

# Consultation Response

## Scottish Legal Complaints Commission's Regulatory Statement

February 2026

## Introduction

The Law Society of Scotland is the regulator and professional body for over 13,000 Scottish solicitors.

This response is submitted on behalf of the Regulatory Committee. The Regulatory Committee is a committee of the Council of the Law Society but exercises the Law Society's regulatory functions independently of the Council. The committee's core purpose is to ensure that the regulatory functions are exercised independently, properly, and with a view to achieving public confidence and protection.

The [Regulation of Legal Services \(Scotland\) Act 2025](#) (the **2025 Act**) modernises and significantly updates Scotland's system of legal service regulation. Its purpose is simple: increased independence for regulators, stronger protection for the public, clearer accountability, and faster resolution when things go wrong.

Once they come into force<sup>1</sup>, a new set of regulatory objectives set out in the 2025 Act will safeguard the rule of law, consumer protection, access to justice, and the public interest.

The Regulatory Committee welcomes the opportunity to respond to the Scottish Legal Complaints Commission's (the **SLCC**) consultation on its draft regulatory statement<sup>2</sup>.

## General Comment

We welcome the opportunity to comment on the SLCC's Regulatory Statement, setting out its proposed approach on how it will apply the regulatory objectives under the 2025 Act to the exercise of its statutory functions. We support the SLCC's commitment to act proportionately in applying the objectives and to treat its Regulatory Statement as a live document, open for discussion with stakeholders as learning develops throughout the implementation of the 2025 Act.

As acknowledged in the consultation, each regulatory authority including the Law Society of Scotland must determine how best to interpret the regulatory objectives in the context of its own statutory powers and obligations.

Our comments in this response relate to the SLCC's interpretation of the regulatory objectives and how these apply to its work. We continue to consider how those objectives should be interpreted and implemented within the context of our own regulatory functions.

Our concluded views on what the regulatory objectives mean for us and how we apply them to our work may differ from those set out by the SLCC in its Regulatory Statement. Our views on both the SLCC's interpretation of the regulatory objectives, and our own, will continue to evolve over the coming months.

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<sup>1</sup> At the time of this consultation, the 2025 Act is not in force.

<sup>2</sup> [Scottish Legal Complaints Commission - Regulatory Statement Consultation](#)

## Consultation Questions

### **Question 1: Do you agree that our Regulatory Statement adequately reflects the regulatory objectives, our approach and responsibilities?**

Please refer to our general comments above and to the specific points highlighted in the respective answers below.

### **Question 2: Do you have any comments on our understanding of the regulatory objectives and how they apply to our work?**

We have reviewed the SLCC's draft Regulatory Statement and, where we hold a view, we have set this out below. As noted in our general comments, our views should not be read as agreement with any specific interpretation or application of the regulatory objectives as they relate to our own functions.

In addition, these views may be revised over time as we develop our own thinking and observe how the SLCC's approach evolves. We may provide further observations on aspects of the SLCC's draft Regulatory Statement over time.

## **Objectives**

### **1. To support the constitutional principles of the rule of law and the interests of justice**

The SLCC's draft Regulatory Statement states that it will:

*"Ensure our regulation and judgements [sic] are consistently applied"*

We agree that consistency in decision-making is important. However, we also consider it is important to recognise that regulatory and disciplinary decisions must turn on their own facts and circumstances. The SLCC does not create precedent and is not bound by its previous decisions. While previous decisions may inform the SLCC's approach in a particular matter, it should not fetter its own discretion to reach an outcome that reflects the specific context of a future matter.

For those reasons, we consider the Statement, as currently drafted, lacks important qualification and could benefit from revision. We also consider the use of the term 'judgment' should be reconsidered to avoid suggesting that SLCC decisions are authoritative or precedential.

We note that there is similar wording in the draft Statement under objective "**9. To adhere to the regulatory principles**", which might also benefit from similar revision.

