



Gordon Lindhurst«Name»

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STAGE 1 REPORT ON THE CONSUMER SCOTLAND BILL

I am writing in response to the Economy, Energy and Fair Work Committee Stage 1 report on the Consumer Scotland Bill. I thank the Committee for its careful consideration of the Bill and the useful debate it has facilitated in the course of its evidence sessions.

I am pleased the Committee has recognised the value a new consumer body can bring, and welcome the Committee's general support of the principles of the Bill. I look forward to the continued input of members as the parliamentary stages progress.

A response to the various recommendations of the committee is attached in the Annex to this letter.

I hope the Committee finds this information helpful.

JAMIE HEPBURN

ANNEX A

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RESPONSE FROM THE SCOTTISH GOVERNMENT TO THE STAGE 1 REPORT ON THE CONSUMER SCOTLAND BILL

The Committee welcomes the Scottish Government's intention for Consumer Scotland to collaborate with organisations already operating in the consumer protection landscape. However, the Committee heard that as Consumer Scotland's objectives have not been defined, a number of organisations remain uncertain how Consumer Scotland will operate. In advance of its stage 2 considerations, the Committee believes the Minister should outline in further detail the form and functions of Consumer Scotland, including how it would interact with other bodies, so as to ensure there is no duplication of work.

The Scottish Government remains of the view that it is appropriate that in taking forward their primary work, as set out in the Policy Memorandum, as an investigatory body much of Consumer Scotland's operational detail is developed by the body's senior staff and board, in collaboration with other consumer organisations and regulators with whom it will interact. However, as requested by the Committee, we will provide further detail on the form and functions of Consumer Scotland, without of course restricting the scope for Consumer Scotland to independently establish its own priorities and relationships.

At present, assurance is offered that the body will be as set out above primarily an investigative body. It will also perform advocacy in the essential services. Its work beyond that will be to increase collaboration across the landscape, and ensure consumers have access to high quality consumer advice without itself becoming a frontline advice organisation.

The Committee believes it is important that consumer voices are a central part of setting Consumer Scotland's work programme, recommends that there is a duty to consult and asks the Scottish Government to consider how it will take this forward.

The Scottish Government agrees that the consumer voice should be an important part of Consumer Scotland's work and accepts this recommendation. We commit to exploring how this can best be achieved.

The Committee recognises that it will be essential for Consumer Scotland to establish close working relationships with a number of stakeholders, including trading standards services. It notes concerns that there could be competing priorities from UK bodies and Consumer Scotland, which may cause confusion. The Committee therefore recommends that structures, such as a Scottish Consumer Protection Partnership are established to enable better communication and consistency in priorities.

The Scottish Government agrees that close working relationships, including those supported by formal structures, will be vital for Consumer Scotland. We also agree that the idea of a Scottish Consumer Protection Partnership appears to have merit and commit that this approach will be developed in coordination with consumer groups, regulators and enforcement agencies to ensure they benefit the whole consumer system.

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The Committee notes the important role played by CAS services in supporting consumers on a range of issues. CAS and CABx are trusted providers of consumer advice and advocacy and will have a key role to play in informing Consumer Scotland's priorities. The Committee recommends that the duty to collaborate in the Bill is extended beyond public bodies to include third sector advice organisations, such as CAS, so as to minimise possible duplication of work and to facilitate the role of such bodies as consumer advocates.

The Scottish Government agrees with this recommendation. We will bring forward an amendment to section 6(3)(a) to broaden the range of organisations with similar functions whose activities Consumer Scotland must take account of, so that it is no longer restricted to only public bodies.

The Committee notes CAS's concerns about the future of its consumer advice and advocacy functions, particularly in light of the expectation that it will lose its levy related funding, worth approximately £1m in 2019/20 with, as yet, no commitment from the Scottish Government beyond 2020/21. The Committee welcomes the Minister's commitment to continue to have a dialogue with CAS on how to maintain the levels of support offered to CAS by the Scottish Government. The Committee asks to be kept updated on these discussions and would urge the Minister to consider a long-term funding plan. The Committee also notes conflicting evidence about the proposed advice role of Consumer Scotland and seeks clarity on Consumer Scotland's role in relation to advice provision

The Scottish Government is keen to ensure that CAS can continue to play a role in consumer advocacy going forward, and has been engaging with them closely to develop a future role that will allow this while also acknowledging the changes to the landscape that a new consumer body must bring. We will continue this engagement and keep the Committee updated.

