

Minutes

Consumer Panel Meeting

Tuesday 10 December 2019

Present: Shaben Begum (SB), Scottish Independent Advocacy Alliance
Jane Williams (JW), Queen Margaret University
Gillian Fyfe (GF), Citizens Advice Scotland
Louise Johnson (LJ), Scottish Women's Aid
Miriam Simpson (MS), Competition & Markets Authority

Neil Stevenson, CEO, SLCC
[REDACTED], Best Practice Advisor, SLCC

Presenters from Scottish Government Access to Justice Unit (for item 4)

Denise Swanson, Head of Access to Justice Unit
Jamie Wilhem, Legal Services Regulation Reform Lead
Rebecca Smith, Legal Services Regulation Reform Policy Officer

- 1. Apologies:**
Apologies were noted from Louise Macdonald (Young Scot) and Vicky Crichton (SLCC).
- 2. Declaration of interests:**
None declared. ~
- 3. Minutes:**
The Consumer Panel minutes of 3 September 2019 were approved.
- 4. Scottish Government presentation on Regulatory Reform**
Denise Swanson (DS) outlined the history of the debate on legal services regulation reform, and the current progress of the Working Group and their discussions. She mentioned some of the issues that could be covered by the public consultation. The Minister would be taking the final decision, but the purpose of the current consultation was to try to provide as much information as possible to permit the Parliamentary Justice Committee to see a balanced range of options, before it took the process through Parliament. Scottish Government was

expected to have held comprehensive stakeholder engagement, and the advice paper to the Minister might include additional or alternative matters, not only about the current and future regulatory frameworks but also, for instance, about entity regulation. Scottish Government wanted to ensure that the intention behind the Robertson recommendations would be delivered. Models from other jurisdictions had been considered, in several different meetings. It was expected that the public consultation would be held mid-2020.

In answer to questions from members of the Panel, Ms Swanson said that the Scottish Government was keen to reflect, in its report to the Minister, a broad range of opinions. There had been some support for activity regulation, and although the legal profession broadly was not in favour of the concept of independent regulation, this was not a universally-held view. Scottish Government was asking those who expressed opposition to suggest alternative models for inclusion in the consultation paper, which would not attempt either to be too prescriptive or to drill down into too much detail. Because at the moment the discussions were about structures, not content, no users of legal services were yet included on the Working Group; their needs would be addressed as part of the public consultation. Scottish Government was also thinking about the best route to follow to ensure that public opinion would be both visible and accessible, and may also pick up more points for discussion once the CMA research had been published.

The Chairperson described the process that had been adopted for the review of Mental Health Services, using a range of professionals and users, which resulted in the “lived experience” being taken seriously. The Panel highlighted and discussed the potential benefits of input from representative bodies and from individuals, suggesting that it may be useful for Scottish Government to design a “pre-consultation questionnaire” to focus the discussions, with an executive summary, written in a style that would be truly accessible to the intended audience. Ongoing and properly meaningful engagement between any regulator and the public was essential to continuous improvement. Panel members suggested it might be useful for Scottish Government to do a roadshow to publicise and get as wide a range of views as possible, stressing the importance of including those whose views were currently not being heard, who might include those impacted by Child Welfare reporters, the Solicitors’ Scheme, immigration and prison systems. It was essential to understand how services were affecting their users, and to consider if a different model would achieve improvements. There was still a problem with imbalance of power, and a different dynamic when advocates were involved. Panel members also stressed the importance of a specific Scotland-focused discussion, to include transparency of fee arrangements, barriers to entry, innovation in the market, and options for redress.

Ms Swanson noted that there was also discussion on the options for the positioning of tribunals and what other disciplinary options might exist that were not included under the current system. Scottish Government was aware that a framework would need to be enabling, but also transparent, and able to adapt to future changes. Any future option must embed proper checks and balances to ensure accountability and transparency.

Ms Swanson noted that there was some opposition to the idea of a public appointment process, and to the suggestion that Scottish Parliament should have an oversight role. Currently, the thinking was that the consumer perspective might rather be embedded into the regulatory system, as opposed to having a specific body to represent the consumer voice. Members spoke to how useful it had been for them to serve on the SLCC Consumer Panel, and emphasised that any future body would need proper resourcing, support, transparency and accessibility.

The Chairperson thanked the Scottish Government representatives.

After the Scottish Government representatives left the meeting, Panel members briefly recapped the discussions. They were of the opinion that anything purely based on the current models would not allow for the kind of substantial innovation that other sectors had achieved. They felt the discussion would need to focus on whether new regulation would address current legal services or potential products available in that system. Mediation was another issue that needed to be explored. Panel members wanted to stress the importance of a consumer representative panel to the Working Group, and to emphasise that such a group must be properly resourced and independent, able to do research, consult and assist the public and the legal sector and be able to partner with other bodies where necessary.

5. SLCC 2020–2024 Strategy and 2020-2021 Operating Plan

Neil Stevenson introduced the discussion document. He said the Board felt it would be useful to get input from the Consumer Panel on the new strategy and direction, which would also be more widely publicised to help others understand what the organisation was doing. Consultation would be running until around May 2020. He highlighted the main themes, including the Panel's contribution to the Consumer Scotland debate, representing the voice of consumers in the regulatory debate, research (as highlighted earlier in the discussions with Scottish Government), direct engagement with consumers and practitioners and making recommendations for improvement of the complaints process.

Members agreed:

- More specific research should be commissioned to inform the debate, written in a way that was practical for lawyer audiences and also informed the debate from a consumer perspective;
- The Panel could - separately from the research - champion the consumer voice, including playing a more active role in the current regulatory reform agenda;
- The Panel should use its networks to help Scottish Government contact consumer groups;
- The Panel would, as part of its work in achieving wider recognition of consumer affairs, prioritise work in relation to the development of the Consumer Scotland Bill.

The Panel noted the experiences with the SLAB Review, and suggested that the SLCC ask SLAB whether there had been any recent updates.

They also asked for the SLCC's Guide to Vulnerable Consumers to be circulated

SLCC

SUW

It was agreed that NS would draft a summary of these discussions to reflect the high level intention of the Consumer Panel, and circulate it to Panel members for comment

NS

6. The following points were noted:

- The Consumer Panel had lodged consultation responses to the Legal Aid and Consumer Scotland bills. No responses were submitted on the Judicial Factors Bill, as this consultation was more focused on operational issues than principles.
- The Chairperson had attended the October meeting of the SSLC Board.
- Revised Confidentiality Agreements were signed. SUW would scan these back to members for their records.
- Representatives from CMA and CAS would be attending a meeting with the Scottish Government on Thursday next week. Jane Williams said that Queen Margaret University had already undertaken some research on the value of consumer panels and she would provide this to the SLCC and all members of the Panel, for input into that meeting.

7. Any other business

Panel members briefly highlighted their current work within their organisations.

SWA was involved in a scoping exercise for a solicitor-manned helpline, and would be meeting with the LSS.

CAS would be reporting back on access to services in the next year.

QMU was involved in a project to liaise with those complained about as a follow up to research on the effects of being a subject of complaint.

CMA would be happy to talk to individual organisations about their research, due to be published in about February 2020.

DATE OF NEXT MEETING: TUESDAY 10 March 2020 at 14:30