

## POLICY NOTE

### THE CONSUMER SCOTLAND ACT 2020 (RELEVANT PUBLIC AUTHORITIES) REGULATIONS 2024

SSI 2024/xxx

#### Summary Box

*This Scottish Statutory Instrument (SSI) is to be made in exercise of the power in section 21 (2) of the Consumer Scotland Act 2020 which states that :*

*“For the purposes of this section and sections 22 and 23, "relevant public authority" means a person with functions of a public nature who is specified (by name or description) in regulations specified by the Scottish ministers.”*

#### Policy Objectives

Part 2 of the Consumer Scotland Act 2020 established a Consumer Duty (the Duty) on public authorities to improve the extent to which consumers are considered in strategic policy and decision-making.

The purpose of the SSI is to set out a list of Scottish public authorities to be made subject to the Duty. This is required to ensure that public authorities are aware of this Duty and that it is being placed upon them.

The Duty will come into force on 1 April 2024 followed by an implementation period of one year ending on 31 March 2025.

#### Consultation and Engagement

A Consultation on a Consumer Duty for Public Bodies ran from 3 September 2021 until 26 November 2021 seeking views on the public authorities to which the Duty should apply. Overall, there was broad support for the Duty to apply to all public authorities.

The consultation document can be found here: A Consultation on a Consumer Duty for Public Bodies – Scottish Government – Citizen Space<sup>1</sup>

An analysis of responses to the consultation can be found here: Consumer duty for public bodies: consultation analysis – gov.scot (www.gov.scot)<sup>2</sup>

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<sup>1</sup> <https://consult.gov.scot/energy-and-climate-change-directorate/consumer-duty-for-public-bodies/>

<sup>2</sup> <https://www.gov.scot/publications/consultation-consumer-duty-public-bodies-analysis-consultation-responses/>

## Public Authorities

The Consumer Duty for Public Bodies consultation listed Scottish public authorities to be bound by the Duty. Feedback received from this consultation, and additional stakeholder engagement, has meant that the final list differs from the one which was consulted upon. All public authorities to which the Duty will apply have been consulted over the Summer and Autumn of 2023.

Additionally, since the introduction of the Consumer Scotland Act in 2020, six new Scottish public authorities have been established. Detailed engagement has been held on an individual basis with representatives from each of these to discuss the importance and application of the Consumer Duty.

The full list of Scottish public authorities which have to adhere to this Duty are listed at **Annex A**.

## Definition of Integration Authority

The Public Bodies (Joint Working) (Scotland) Act 2014<sup>3</sup> put in place a legislative framework to integrate health and social care services in Scotland. As such, an integration authority is defined as:

*a body that is responsible for developing and implementing a strategic plan for integrated functions and budgets under their control, which are delegated by the health board and local authority and covers all of the 32 authorities in Scotland.*

Clackmannanshire and Stirling decided to operate with a single integration authority covering both areas, meaning that there are 31 integration authorities in Scotland, 30 of which operate as integration joint boards. Highland is not listed as an integration authority because it operates a lead agency model. This places the Consumer Duty on NHS Highland and Highland Council, both of which are named in this SSI.

## Definition of Consumer

The definition of consumer which will be used for the purposes of the SSI is that which is provided in the Consumer Scotland Act 2020<sup>4</sup>

### Meaning of “consumer”<sup>5</sup>

(1) In this Act, “consumer” means—

(a) an individual—

(i) who purchases, uses or receives, in Scotland, goods or services which are supplied in the course of a business<sup>6</sup> carried on by the person supplying them, and

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<sup>3</sup> <https://www.legislation.gov.uk/asp/2014/9/contents/enacted>

<sup>4</sup> <https://www.legislation.gov.uk/asp/2020/11/contents>

<sup>5</sup> <https://www.legislation.gov.uk/asp/2020/11/part/3>

<sup>6</sup> The Consumer Scotland Act’s (<https://www.legislation.gov.uk/asp/2020/11/section/25>) definition of a business includes a profession, a not for profit enterprise (within the meaning of section 252(1F) of the Town and Country Planning (Scotland) Act 1997 [<https://www.legislation.gov.uk/ukpga/1997/8/section/252>]) and the activities of any government department, local or public authority or other public body. The effect of this definition is that individuals or small businesses who purchase, use or receive goods or services supplied by a government department, local or public authority or other public body are consumers for the purposes of the Act and the consumer duty.