It is the Scottish Government's intention for Consumer Scotland to identify its priorities and objectives once established. The Committee heard representations from a range of stakeholders on what they felt these priorities should be, including the quality assurance of advice, access to alternative dispute resolution, research, prevention, and product recall. The Committee recommends that the Minister considers a duty on Consumer Scotland to coordinate and disseminate information around major recalls of faulty products. The Committee notes that the Bill provides for Consumer Scotland to have regard to the interests of vulnerable consumers and also notes that consumers do not always make complaints. It is therefore important that hidden consumer detriment is considered and that Consumer Scotland evaluates how it can best represent the experiences of vulnerable consumers using the data it can access.

The Scottish Government remains committed to the principle that Consumer Scotland should set its own work priorities. However, the Bill makes clear that this should be done in collaboration with others focused on consumer interests in Scotland, and, therefore, its work will reflect the most significant challenges facing consumers in Scotland.

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On the specific issue of a recall duty, the Scottish Government believes that, in practical terms, the Bill as drafted would allow Consumer Scotland to take the lead in coordinating a Scotland-wide response to product recalls. We are open minded on the merits of a duty to do so and will further consider the matter in advance of Stage 2.

The Committee notes evidence received by a range of stakeholders, which suggested vulnerability is dependent on context rather than the characteristics of the consumer. The Committee recommends that the Scottish Government considers this evidence and revisits the definition of vulnerability to ensure it is not overly-restrictive.

The Scottish Government acknowledges that stakeholders have been concerned about the definition of vulnerability in the Bill as it currently stands in section 6(6). Although the Bill sets out that the examples provided are illustrative and not exhaustive, it is clear that the text has raised some questions and issues, and the Scottish Government will therefore explore bringing an amendment forward at Stage 2 to try and assuage any such concerns.

The Committee believes that many challenges faced by consumers are equally, if not more, applicable to people running small businesses. Sole traders and small business owners who are experiencing issues with goods and services often have limited resources to pursue complaints and may also be suffering additional detrimental impact on the ability to run their own business. The Committee recommends that the Scottish Government bring forward an amendment at Stage 2 to broaden the definition of consumer to address these concerns.

The Scottish Government accepts the principle of the recommendation that many challenges faced by consumers are also applicable to people running small businesses. Discussions with stakeholders have begun to ensure that this is recognised. We commit to ensuring that the Bill takes account of the concerns that have been raised.

The Committee notes the joint evidence submitted by a group of Scottish academics which recommends that Consumer Scotland's goals could be more clearly defined to reflect the Scottish Government's broader aim of creating an inclusive, fair and prosperous Scotland. The Committee invites the Scottish Government to consider how these principles could be incorporated into the Bill and the key priorities of Consumer Scotland once established. The Committee believes that closer alignment with the Scottish Government's broader wellbeing agenda would be beneficial.

The Scottish Government has always envisaged that Consumer Scotland will play a key role in forwarding equality and fairness in Scotland and considers that as drafted it enables this. We will though explore if the Bill can more explicitly reflect this intention.

The Committee notes that the ability to gather data from a wide range of organisations will be crucial if Consumer Scotland is to have the evidence-led strategic role intended in the Bill. The Committee would welcome updates from the Scottish Government's working group on data sharing to better understand how these arrangements will work in practice and to what extent its collected data will be reciprocally shared.

The Scottish Government commits to sharing the progress of the working group with the Committee and to publishing the minutes of discussions on the Scottish Government website.

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The Committee notes evidence from trading standards organisations which suggests that the information-sharing framework in the Enterprise Act 2002 facilitates data sharing among enforcement agencies. The Committee believes that the Scottish Government should explore with the UK Government the possibility of including Consumer Scotland in this Act.

The Scottish Government will explore the scope for including Consumer Scotland in the Enterprise Act 2002 and whether doing so is the most effective way of facilitating data sharing. We will share our conclusions with the committee as we progress the Bill.

The Committee notes evidence from CoSLA which challenged the view in the Financial Memorandum that local authorities would not incur any additional costs responding to the consumer duty. The Committee asks that the Scottish Government have further dialogue with CoSLA to explore these concerns in relation to costs.

In line with the Committee's recommendation the Scottish Government has reached out to CoSLA to discuss this matter.

The Committee notes that the Delegated Powers and Law Reform Committee considered whether some public bodies that will be subject to the consumer duty could be named on the face of the Bill. The Committee notes the Scottish Government's response to the DPLR Committee's letter on this topic and invites the Minister to reflect further on whether some public bodies, such as those outlined in the letter and which others, should be included.

The Bill, as currently drafted, requires consultation with those to whom the duty will apply. The Scottish Government is keen to avoid confusion by providing a partial list for inclusion in the Bill before a full consultation exercise is carried out, but will of course give open consideration to any specific proposition advanced as the Bill is taken forward.

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