

# Minutes

## Consumer Panel Meeting

Tuesday 5 December 2023 (via Teams)

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**Present:** Gillian Fyfe (GF), Citizens Advice Scotland (Chair)  
Tracey Reilly (Consumer Scotland)  
Steven McGregor (Competition and Markets Authority)  
Arish Narendran (Competition and Markets Authority) (Item 6 only)  
Sharon Horwitz (Competition and Markets Authority)  
Louise Johnson (Scottish Women's Aid)  
Chris Gill (University of Glasgow)

Vicky Crichton (VC), Director of Public Policy, SLCC  
[REDACTED] Best Practice Advisor, SLCC  
[REDACTED] (SLCC Observer)  
[REDACTED] (SLCC Observer)  
[REDACTED] (Service Experience Team, SLCC)

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### Introduction

#### 1. Welcome and apologies

The Chair welcomed members. Apologies were noted from Kirsten Urquhart (YoungScot) and Tim Mouncer (Which).

#### 2. Declarations of Interest

No declarations of interest were necessary.

#### 3. Approval of Minutes 5 September 2023

In view of the fact that only two members were present who could confirm the minutes of the Minutes of 5 September 2023, it was resolved to have those approved by email between those who had attended in September.

### Discussion

#### 4. Service Experience Team

[REDACTED] (LC) noted that SET had been working on what might be the "chill factors" or barriers that service users might face in making complaints. In particular, she mentioned fear of retaliation, the perceived effect on ongoing instructions, and solicitors' reluctance to report each other.

LJ agreed and added that women, in particular, faced difficulties in accessing solicitors with a good understanding of domestic abuse, and limited numbers of firms willing to accept legal aid instructions, and children had limited knowledge against a perceived

power imbalance. More support was needed in relation to Child Welfare Reporter complaints, where many were unaware that they could complain, or were actively dissuaded from doing so. More awareness was also needed on reporting behaviour of defence solicitors.

CG agreed that this was a comprehensive summary, showing similar conclusions to other research, and it might be worth making a comparison with other projects, particularly since fear of stigmatisation came out more strongly in the public service. TR also noted Consumer Scotland's similar experiences, but said that more prosaic reasons, as highlighted in the Consumer Protection Survey, spoke to "inaction detriment" where some did not consider the time and effort in making a complaint was justified in light of other, more pressing issues. LJ said those suffering ongoing domestic abuse needed to focus on achieving an immediate outcome rather than another barrier. If the solicitors' actions prevented the desired outcome, it was also particularly hard for women to revisit the issues again.

GF noted that some people might complain either about cost, or in the hope of obtaining compensation, and was interested to know if the main focus of complaints that were made was the individual or the hope that they might achieve wider change. VC noted that solicitors often suggested that clients would only complain when they received their bill. However, that timing could equally reflect a wish to finalise the transaction first. Comments from complainers included requests for apologies, explanations, and achieving improvement for others.

CG noted that social motivations for complaining were important. People may not complain for fear of being perceived as difficult, and so it was necessary to address the misperception that complaining was automatically selfish or unreasonable.

LJ also highlighted a common misperception of an automatic bias by "bodies in the system" towards solicitors. She felt it was important to stress the independence of the SLCC and would like to think how to publicise how complaints upheld had resulted in positive change. VC pointed out that the SLCC could not publish complaint outcomes, and the SLCC was not involved after the point of redress and could not follow up on practical changes achieved. However, the SLCC might potentially be able to give more publicity on how it used real but anonymised examples during outreach, with the specific aim of encouraging better practice.

## **5. SLCC feedback**

VC tabled the Q2 SLCC customer feedback report, with a comparison to Q1, and to the overall annual response figures and feedback from July 2022 to June 2023, to give more context. Members appreciated the presentation of the data, commenting that the comparison of quarterly and annual results allowed for better comparison. VC confirmed SET had been looking at the ordering and "clustering" of questions. Members wondered about the disparity between satisfaction expressed by solicitors and complainers was due to lack of understanding. VC and CG confirmed that most other professional sectors were not as strongly criticised by their members, so this was not an unusual pattern when compared across several other sectors.

## 6. Regulatory reform

VC noted that the parliamentary committee had now concluded its oral evidence sessions with final input from the Minister and Scottish Government (SG) officials. The Report, and the Stage 1 debate, must be finalised prior to 23 February 2024. It was not clear whether the Bill would pass Stage 1; if it did, it was likely that there would be significant debate at Stage 2. TG added that another option was that the Committee make no recommendation, although this would be likely to give rise to significant new amendments at Stage 2 that may not have been tested with stakeholders.

Some significant concerns had been expressed during the oral evidence. Some parts of the Bill, particularly the ministerial powers, had attracted media and political attention, although this was only a small portion of the Bill. The expanded remit of the Consumer Panel had been raised, and although there were no concerns in principle, the Panel itself had wondered how it would work in practice and noted the resources required to support it.

VC noted that MSPs had already noted how widely polarised some views were, and the Minister had referred to attempts to “find the middle ground”. The Panel felt there had been more focus on perceived government involvement rather than on concerns about the lack of independent regulation, and that consumer protection had not been properly addressed.

There was a discussion about the ‘review’ powers being proposed for the CMA and Consumer Scotland. It was noted that in addition to the proposals for the Panel wee to be given consumer research powers, the SLCC currently has oversight over conduct complaints handling, indemnity insurance and the Guarantee Fund, as well as the power to issue complaint handling guidance. It was felt that even combined these would not be able to give any specific insight into broader regulatory failure, and that that would be a significant gap.

Members generally felt a drop-off in engagement and were concerned about insufficient emphasis on consumer needs and outcomes. Consumer Scotland would share any legal research, and suggestions on follow-up, with the Panel.

Members discussed the timing of the next steps and agreed that GF, as Chair, should write to the Minister and Committee, expressing views on the role of the Consumer Panel, its resourcing and the wider concerns about insufficient focus on the consumer voice.

It was also agreed that once the Stage 1 report was published, the Panel would hold an additional meeting to discuss the next steps.

**TR: Share research**  
**GF: circulate draft letter**

**SLCC: Circulate Stage 1 report & arrange additional meeting**

## 7. Membership and meetings

GF noted that the Panel needed to discuss some options to expand its membership, particularly in light of challenges on regulation and the potential expansion of the Panel’s remit. She also wanted to move to the appointment of a Vice-Chair, which could be a shared role, or a rolling appointment, so that there were others available to sign off response. Although the SLCC had approached other organisations, they were unable to commit to the time or add this into their portfolios. It would be useful to have

inclusion from other organisations or individuals with expertise in specific equality-protected sectors.

The Panel agreed to discuss this again at its next meeting and to have the question of membership as a standing agenda item.

### **Administration & AOB**

8. The following updates were given:

- **Consumer Duty** – the SLCC will be subject to the Consumer Duty when it comes into force on 1 April 2024 and had included compliance with this into the workplan for the coming year. TR reported that Consumer Scotland was currently developing the guidance.
- **Human Rights Bill** – The consultation on the Bill covered improving access to justice, in relation to the rights in the Bill, through complaints mechanisms, access to information, advocacy and representation. This may have implications on the work of the SLCC, particularly in relation to a possible referral to other sources of information. The SLCC and Panel would continue to monitor the Bill.
- **Dates of future meetings:**
  - \*Additional meeting to be arranged in February, once the Stage 1 report on the Legal Services (Scotland) Bill was released by the Committee
  - Tuesday 5 March 2024, 2pm, MS Teams
  - Tuesday 4 June 2024, 2pm, MS Teams