

Response to Wellbeing and Sustainable Development Bill Consultation

Closing date: Wednesday 14th February 2024

By email to: wdsbill@gov.scot

About Us

1. Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020,ⁱ we are accountable to the Scottish Parliament. The Act provides a definition of consumers which includes individual consumers and small businesses that purchase, use or receive products or services.
2. Our purpose is to improve outcomes for current and future consumers and our strategic objectives are:
 - to enhance understanding and awareness of consumer issues by strengthening the evidence base
 - to serve the needs and aspirations of current and future consumers by inspiring and influencing the public, private and third sectors
 - to enable the active participation of consumers in a fairer economy by improving access to information and support.
3. Consumer Scotland uses data, research and analysis to inform our work on the key issues facing consumers in Scotland. In conjunction with that evidence base we seek a consumer perspective through the application of the consumer principles of access, choice, safety, information, fairness, representation, sustainability and redress.
4. We work across the private, public and third sectors and have a particular focus on three consumer challenges: affordability, climate change mitigation and adaptation, and consumers in vulnerable circumstances.

Our Response

5. Consumer Scotland welcomes the opportunity to respond to this consultation on the Wellbeing and Sustainable Development Bill.
6. Our response provides our feedback on the four areas explored through the consultation:

- Defining Wellbeing
 - Defining Sustainable Development
 - Strengthening Duties for the National Outcomes and Sustainable Development
 - Determining An Approach for Future Generations
7. Across each of these areas, we highlight the significant synergies and overlaps that exist between wellbeing and sustainable development and the interests of consumers in Scotland. We emphasise the importance of a coherent, aligned approach being taken which recognises these synergies. We recommend that the Scottish Government takes a number of actions in this regard, to maximise the potential impact of the Wellbeing and Sustainable Development Bill in tandem with the Consumer Scotland Act 2020.
 8. We would be pleased to meet with the Scottish Government to discuss further the various aspects of our response.

Defining Wellbeing

9. Consumer Scotland recognises the benefits of the proposal to define wellbeing in legislation.
10. The Consumer Scotland Act 2020 provides Consumer Scotland with the function to undertake consumer advocacy and advice with a view to *“advancing inclusion, fairness, prosperity and other aspects of wellbeing in Scotland”*.
11. If the Wellbeing and Sustainable Bill is to establish a new statutory definition of wellbeing for Scotland, then it will be important that this clearly recognises the existing legal provisions regarding wellbeing which are already in place – including provisions relating to the wellbeing of consumers in Scotland.
12. Recognising the consumer experience within a new statutory definition of wellbeing in Scotland would build on the recent positive action taken by the Scottish Government and Scottish Parliament when unanimously passing the Consumer Scotland Act 2020. This legislation has significantly strengthened the recognition of consumer interests in the public policy landscape in Scotland, following the transfer of new consumer and competition powers to the Scottish Parliament in 2016.

13. The Wellbeing and Sustainable Development Bill provides an excellent opportunity to maintain this positive momentum and further recognise the importance of people's experiences as consumers as a key component of personal, community and societal wellbeing.
14. Such recognition within the Bill would properly reflect the significant role that consumer wellbeing plays in Scotland's social, environmental and economic landscape. For example, the annual collective economic power of consumers in Scotland is substantial. In 2021 household expenditure for Scotland was £101.4 billion, contributing 61% to Scotland's GDPⁱⁱ. The key remaining component of GDP is represented by investment, including infrastructure, science and innovation – much of which is required to bring benefits to future consumers.
15. However, consumers in Scotland face a broad range of challenges to their wellbeing. The cost of living crisis, which has significantly increased prices across many markets, has brought substantial pressure to consumers' personal wellbeing. The crisis has also reduced the capacity of consumers to contribute to Scotland's wider societal wellbeing, for example by supporting a healthy economy. The impact of these difficulties is not felt evenly by all consumers, with analysis showing that those in particularly vulnerable circumstances likely to experience the most significant challenges during a cost of living crisis. This inequity of consumer experience brings challenges both to the individual wellbeing of those most affected, and to Scotland's collective wellbeing.
- 16. We recommend that any new statutory definition of wellbeing should include explicit reference to how the experiences of people as consumers impacts upon both their individual wellbeing, and on the wellbeing of Scotland as a whole.**
- 17. To help embed an appropriate recognition of consumers within the description of a new statutory definition of wellbeing in Scotland, we would encourage the Scottish Government to consider two main components:**
 - a) The particular issues of interest to consumers, as set out across the Consumer Scotland Act (2020). This includes:**
 - the harm that consumers may encounter when purchasing, using or receiving a good or service, and how they can be protected from such harm;
 - the level of confidence that consumers have when dealing with businesses that supply goods and services and how this can be increased;

- the sustainable consumption of natural resources and other environmentally sustainable practices, in terms of the purchase, use and disposal of goods by consumers; and
- the particular experiences of consumers in vulnerable circumstances.

b) The internationally recognised consumer principles, which set out what a positive consumer experience is likely to include. These are:

- **access** – can people get the goods or services they need or want?
- **choice** – do people have any meaningful choice of goods or services?
- **safety** – are consumers adequately protected from risks of harm when purchasing, using or receiving goods and services??
- **information** – is the information about goods or services accessible, accurate and useful?
- **fairness** – are all consumers treated fairly when accessing goods or services?
- **representation** – do consumers have a meaningful role in shaping how goods and services are designed and provided?
- **redress** – if something goes wrong in the supply of goods and services, is there an accessible and simple way for consumers to have this put right?

