

The Rt Hon Lord Carloway
Lord President of the Court of Session
Parliament House
Edinburgh
EH1 1RQ

By email: judicialcomms@scotcourts.gov.uk

18th December 2024

Dear Lord President,

Consumer Scotland is the statutory body for consumers in Scotland. Established by the Consumer Scotland Act 2020, we are accountable to the Scottish Parliament. I am writing to highlight issues of particular relevance to consumers in Scotland in relation in legal services.

Consumer Scotland has been approached by a number of consumers affected by the cessation of the firm of WW & J McClure, which ceased to trade in 2021. While it is not our role to provide advice or redress to individual consumers, we do have a role in advocating for the needs of consumers more broadly. Following discussions with consumers, other regulatory bodies and the Scottish Government, we have continued concerns that consumers affected by the firm's failure are not obtaining positive outcomes. These concerns are more fully set out in [published correspondence](#) with the Law Society of Scotland and the Minister for Victims and Community Safety, which is available on our website. In summary, we are concerned that:

- Consumers may be unaware that the firm has ceased to trade. Some three years after the event, some consumers have not yet been informed of this or of the transfer of their files to a successor firm
- Once consumers are made aware, they will require support and assistance to understand the implications of this and to establish whether any action is required by them
- Consumers may struggle to pay for any further action they are required to take. Although legal aid may, in principle, be available, we understand that no claims have yet been made
- Consumers, and especially those in vulnerable circumstances, may experience difficulties in navigating a complex landscape. This is particularly important as the demographic characteristics of the former firm's clients may indicate that, as time elapses, they will be more likely than the average consumer to experience issues in

relation to illness, disability or capacity. In many cases, we are aware that bereaved family members are having to deal with these legal matters without having any prior understanding of the commitments entered into by their late relatives.

We accept that some measures in the current Regulation of Legal Services Bill may potentially improve outcomes for future consumers and we welcome this. However, the measures will not apply retrospectively, and we consider that consumers affected by the closure of McClure's need help now. We are concerned that consumers affected by the firm's closure are continuing to fall between gaps in the regulatory landscape.

In her most recent correspondence to us, the Minister highlighted that *"In terms of the accountability of the current regulatory regime, the legal profession is regulated by the Lord President. The Lord President is a regulator who is independent from government and parliament and independent from those whom he regulates. Further planned improvements to the Regulation of Legal Services (Scotland) Bill would seek to enhance the powers of the Lord President."*

As such, your office has a key role to play in the regulation of the legal profession, and the protection of consumers in Scotland. We would greatly value any reflections that you might have on:

- a) whether there is any additional action that can be taken now to deliver better outcomes for those consumers affected by the closure of McClure's
- b) how regulation of legal services can be improved in order to protect the interests of consumers and promote better outcomes in future.

We would be happy to discuss these issues, and my office would be pleased to arrange a meeting or provide further information to you or your officials.

Yours sincerely



Sam Ghibaldan