- (ii) who is not purchasing, using or receiving the goods or services wholly or mainly in the course of a business carried on by the individual, or
- (b) a business (including a business carried on by an individual)—
  - (i) which is no larger than a small business<sup>7</sup>, and
  - (ii) which purchases, uses or receives, in Scotland, goods or services which are supplied in the course of a business carried on by the person supplying them.

### **Strategic Decision Making**

When implementing the Duty, all relevant public authorities must have regard to the impact of strategic decisions on consumers in Scotland and the desirability of reducing harm to them. This should be done in a proportionate manner aligned to the impact that the decision has upon consumers.

It will be for each individual Scottish public authority to determine if a decision is of a strategic nature. However, it is expected that this type of decision will be made at an executive or board level rather than operational day-to-day decision making.

### **Future Public Bodies**

This SSI will be reviewed every two years to ensure that any new relevant Scottish public authorities are consulted with, and then potentially listed, as an authority which is expected to adhere to the Consumer Duty.

### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Impact Assessments**

The full range of impact assessments were considered and completed where necessary for the Consumer Scotland Act 2020. There will be no changes required to any of these impact assessments in relation to the implementation of the Consumer Duty.

### **Information Commissioner**

As there will be no processing of personal data, it is not necessary to inform the Information Commissioner.

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<sup>7</sup> The Scottish Government works to the definition of a small business being a business which has less than 50 staff and a turnover or balance sheet total less than, or equal to, the small business threshold-  
<https://www.legislation.gov.uk/ukpga/2015/26/part/2/crossheading/definitions-of-small-and-micro-business>

## **Financial Effects**

A financial memorandum<sup>8</sup> was carried out as part of the introduction of the Consumer Scotland Act in relation to the establishment of Consumer Scotland. A Business and Regulatory Impact Assessment<sup>9</sup> was also carried out at the same time. As this Consumer Duty has no significant financial effects on the Scottish Government, or public authorities in Scotland who have to adhere to the Duty, it is not necessary to update the BRIA.

**Consumer Policy Team**  
**January 2024**

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<sup>8</sup> <https://www.parliament.scot/-/media/files/legislation/bills/s5-bills/consumer-scotland-bill/introduced/financial-memorandum-consumer-scotland-bill.pdf>

<sup>9</sup> <https://www.gov.scot/publications/business-regulatory-impact-assessment-consumer-scotland-bill/>