Defining Sustainable Development

18. The Consumer Scotland Act 2020 includes a number of provisions which recognise the central role for consumers in supporting sustainable development in Scotland. These include requirements placed upon Consumer Scotland to:

- promote the sustainable consumption of natural resources and other environmentally sustainable practices, in terms of the purchase, use and disposal of goods by consumers (as noted above); and
- have regard to the environmental impact of the actions of consumers.

19. As noted above, consumers in Scotland play a very substantial role in the economy, through household expenditure and through financing and benefiting from investment in infrastructure and innovation. In that context, consumers have a central role to play in sustainable development and the transition to net zero. This will include consumers making changes to how they travel, what they buy, reducing their waste and changing

how they use energy and water at home. It will also include substantial investment from consumer bills to upgrade infrastructure and shift how key services are delivered.

20. The costs of these changes will be significant, at a time when consumers face many financial pressures. The scale and complexity of the changes required also brings challenges for consumers, who will need substantial information and support to help them through the process.
- 21. Given this context, we recommend that any new statutory definition of sustainable development in the Wellbeing and Sustainable Development Bill clearly recognises the significant role that consumers have to play.**
22. Recognition of consumers within the definition can also help to ensure alignment and synergy with existing legislation, in particular with the relevant provisions in the Consumer Scotland Act 2020. Given the complex and significant actions that Scotland must undertake in order to achieve sustainable development effectively, a coherent and mutually reinforcing legislative framework is an essential prerequisite.
- 23. To that end we encourage the Scottish Government to consider how the relevant language from the Consumer Scotland Act 2020 could help to frame a focus on consumers within a sustainable development definition in the Wellbeing and Sustainable Development Bill.**

Strengthening Duties for the National Outcomes and Sustainable Development

24. The Scottish Government is seeking views on whether legal duties relating to the National Outcomes should be strengthened to ensure that public authorities in Scotland uphold sustainable development and the interests of future generations; and how such a strengthened duty might operate in practice.
25. Building on our responses to previous questions, the primary issue that we wish to highlight with regards to this question is to emphasise the importance of any strengthened duty being complementary to and coherent with existing legislation, in particular the Consumer Scotland Act 2020.
26. The Consumer Scotland Act 2020 places a duty on named public bodies in Scotland to have regard to the impact of strategic decisions on consumers; and to the desirability of reducing harm to consumers when making decisions of a strategic nature.

27. There are significant synergies between wellbeing and sustainable development and the interests of consumers in Scotland, as we have set out in our response. In this context it is essential that any strengthened duty on public bodies to take account of sustainable development and wellbeing is delivered in a way that aligns with the recently introduced consumer duty described above. Achieving this alignment will be important to help support public bodies take a coherent, joined up approach to delivering the outcomes intended through the Consumer Scotland Act 2020 and the Wellbeing and Sustainable Development Bill in a mutually reinforcing way. It will also help public bodies deliver on these duties efficiently and effectively, reducing the risk of duplication or inconsistency of approach.
28. Consumer Scotland has the power to issue guidance to support public bodies in their implementation of the consumer duty. We are currently drafting this guidance, with the support of an external advisory group. The guidance will be published for consultation in April 2024, with a final version to be published in 2025.
- 29. We would be keen to explore further with the Scottish Government how the proposed strengthened duty on sustainable development and wellbeing may be operationalised and to consider how best to achieve effective alignment with the consumer duty on public bodies under the Consumer Scotland Act 2020.**

Determining An Approach for Future Generations

30. Consumer Scotland recognises the potential benefits of the proposal for an independent Commissioner for Future Generations.
31. As noted previously in our response, many legislative, financial, regulatory and policy decisions are required today, across a range of sectors, that will impact on the outcomes experienced by future generations of consumers. This includes decisions regarding substantial investment in infrastructure, as well as decisions about the goods and services available to consumers across different markets.
32. The Consumer Scotland Act 2020 requires Consumer Scotland to take account of the needs of both existing and potential (future) consumers in the exercise of our statutory functions.
33. Based on our experience, we recognise the potential added value that a Commissioner for Future Generations could bring in helping policymakers to identify, understand and

balance the different interests of future generations when weighed against the interests of people today.

34. Similarly to our responses to previous questions, we would encourage the Scottish Government to consider how such a Commissioner might interact with existing arrangements, through which the interests of future generations are currently taken into account.

35. Specifically, if an independent Commissioner was appointed then it would be important for that individual to work closely with Consumer Scotland, to ensure a coherent and joined up approach was taken to understanding and promoting the interests of future consumers across different markets.

ⁱ [Consumer Scotland Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)

ⁱⁱ [Response to the Review of National Outcomes Call for Evidence | Consumer Scotland](#)