

Siobhian Brown
Minister for Victims and Community Safety
Email: ministervcs@gov.scot

30 April 2024

Dear Minister,

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 express our concerns around the issues faced by clients of the former firm of solicitors WW & J McClure. We note that this issue has been of interest to a number of MSPs, and was recently the subject of a Members' Business Debate from Stuart McMillan MSP in February 2024.

The former firm, which entered administration and ceased to trade in 2021, had in the region of 100,000 clients. Their files have now been transferred to Jones Whyte solicitors. We are aware that Jones Whyte are prioritising cases for contact, with those with ongoing matters and family trusts being contacted first.

However, we are concerned that consumers:

- May be unaware WW & J McClure has ceased to trade
- Will require support and assistance to understand the implications of this and to establish whether any action is required by them
- May struggle to pay for any further action they are required to take, as this may come at an additional financial cost (on top of the cost of any work instructed at McClure's)
- May experience difficulties in navigating a complex landscape, including complaints processes and applications under the Master Policy or other means to obtain redress

There are compelling reasons for clients to be advised of the closure of McClure's swiftly. Given the type of legal matters dealt with by McClure's, clients may be elderly, in poor health or otherwise vulnerable. It is important that they are made aware, so that they can understand their situation and consider whether further action is required. Delaying notification may lead to cases where further action falls to relatives where the original

clients are now deceased or are experiencing incapacity, causing further distress at an already difficult time.

Given the nature of some concerns that have been raised in Parliament regarding the adequacy of the professional services provided by McClure's, clients may also need to consider taking further action to safeguard their position. That may include, for example, seeking further legal advice, raising a complaint, or engaging with Police Scotland or the profession's indemnity insurers under the Master Policy. The process of lodging a complaint is subject to strict time limits, giving further urgency to the need for clients to be informed. Where the original client is now unable to engage with the complaints process, relatives or executors may be restricted to lodging third party complaints and may face additional hurdles in showing that they were directly affected by the firm's actions, reducing their ability to obtain redress.

For these reasons, it is important that all former clients are contacted within a reasonable timeframe (and we would suggest that a reasonable period would be within the next 3 – 6 months). We would be grateful for assurances that you and your officials are aware of the need for urgency and are actively engaging with the relevant regulatory bodies to bring about improved awareness levels amongst former clients and the public.

We are concerned that the onus is left on individual consumers to work their way through a complex landscape, with many differing organisational roles and remits. While issues around former firms are always complex, the current situation carries a higher risk of harm to consumers because of the interplay of several factors; these being the volume of clients, the potentially vulnerable nature of many clients and the apparent issues of quality relating to some of the work previously undertaken.

Navigating this landscape may be too difficult for many consumers, and especially those in vulnerable circumstances. The consumer journey is complex and confusing and dedicated support may be required, for two purposes. Firstly to help people understand their own legal position and whether they have any cause for complaint or need to take action. Secondly, to assist them to navigate the processes and systems involved. Without this support, consumers may be unable to access redress for any inadequate service or unprofessional conduct and be left struggling to adequately manage complex issues around personal care, estates and executory and trusts.

We are concerned that, in the midst of ongoing cost of living pressures, consumers who have already paid for legal services in good faith are now being asked to pay more money to ascertain whether the original work was of an adequate standard and fulfilled their instructions. Given the current financial pressures on households, it is likely that some consumers will struggle to pay upfront for further legal work to be done.

The current lack of dedicated support and information risks poorer outcomes for consumers. We consider that there would be merit in engaging with key stakeholders, including the Law Society of Scotland, the Solicitors Regulation Authority, the Scottish Legal Complaints

Commission, advice bodies and representatives of former clients to explore these issues further. Given the public interest in former clients being enabled to access support and redress promptly, we would be grateful if you could consider what role the Scottish Government might play in this process.

In suggesting this, I am clear that we do not want to cut across or compromise the legal safeguards and processes that are underway, nor the existing support mechanisms. We are not a complaints organisation, nor do we have a specific redress role in this case. But we do have concerns on behalf of consumers more broadly, and we think that there would be merit in further Scottish Government and Ministerial engagement to help assure consumers that their interests are being safeguarded.

Issues we think should be explored further with stakeholders include:

- What further steps might be taken to alert consumers to the closure of McClure's
- Whether existing sources of support are sufficient or whether additional dedicated support could or should be provided
- What measures have been, or can be, put in place to signpost consumers to sources of advice and support
- What options are available to support consumers who are not able to meet further upfront legal costs

We would be happy to discuss these issues in more detail. Please contact my colleague tracey.reilly@consumer.scot if you, or your officials, would find it helpful to arrange a meeting.

Yours sincerely



Sam Ghibaldan