**List of Public Authorities covered by Consumer Duty**

**Ministers**

The Scottish Ministers

**Executive Agencies**

Accountant in Bankruptcy

Disclosure Scotland

Education Scotland

Forestry and Land Scotland

Scottish Forestry

Scottish Prison Service

Scottish Public Pensions Agency

Social Security Scotland

Student Awards Agency Scotland

Transport Scotland

**Local Authorities**

Aberdeen City Council

Aberdeenshire Council

Angus Council

Argyll and Bute Council

City of Edinburgh Council

Clackmannanshire Council

Comhairle nan Eilean Siar

Dumfries and Galloway Council

Dundee City Council

East Ayrshire Council

East Dunbartonshire Council

East Lothian Council

East Renfrewshire Council

Falkirk Council

Fife Council

Glasgow City Council

Highland Council

Inverclyde Council

Midlothian Council

Moray Council

North Ayrshire Council

North Lanarkshire Council

Orkney Islands Council

Perth and Kinross Council

Renfrewshire Council

Scottish Borders Council

Shetland Islands Council

South Ayrshire Council

South Lanarkshire Council

Stirling Council

West Dunbartonshire Council  
West Lothian Council

**Executive Non-Departmental Public Bodies**

Accounts Commission for Scotland  
Architecture and Design Scotland  
Bòrd na Gàidhlig  
Cairngorms National Park Authority  
Care Inspectorate  
Children's Hearings Scotland  
Community Justice Scotland  
Creative Scotland  
Crofting Commission  
David MacBrayne Limited  
Ferguson Marine (Port Glasgow) Holdings Limited  
Highlands and Islands Airports Limited  
Highlands and Islands Enterprise  
Historic Environment Scotland  
Independent Living Fund Scotland  
Loch Lomond and The Trossachs National Park Authority  
National Galleries of Scotland  
National Library of Scotland  
National Museums of Scotland  
Quality Meat Scotland  
Risk Management Authority  
Royal Botanic Garden, Edinburgh  
Scottish Agricultural Wages Board  
Scottish Canals  
Scottish Children's Reporter Administration  
Scottish Criminal Cases Review Commission  
Scottish Enterprise  
Scottish Environment Protection Agency  
Scottish Funding Council  
Scottish Futures Trust Limited  
Scottish Land Commission  
Scottish Legal Aid Board  
Scottish Legal Complaints Commission  
Scottish National Heritage (NatureScot)  
Scottish National Investment Bank p.l.c.  
Scottish Qualifications Authority  
Scottish Rail Holdings Limited  
Scottish Social Services Council  
Scottish Sports Council (sportscotland)  
South of Scotland Enterprise Agency  
The Skills Development Scotland Co. Limited  
VisitScotland  
Water Industry Commission for Scotland  
Zero Waste Scotland

### **Advisory Non-departmental Public Bodies**

Boundaries Scotland  
Judicial Appointments Board for Scotland  
Mobility and Access Committee for Scotland  
Poverty and Inequality Commission  
Scottish Advisory Committee on Distinction Awards  
Scottish Commission on Social Security  
Scottish Fuel Poverty Advisory Panel  
Scottish Law Commission

### **Tribunals**

Parole Board for Scotland

### **Public Corporations**

Caledonian Maritime Assets Limited  
Crown Estate Scotland  
Glasgow Prestwick Airport Limited  
Scottish Water

### **Health Bodies**

NHS Ayrshire and Arran  
NHS Borders  
NHS Dumfries and Galloway  
NHS Fife  
NHS Forth Valley  
NHS Grampian  
NHS Greater Glasgow and Clyde  
NHS Highland  
NHS Lanarkshire  
NHS Lothian  
NHS Orkney  
NHS Shetland  
NHS Tayside  
NHS Western Isles  
Healthcare Improvement Scotland  
Mental Welfare Commission for Scotland  
National Waiting Times Centre Board  
NHS Education for Scotland  
NHS National Services Scotland  
NHS24  
Public Health Scotland  
Scottish Ambulance Service Board  
State Hospitals Board for Scotland

**Integration Authorities**

Aberdeen City Integration Joint Board  
Aberdeenshire Integration Joint Board  
Angus Integration Joint Board  
Argyll and Bute Integration Joint Board  
Clackmannanshire and Stirling Integration Joint Board  
Dumfries and Galloway Integration Joint Board  
Dundee City Integration Joint Board  
East Ayrshire Integration Joint Board  
East Dunbartonshire Integration Joint Board  
East Lothian Integration Joint Board  
East Renfrewshire Integration Joint Board  
Edinburgh City Integration Joint Board  
Falkirk Integration Joint Board  
Fife Integration Joint Board  
Glasgow City Integration Joint Board  
Inverclyde Integration Joint Board  
Midlothian Integration Joint Board  
Moray Integration Joint Board  
North Ayrshire Integration Joint Board  
North Lanarkshire Integration Joint Board  
Orkney Islands Integration Joint Board  
Perth and Kinross Integration Joint Board  
Renfrewshire Integration Joint Board  
Scottish Borders Integration Joint Board  
Shetland Islands Integration Joint Board  
South Ayrshire Integration Joint Board  
South Lanarkshire Integration Joint Board  
West Dunbartonshire Integration Joint Board  
West Lothian Integration Joint Board  
Western Isles Integration Joint Board

**Non-Ministerial Offices**

Consumer Scotland  
Environmental Standards Scotland  
Food Standards Scotland  
National Records of Scotland  
Office of the Scottish Charity Regulator  
Registers of Scotland  
Revenue Scotland  
Scottish Courts and Tribunal Service  
Scottish Fiscal Commission  
Scottish Housing Regulator