

# Consumer duty: consultation analysis

## Background

On 25 March 2024, Consumer Scotland published a 12-week consultation on its draft guidance for relevant public authorities to support them in applying the consumer duty to strategic decision-making. A summary of the consultation responses is set out below.

## Respondent Groups

There were 27 responses consisting of 7 individuals, 18 public authorities subject to the duty, one third sector organisation and one 'no response'.

## Analysis of Consultation Questions and Responses

### Q1: I understand what the consumer duty is

There were 27 responses to this question:

- Strongly agree (33%) (9)
- Agree (59%) (16)
- Disagree (4%) (1)
- Strongly disagree (4%) (1)

### Q2: I understand who is subject to the duty

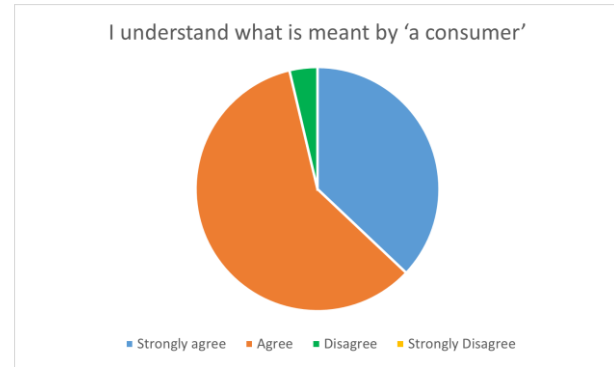
There were 27 responses to this question:

- Strongly agree (44%) (12)
- Agree (52%) (14)
- Disagree (4%) (1)
- Strongly disagree (0%) (0)

### Q3: I understand what is meant by 'a consumer'

There were 27 responses to this question:

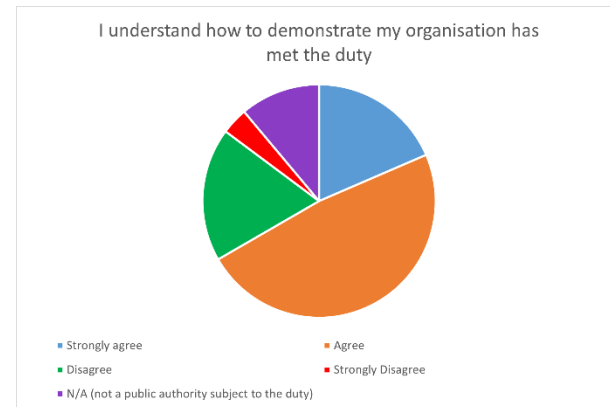
- Strongly agree (37%) (10)
- Agree (59%) (16)
- Disagree (4%) (1)
- Strongly disagree (0%) (0)



### Q4: I understand how to demonstrate my organisation has met the duty

There were 27 responses to this question:

- Strongly agree (18%) (5)
- Agree (48%) (13)
- Disagree (19%) (5)
- Strongly disagree (4%) (1)
- N/A (not public authority subject to the duty) (11%) (3)



### Q5: I understand the reporting requirement for public authorities subject to the duty

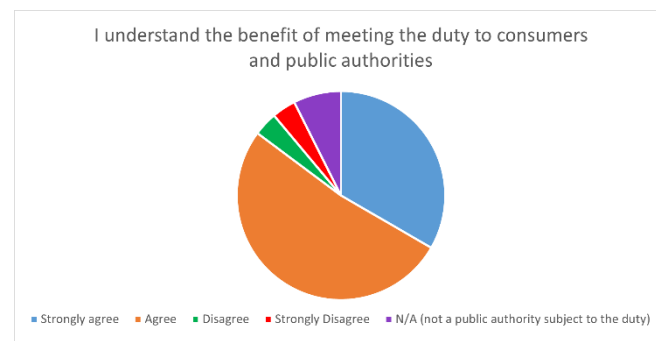
There were 27 responses to this question:

- Strongly agree (19%) (5)
- Agree (56%) (15)
- Disagree (11%) (3)
- Strongly disagree (7%) (2)
- N/A (not public authority subject to the duty) (7%) (2)

### Q6: I understand the benefit of meeting the duty to consumers and public authorities

There were 27 responses to this question:

- Strongly agree (33%) (9)
- Agree (52%) (14)
- Disagree (4%) (1)
- Strongly disagree (4%) (1)
- N/A (not public authority subject to the duty) (7%) (2)



