Consumer Panel is an independent advisory panel set up by the Scottish Government in January 2015.

The specific purpose of the Panel is to assist the SLCC in understanding and taking account of the interests of consumers of legal services. The Panel was established by the Legal Profession and Legal Aid (Scotland) Act 2007.

The key activities of the Panel are to:

- Make recommendations to the Commission for improvements to the Commission's policies and procedures;
- Make suggestions to the Commission of topics for research connected to consumers; and
- Express views on such matters relevant to the Commission's functions as the Commission directs.

The Panel is comprised of representatives from a number of consumer-focussed organisations and bodies from across Scotland. The Panel's Chair **Carol Brennan**, Director of the Consumer Dispute Resolution Centre at Queen Margaret University.

The SLCC Consumer Panel greatly welcomes this opportunity to contribute to the discussion on a potential consumer Body for the people of Scotland; as a Panel we have long considered that there is room for additional advocacy with a clear focus on the Scottish consumer.

We have responded to the specific consultation questions below.

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## **Consultation on a bill to establish a consumer Body for Scotland**

### **Question summary**

1. Do you have any comments on the consumer landscape in Scotland?

The Consumer Panel welcomes the fact that it is recognised that the consumer landscape in many areas is different from that in E & W. Apart from devolved areas, such as legal and education, there are other aspects relating to jurisdictions and regulatory systems which create distinct and unique differences for Scottish consumers.

From the Panel's perspective of legal complaints, there is particular welcome of the recognition that consumers of legal services in Scotland form an important component of that landscape. We have particular concerns in relation to those unregulated areas of law – such as will writing, or where a struck-off solicitor can continue to operate as a “lawyer” – where, currently, consumers fail to receive the same levels of protection afforded to clients who engage qualified solicitors.

2. Do you agree with the proposed functions of Consumer Scotland?

The Panel considers that there is room for additional research and advocacy which has a clear consumer focus. Accordingly, the Panel greatly welcomes the proposals put forward in the consultation document.

3. Which powers and duties would you like Consumer Scotland to have in order to carry out its proposed role?

The fact that the proposal is for an independent statutory body is something which the Panel endorses – the Panel believes that these criteria are essential to give the proposed body “clout”. As well as robust investigating and reporting functions, the Panel would suggest that any powers of monitoring and enforcement should also be matched by a commitment to ensuring it is sufficiently resourced and prioritised.

4. What are the criteria that would constitute a specifically Scottish consumer issue?

These should include matters which fall under devolved areas but also, in a wider sense, any matter which affects Scottish consumers (not necessarily exclusively, on the basis that markets don't tend to be governed by administrative boundaries).

5. Which criteria might Consumer Scotland consider when assessing the level of harm needed to be reached before an investigation is pursued?

The overall extent of any impact, including the potential future risks, and the extent to which the matter is not, or has not already been, covered by another body's jurisdiction.

The Panel considers that matters which cause, or could cause, specific harm to vulnerable consumers should be given extra weight.

6. Are there additional functions you think Consumer Scotland should have to allow it to deliver impacts for consumers in the current landscape?

See answer to 3 above.

7. Are there any additional functions Consumer Scotland should have that will enable it to adapt and respond to future consumer challenges?

While the Panel welcomes the fact that the proposed body will be staffed by policy and/or sector experts, it is equally important that the body is sufficiently resourced to allow those individuals to keep up-to-date with industry and sector changes. This will allow speedier responses to emerging issues. To that end, a research function, particularly engaged in "horizon scanning", would be essential.

8. What are your views on the current consumer advice system? How could it be strengthened?

The Panel believes that there are distinct advantages in a single point of entry for all consumer issues in Scotland – these could then be triaged to the relevant organisations. A consumer impact assessment of such a proposal could be both a useful and impactful project for the new body.

9. What are your views on how the Scottish Government could improve how it commissions and funds advice to individuals?

In relation to the answer given at 8 above, the Panel considers that one of the functions of a single entry point facility could be to provide a "one shop" advice centre – this would enhance the provision of consistent and "joined up" advice to consumers.

10. How can advocacy develop greater capacity to bring change for consumers?

The Panel agrees that, in order to be truly effective, the voice of the consumer – particularly those voices which are currently unheard because of factors including the power imbalance between consumer and service/product provider – needs to be heard and action should be taken to address consumer concerns.

11. What are your views on whether there should be a duty on public authorities to consider the impacts on consumers of policies or decisions?

The Panel would greatly welcome such a move.

12. Beyond the actions set out in section 2, how should Scottish Government use its

resources and powers to improve outcomes for consumers?

No further comment

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### **Contact and further information**

The Consumer Panel can be contacted at:

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