

**CONSUMER SCOTLAND BOARD MEETING**

Tuesday 13 December 2022

10:30 to 13:00

by MS Teams

**Minutes**

**Board Members Present:**

David Wilson, Chair

Angela Morgan, Member (AM)

James Walker, Member (JW)

Nick Martin, Member (NM)

**Also In Attendance**

**Consumer Scotland:**

Sam Ghibaldan, Chief Executive (SG)

Sue Bomphray, Director of Operations (SB)

Douglas White, Director of Policy and Advocacy (DW)

David Eiser, Director of Research and Analysis (DE)

Hilary Tennant, Governance and Corporate Services Manager (HT)

Laura Smart, Investigations Scoping Lead (for items 9 and 10) (LS)

Sarah O'Neill, Consumer Duty Scoping Lead (for items 9 and 10) (SO)

Polly Mazurkiewicz (secretariat)

**Scottish Government:**

Glen Bisset, Internal Audit Manager (observer)

**Welcome and Declaration of Interest**

1. The Chair welcomed everyone to the meeting and noted there was an extensive agenda ahead.  
No declarations of Interest were noted.

**Minutes from the Previous Meeting and Action Tracker**

2. The Board agreed the minutes of the previous meeting held on 15 November 2022.
3. Following approval by the Audit and Risk Committee members, the Board formally agreed the minutes of the Audit and Risk Committee held on 20 September 2022.
4. The Action Tracker was presented and updates provided.

5. Regarding outstanding action point 116, SB updated the Board that the register of documents is being prepared as part of a wider governance tracker. Work was underway to create the holistic resource covering all of Consumer Scotland's governance, finance and business management functions.
6. The Chair updated the Board on completed action point 120 regarding the appointment of a fifth Board Member. The Scottish Government have agreed a way forward on the Public Appointments process, based on Consumer Scotland's proposal. SB will discuss next steps with Jill Rosie and the Public Bodies Unit in the Scottish Government, with the hope of the appointment processes starting in January 2023.
7. The Chair updated the Board on completed action point 123. A document has been prepared on the respective roles of the Scottish Government, Board, Chief Executive and Executive Team which offers a valuable insight. The first draft is included for information in this meetings papers.
8. Regarding comments received from NW ahead of the meeting on the information paper, SB noted that following the production of this paper, a further document will be prepared internally, regarding internal schemes of delegation.

### **Chief Executive's Report**

9. The Chief Executive introduced his quarterly report and focused on key three areas: the newly formed Technology Steering Group (TSG), Energy Sector work and Consumer Scotland's evolving role.
10. The TSG was established to support a disparate group of projects in the workplan which involve a technological solution, and to provide technology expertise that was not readily available within Consumer Scotland's staff cohort. SG noted that given his experience, board member James Walker had been appointed as chair of the group. JW updated the Board on the work of the TSG to date.
11. In response to the First Minister's Energy Summit, Consumer Scotland had established the Scottish Energy Insights Coordination Group (SEIC) to bring together the main advice bodies in Scotland to pull together data, information and insights to inform Scotland's response to the ongoing energy crisis.
12. Consumer Scotland's first significant piece of energy research had been published, the first of a series of Energy Affordability Tracker reports. As data builds up insight will be built and shared with regulators and others to inform the energy crisis response.

13. There are ongoing discussions about potential additional roles for Consumer Scotland. Following the devolution of consumer advocacy and advice in the 2016 Scotland Act the Scottish Government has been responsible for levy-funding intended for consumer advocacy to reflect the interests of consumers in Scotland in the GB-wide markets. This funding has been allocated to Citizens Advice (England and Wales) and in their 2022-23 work plan was provisionally put at £238,400, covering energy, post and cross-sector activity. When Consumer Scotland was established it was intended it should bring greater coherence to arrangements for consumer advocacy and advice. In line with that intention the Scottish Government has indicated it is considering transferring its responsibility for levy funding in relation to representing the interests of consumers in GB-wide markets to Consumer Scotland with effect from 1<sup>st</sup> April 2023.
14. The Energy Security Bill is currently before the UK Parliament. It will create consumer advocacy levy arrangements for heat networks. BEIS have confirmed that they intend to appoint Citizens Advice to carry out this function in England and Wales. The Scottish Government will have the power to designate the consumer advocate in Scotland and Consumer Scotland is in discussion with them about that.
15. In recent years utility infrastructure companies such as Scottish Water and energy networks have engaged with varying models of external customer groups to support the development of their business plans for regulatory approval. In a similar vein, an aspect of Consumer Scotland's developing strategy is to encourage organisations to take the initiative to focus on consumers. In that context we have initiatives underway in water and energy:
  - a. We have undertaken to provide up to two days a month of technical support to the water sector's Research Coordination Group, which seeks to promote collaboration between industry stakeholders on consumer research. We have agreed with the Scottish Government and Scottish Water that the water levy funding ceiling should rise to reflect the scale of that contribution.
  - b. We are in discussion with Scottish and Southern Energy Networks (SSEN) about a consumer group they would establish to provide continuous input on behalf on consumers into the delivery of their Business Plan for the 2023-28 regulatory period. To ensure our independence from decision making by SSEN, and regulatory decisions by Ofgem, the role we are discussing would see Consumer Scotland providing expert insight and data but not as members of the group. If a suitable model can be developed we would engage with the other two energy network companies operating in Scotland to see if a similar model might be of interest.
16. The Chair thanked the Chief Executive for his update and noted these were major issues that the board was grateful for sight of. The Board welcomed the thought being given to the protecting the independence of Consumer Scotland and agreed in principle with the direction being taken. It was agreed that the Board should be kept updated about discussions with energy networks and

that further discussion about the evolution of Consumer Scotland's role should take place at a future meeting.