### **2. To protect and promote the interests of consumers and the wider public interest**

We refer to the following wording in the Statement:

*"For us, any user of legal services falls within the definition of a consumer, whether or not they have actively sought or paid for the service provided (for example, those being provided with criminal legal representation funded by legal aid)."*

The Statement also notes:

*“We [the SLCC] are also covered by the statutory Consumer Duty under the Consumer Scotland Act 2020”.*

There is a statutory definition of ‘consumer’ in section 24 of the Consumer Scotland Act 2020<sup>3</sup> (the **2020 Act**) which is referred to in the statutory guidance issued by Consumer Scotland<sup>4</sup> to assist public authorities, such as the SLCC, to comply with the Consumer Duty<sup>5</sup>. As the SLCC is subject to the Consumer Duty it must have regard to that guidance<sup>6</sup>.

It is not clear whether the SLCC is limiting the definition of “consumer” in its Regulatory Statement to the definition in the 2020 Act or applying a broader interpretation. It would be helpful for the SLCC to clarify its interpretation of the term “consumer” in the Regulatory Statement to avoid confusion.

We welcome the SLCC’s statement that:

*“The public interest can conflict with any individual consumer’s interests, and we must manage that conflict in our work.”*

While the objective of redress is central in a purely consumer complaints system, it is important to recognise that the legal services regulatory regime also deals with the professional discipline of regulated professionals and entities. In operating a disciplinary system proportionately and fairly, there may be instances where an individual’s detriment is not determinative of whether it is in the public interest to impose a regulatory sanction or restriction. The harm caused to a consumer will be one of many factors which influence the outcome in any particular matter.

A more comprehensive explanation in the Regulatory Statement about how individual interests in the subject matter of a complaint will be balanced against the wider public interest could help to clarify this complex issue for consumers.

### **3. To promote access to justice**

We have no comments on this element of the draft Regulatory Statement at this stage.

### **4. To promote an independent, strong and diverse legal profession**

The Statement under this objective includes the following:

*“The profession must also balance their responsibilities to act in the best interests of a client with responsibilities as an officer of the court and to the wider public interest.”*

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<sup>3</sup> [Consumer Scotland Act 2020](#)

<sup>4</sup> [how-to-meet-the-consumer-duty-guidance-for-public-authorities.pdf](#).

<sup>5</sup> The public authorities to which the Consumer Duty applies are set out in [The Consumer Scotland Act 2020 \(Relevant Public Authorities\) Regulations 2024](#). The Law Society of Scotland is not a public authority to which the Consumer Duty applies under the 2020 Act

<sup>6</sup> Section 22 of the 2020 Act

We agree that solicitors must balance many responsibilities in delivering legal services, some of which are set out in the professional principles defined in section 4 of the 2025 Act. However, we question whether this point is relevant in the context of explaining how this particular regulatory objective will be applied by the SLCC, especially given that Objective 10 relates specifically to the professional principles. In addition, we would flag that there is no duty under the statutory professional principles for the profession to consider the wider public interest.

## **5. To promote quality, innovation and competition in the provision of legal services**

The draft Statement includes the following wording:

*“We believe that good quality legal services should be in line with broader social objectives but also meet the needs of the individual users of the service.”*

We recognise that this reflects the reality that legal professionals may need to balance competing duties and responsibilities in delivering legal services. A solicitor may, for example, need to act in the best interests of a client while also ensuring compliance with the law, fulfilling their role as an officer of the court and supporting the proper administration of justice.

However, the reference to “broader social objectives” introduces significant uncertainty and is open to subjective interpretation that goes beyond settled law on important social matters such as equality, human rights, social welfare and environmental protection to mention but a few.

Without further clarification this language could be interpreted as suggesting that solicitors take account of current and changing political, philosophical or policy considerations when providing legal services. We consider that this may create ambiguity and undermine the principle that solicitors should be able to act in their clients’ best interests and do so independently, without pressure, bias or influence from government or prevailing social views. This approach also appears inconsistent with objective 4 which seeks to promote a “strong” legal profession that operates “without fear or favour” and maintains “independence from government”.