### Q7: I understand the role of senior decision makers in meeting the consumer duty

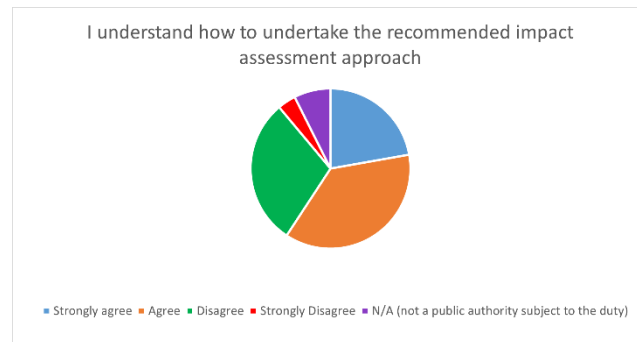
There were 27 responses to this question:

- Strongly agree (22%) (6)
- Agree (59%) (16)
- Disagree (8%) (2)
- Strongly disagree (4%) (1)
- N/A (not public authority subject to the duty) (7%) (2)

### Q8: I understand how to undertake the recommended impact assessment approach

There were 27 responses to this question:

- Strongly agree (22%) (6)
- Agree (37%) (10)
- Disagree (30%) (8)
- Strongly disagree (4%) (1)
- N/A (not public authority subject to the duty) (7%) (2)



### Q9: Does the guidance documentation give public authorities the information needed to be able to meet the requirements of the duty? If no, what further information should the guidance contain to support public authorities to meet the requirements of the duty and improve outcomes for consumers?

There were 23 responses to this question. Some main themes included:

- **Practical examples/case studies** covering public services would be helpful, detailing how and why the examples provided met the criteria
- More information about **how best to record the ways in which the duty is already being met** and for the guidance to include more practical **advice around how to integrate this duty into existing impact assessments**
- More explicit guidance on Consumer Scotland's **expectations and presentation of published outcomes and the reporting frequency**
- **Training** – it is not clear from the guidance whether Consumer Scotland is planning to provide the necessary training, or if public bodies will be expected to develop their own.

- It would be **helpful to understand what Consumer Scotland considers a “strategic decision.”**
- Recommend providing **additional examples of what a consumer is** to help public authorities determine when it should apply and reduce the need for legal advice
- Helpful for the guidance to **demonstrate how public bodies might cross-reference their activities**

**Q10: Do you have any examples of good practice, or case studies, Consumer Scotland could use in the final guidance? This might include examples of:**

- o **Consumer engagement**
- o **Securing better outcomes for consumers**
- o **Integrated impact assessment approaches**

There were 19 responses to this question:

- 7 respondents (37%) noted that they do not have any examples of good practice or case studies
- 9 respondents (47%) noted examples of good practice or case studies. Some examples of good practice included:
  - o Integrated impact assessments
  - o Areas of work with consumer engagement effectively embedded in each of its functions

**Q11: Are there any other comments or suggestions you would like to make regarding the suite of draft guidance documents that would make the guidance as effective as possible?**

There were 21 responses to this question. The main themes in responses referred to funding (2) and/or training (3).

Some other comments/suggestions are listed below:

- The 'Consumer Champion' or 'Consumer Advocate' idea is an interesting one to promote as it could help Councils particularly with getting the challenging questions to help them report honestly on compliance rather than going through the motions.

- How does this relate to existing public engagement guidance, for example, Planning with People?
- Whilst we understand that the term has come from the Primary Legislation and is defined within the guidance, the use of the term 'consumer' is confusing, particularly in a public sector context.
- Content regarding how organisations can demonstrate that they have met the duty is hidden within the Impact Assessment content. I think it needs to be clearer that undertaking an Impact Assessment IS how an org demonstrates how they've met the duty
- Future work to develop the guidance may benefit from input from health boards
- The guidance encourages public authorities to take a flexible, proportionate, and targeted approach. However, we anticipate we will incur additional cost, in areas such as training, to support local implementation and its ongoing application. Is there merit in considering a single training approach, owned by Consumer Scotland, and available to all public authorities?
- The development of training modules or workshops that sit alongside this guidance would be incredibly helpful.
- The draft guidance documents could provide more examples of the types of strategic decisions that apply to the consumer duty, particularly in relation to local authorities in Scotland
- Updating in a year to provide further clarity based on feedback and challenges
- The process seems onerous when local authorities are already under pressure to deliver key services. Whilst it is important that consumers are at the heart of decisions there needs to be funding to support implementation as resources are already stretched

### **Next Steps**

Consumer Scotland has carefully considered the responses to the consultation and, along with further feedback from public bodies who have used the guidance, we have incorporated the feedback into the final version of the guidance now published on the Consumer Scotland website.