

T: 0300 244 4000  
E: [scottish.ministers@gov.scot](mailto:scottish.ministers@gov.scot)

Claire Baker MSP  
Convener  
Economy and Fair Work Committee  
Scottish Parliament  
Edinburgh  
EH99 1SP

1 February 2024

Dear Claire

## **The Consumer Scotland Act 2020 (Specification of Relevant Public Authorities) (Scotland) Regulations 2024**

Thank you for your letter of 17 January 2024. I am happy to accept the invitation to appear before the Economy and Fair Work Committee on 7 February 2024 to move and debate the motion to approve the above regulations.

You raised a number of questions in your letter, my responses to which are below.

### **The Purpose of the Consumer Duty**

The [Consumer Scotland Act 2020](#) established a Consumer Duty (the Duty) on relevant public authorities, and places a requirement on them to publish information about the steps they have taken to comply with it. A key principle of the Duty will be to ensure that these bodies are working towards improving outcomes and reducing harm for consumers as part of their strategic decision making process. We wish to ensure that public authorities are thinking about the right thing for consumers as part of their everyday work, and the Duty is a way of delivering this.

Our re-prioritisation of resource to focus on the Scottish Government's response to the cost of living crisis has meant that the responses to the consultation, which have all been considered carefully, have still to be published. This will be done soon.

There was broad overall support for the Duty, with the most common concerns raised relating to:

- the impact that this would have on workloads relating to the administrative requirement of the Duty; and
- the need for clear guidance on how the Duty should be implemented.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

## The Extent of the Consumer Duty

The Duty will apply to the relevant public authorities where a consumer in Scotland purchases, uses or receives goods or services. This means that the scope is very broad.

Officials' engagement with public authorities has made clear that the majority of public authorities make strategic decisions that can have an impact on consumers. There is such a difference in the size and work of all public authorities that it would be almost impossible to list all specific functions to which the Duty should apply. The decision was therefore made that public authorities, when making decisions of a strategic nature, should adhere to the Duty to ensure its consistent application by those authorities, and – importantly – that it should not apply to everyday, operational decisions.

The SSI Policy Note clarifies that we have left it up to each public authority to define what a strategic decision would look like for its own organisation. I am well aware of the pressures that public authorities are under, and I believe that our proportionate and targeted approach will ensure that this Duty becomes neither onerous nor a tick box exercise. My officials have been stressing this as part of their engagement with public authorities.

## The Bodies Covered by the Consumer Duty

Our continuing engagement has also led us to exclude some public authorities which had been listed in the consultation from having to adhere to the Duty. For example, binding the Scottish Public Services Ombudsman to the Duty risked impinging on its statutory independence and impartiality under certain circumstances. Regional Transport Partnerships have also been excluded as they are made up of local authorities which are already covered by the Duty, as is Transport Scotland.

## Guidance

Consumer Scotland will publish a draft guidance document on or before 31 March 2024 to immediately support the authorities covered by the Duty. Following that, and in accordance with the Consumer Scotland Act, a public consultation will run to gather feedback to help inform the final draft of the guidance. The final guidance will be published on the Consumer Scotland website ahead of the implementation period ending on 31 March 2025.

This implementation period from 1 April 2024 to 31 March 2025 is to allow public authorities and Consumer Scotland to work together to ensure that the guidance meets the needs of the authorities. However, public authorities will still be required to adhere to the Duty during this time. It is also anticipated that the guidance will be finalised well within this grace period.

I hope that this response is helpful and I look forward to discussing these issues in more detail at the evidence session.



**TOM ARTHUR**

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See [www.lobbying.scot](http://www.lobbying.scot)

St Andrew's House, Regent Road, Edinburgh EH1 3DG  
[www.gov.scot](http://www.gov.scot)

**INVESTORS IN PEOPLE**<sup>™</sup>  
We invest in people Silver