### **Finance Update & Risk Strategy/Register**

17. It was noted that the papers for this item were discussed at the preceding Audit and Risk Committee. No further comments were received.
18. The Chair noted a 2023-24 budget discussion had taken place with the Scottish Government the previous day. Further budget updates would be shared with the Board as soon as they were received.

### **Learning and Development Strategy Update**

19. Consumer Scotland's draft Learning and Development Strategy was discussed with updates provided on diagnostic work which had taken place on a one-to-one basis with colleagues across the organisation. The Board welcomed what has already been developed and implemented.
20. It was agreed that L&D needs in the organisation would be appropriately prioritised, with learning from each other, creativity, and ownership being at the heart of the strategy and organisation's culture.

### **Schemes of delegation**

21. Changes to Consumer Scotland's scheme of delegation were discussed and it was proposed that:
  - a. The Chief Executive's sign off limit to approve adjustments to spending allocations in-year be increased to 10% of Grant in Aid budget.
  - b. The Chief Executive's sign-off limit for spending be increased to £50,000.
  - c. Proactive and reactive authorisation of media statements be fully delegated to the Chief Executive moving forward, with the Chief Executive exercising judgment on when to consult with the Chair on communications.
22. The Board approved the proposed changes to the scheme of delegation.
23. With Consumer Scotland now operational, the Chair reflected that in the spirit of growth, and improving ways of working, it was right to consider and evolve to the ways we operate where necessary. It was noted that there would be further opportunities to make changes to Consumer Scotland's scheme of delegation, with a formal review of standing orders due to take place at the March 2023 meeting.

24. As part of discussions, the Chair took an action to nominate a Board member to deputise, undertaking chairing duties in his absence.

### **Short-life Working Group update**

25. The Board was updated on the ongoing work of the Short Life Working Group on Vulnerable Consumers (SLWG), and its emerging themes.
26. A research manager has been appointed on a fixed-term contract to scope what is available in terms of good practice and existing research in the vulnerabilities area.
27. A final report from the SLWG would be brought to the next Governance Board meeting, alongside items regarding the establishment of the succeeding Consumers in Vulnerable Circumstances Committee. It was noted that NM will attend be joining the future formal consumers in vulnerable circumstances committee alongside AM.

### **Work Programme**

28. Consumer Scotland's draft work programme for 2023-2024 was presented to the Board by DW. It was noted that the document would be finalised following the Board's feedback, and then published week commencing 16 January 2023 for a 4 week consultation period with stakeholders. Following the consultation period, stakeholder feedback would be considered and a final draft would be brought to the Board for formal sign off in March 2023. It would need to be laid before Parliament before the end of March 2023.
29. To allow both the Strategic Plan and Work Plan to publish in March, the Board would be asked to support the finalisation of the Strategic Plan in January, with final sign-off at the February Board meeting.
30. The Board offered feedback on the draft work programme on areas including prioritisation and capacity. It was agreed these would be considered further before the document was shared for consultation.

*Laura Smart and Sarah O'Neill joined the meeting for the Investigations and Consumer Duty items respectively.*

### **Investigations Update**

31. LS presented an update on investigations scoping work to date and asked members to consider a number of issues. In discussion it was noted that the investigations function should be

structured so it could flex to the nature of the investigation, and have the potential to evolve over time. Risk tolerance, prioritisation, legal challenge and evidence base were discussed and it was agreed a balanced approach was necessary.

32. It was agreed that there should be careful co-ordination with other organisations such as the Competition and Markets Authority and Trading Standards when identifying areas for investigation.

33. It was noted that the interests of consumers in Scotland should be integral to investigative focus, but that as consumer advocacy was devolved investigations could cover sectors and markets falling within the jurisdiction of the Scottish and UK Parliaments.

34. LS thanked the board for their feedback and noted she would report the outcomes of her scoping work in due course.

### **Consumer Duty Update**

35. SO presented an update to the Board on Consumer Duty scoping work, noting that the Consumer Duty seems to be one of the first of its nature in the world. The Chair welcomed the ambition and opportunity to be world leading.

36. It was noted that the Scottish Government would be convening a working group following publication of their Consumer Duty consultation, and that CS had been invited to be a member of the group.

37. The Board discussed how to overcome barriers and delay that could be caused by lack of public resource and it was noted that Consumer Scotland needs to make the case for the importance of the duty for the Scottish public sector.

38. SO noted that her scoping work would continue until the end of March 2023, at which point a final scoping report would be brought to the Board, with recommendations on next steps.

### **AOB**

39. It was suggested that the timings of future Board meetings be extended and the Chair agreed to consider further.