We welcome the wording under this section of the Statement that provides:

*‘Inherent in both innovation and competition is the idea that some models may not succeed, and this risk must be balanced with protections for affected consumers’*

This gives express recognition that innovation and competition may involve risk, and this could mean some models fail. While such failures inevitably cause uncertainty and anxiety it is important to recognise the protections in place for consumers and not conflate business failure with wrongdoing in and of itself.

## 6. To promote effective communication between regulators and legal services providers

We support this section of the Regulatory Statement.

## 7. To promote effective communication between regulators and bodies that represent the interests of consumers

We support this section of the Regulatory Statement.

## 8. To use and promote best practice in relation to assessing and improving the quality of regulation and compliance with applicable legislation and rules

We note that the draft Statement includes the following wording:

*“Seek opportunities to learn from regulatory practice in other sectors and jurisdictions.”*

We welcome the SLCC’s commitment to learn from other sectors and jurisdictions. All the regulatory authorities operate within a relatively complex regulatory framework and small jurisdiction. While this may make comparison with other sectors and jurisdictions difficult, we consider there are certain thematic similarities present across different regulated professions and jurisdictions. Understanding the approach taken in other sectors and jurisdictions may help inform service design and improve outcomes.

## 9. To adhere to the regulatory principles

We refer to the following wording:

*“In addition, the Act requires that functions should be exercised in a way that contributes to achieving sustainable economic growth **(except where this would be inconsistent with other functions<sup>7</sup>)**”*

The words in parenthesis reflect wording that was included in section 3(4)(b) of the Regulation of Legal Services (Scotland) Bill as introduced. However, this section was amended during the passage of the Bill<sup>8</sup>. The relevant wording in section 3(4)(b) of the 2025 Act as passed is:

*“(b) that regulatory functions should be exercised in a way that contributes to achieving sustainable economic growth, **except to the extent that it would be inconsistent with the regulatory objectives to do so<sup>9</sup>**.”*

It would be helpful if the final statement accurately reflected the enacted statutory wording and to clarify whether the correction impacts any of the other content of the statement.

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<sup>7</sup> Emphasis in bold is our own

<sup>8</sup> [Official Report - Stage 2 - Regulation of Legal Services \(Scotland\) Bill-21 Jan 2025](#)

<sup>9</sup> Emphasis in bold is our own

Finally, we refer to this wording:

- “Be consistent in:*
- *Applying our regulations and decisions”*

As we set out in relation to Objective 1, we consider that there is a balance to be struck between consistency and consideration of individual facts and circumstances in regulatory decision making.

## **10. To promote and maintain adherence to the professional principles**

We have no comments on this section of the Regulatory Statement at this stage

### **Question 3: Do you have any comments on our approach?**

We appreciate our constructive engagement to date with the SLCC on its Regulatory Statement and the broader implementation of the 2025 Act.

To ensure the Act’s provisions are implemented correctly from the outset for both consumers and legal service providers, it is essential that all stakeholders continue to collaborate. This ongoing engagement will help reduce the risk of unintended consequences and ensure delivery in a structured, measured way that allows sufficient time to address the complexity of the various deliverables and dependencies. We look forward to continuing our discussions with the SLCC as the 2025 Act is implemented.

We welcome the SLCC’s intention to maintain its Regulatory Statement as a ‘working document’, subject to review and updates as experience develops. However, early reflection and consideration of feedback from all stakeholders through this consultation will help minimise uncertainty at an initial publication stage.

### **Question 4: Is there any other evidence or information we should be taking into account in this statement?**

We have no evidence and no further information to share at this stage.

### **Question 5: Do you have any other comments to make?**

We have no other comments or views on the proposed Regulatory Statement at this stage.

For further information, please contact

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