

Launch of the Lord President's Consultation on the Regulatory Objectives

Wednesday 23 September 2026

Good morning everyone. To those of you who may not have met me, I am Lord Pentland, the Lord President of the Court of Session. I would like to extend a warm welcome to all of you. Thank you for attending this event.

As we enter a new era of regulation of the legal profession in Scotland, this gathering in Court 1 of the Parliament House is a powerful symbolic reminder of the historic role which the Court of Session has had (and will continue to have) as the independent regulator of the legal profession in Scotland. This is a core, and important, function of the Court. It is a fundamental feature of the justice system in Scotland that the legal profession is subject ultimately to independent regulation by the court. The principle is embedded in the new legislation. It is one that I strongly support.

I want to express my gratitude to Douglas White from the SLCC Independent Advisory Panel, now known as the Scottish Legal Services Consumer Panel, who has joined us today. After my short address, Mr White will speak to you about the benefits which the Regulation of Legal Services (Scotland) Act 2025 will bring to the consumers of legal services. I have no doubt that Mr White's insights will be of great interest to us all.

I am also very pleased to welcome the Minister for Victims and Community Safety, Kirsten Oswald MSP. I also welcome Ann McKechnie, who is the chair of the Scottish Legal Services Consumer Panel. Your attendance is much appreciated.

As head of the judiciary in Scotland, I am ultimately responsible for overseeing the regulation of legal professionals, on behalf of the Court. This is a responsibility I take very seriously.

Given the significance and sensitivity of the work they do, it is imperative that lawyers, and other regulated legal professionals, are held to the highest professional and ethical standards. An effective regulatory system is vital for ensuring that consumers of legal services have the utmost confidence in the integrity, independence and competence of the legal profession. On the other side of the equation, those subject to regulation must have trust in the regulatory system.

Each regulatory authority plays a vital role in delivering those objectives. As a new legal year is shortly to begin, I want to put on record my thanks to each regulatory authority for the important work which each one of you has carried out over the last year. Even more so, because I am conscious that each authority is implementing the 2025 Act alongside its existing work.

The 2025 Act has created an important opportunity for innovation and improvement of the regulatory system for the benefit of consumers and legal professionals. We all have an important role to play in ensuring that these reforms make a real and substantial difference to consumers and those who are subject to regulation.

The new regulatory framework is underpinned by ten regulatory objectives set out in the Act. These objectives embody the principles by which the legal profession is to be regulated. Cumulatively, they will: protect consumers, give clarity to legal professionals

about how they will be regulated, and ensure that regulators are accountable for how they discharge their regulatory functions.

It is crucial that regulatory authorities have a common understanding of what falls within the scope of these objectives and how they should be applied. To promote that aim, I am today launching a ten-week consultation exercise on the draft regulatory statement I intend to issue.

My draft statement sets out what I consider falls within the scope of the regulatory objectives and how these should be applied by the head of the judiciary in Scotland, as part of my oversight role, and by the regulatory authorities which I oversee. I would welcome a wide range of responses to the draft statement. I will carefully consider all the responses before issuing my final statement.

In launching this consultation, I believe that three main themes arise from the regulatory objectives.

First, how the regulatory authorities should take account of the interests of consumers of legal services. Second, how the regulatory authorities can best work together to improve the regulatory system. Third, the importance of transparency and accountability in our regulatory system.

Turning to the first theme. As I followed the parliamentary passage of what is now the 2025 Act, it brought home to me that those who regulate the legal profession need to do more to listen to, and take account of, the views of consumers.

This message is clearly reflected in the new legislation. The regulatory objectives require all the regulatory authorities, including me, to carry out our functions in a way

which protects and promotes the interests of consumers and the wider public interest.¹ We must also communicate effectively with bodies who represent the interests of consumers.²

When applying the objectives, regulatory authorities must take into account a number of important principles in relation to consumers. These include understanding and taking cognisance of their views. Consumers must be treated fairly at all times.³

I pause at this point to emphasise that from my perspective the Law Society of Scotland, the Faculty of Advocates and the Association of Construction Attorneys are well versed in communicating with those whom they regulate. It is also important that we do not forget the importance of taking into account the views of those who are regulated. Their views equally matter. Their feedback must be listened to.

Given that there is a new and modernised framework, I would like all the regulatory authorities to look at what they can do better. A key facet of this is how we can more effectively take account of the consumer interest in shaping the regulatory work which we do.

In order to do that, we first need to understand who is embraced within the term “consumers”. The term is not defined in the Act.⁴ Different types of consumers have divergent needs, interests and vulnerabilities. It is imperative, therefore, that the regulatory authorities know who we are talking about when we refer to consumers, so that we can

¹ Section 2(1)(b) of the Regulation of Legal Services (Scotland) Act 2025 (“the 2025 Act”).

² Section 2(1)(c)(v), 2025 Act.

³ Section 3(2), 2025 Act.

⁴ The 2025 Act did not apply the definition of “consumer” in section 24 of the Consumer (Scotland) Act 2020. There is no definition of “consumer” in the Legal Services (Scotland) Act 2010 which sets out the current regulatory objectives. There is also no definition of this term in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010.

properly take account of their interests. As part of this consultation, I would welcome views on the meaning of the word “consumers” and how it should be applied in the new system.

In my draft statement, I have suggested that there are three ways in which the regulatory authorities should, where appropriate, promote and protect the interests of consumers and the public.

First, holding public consultations where significant changes to regulatory rules, guidance or working practices are proposed. This will allow opportunities for the views of consumers, the wider public and legal professionals to be taken into account.

Second, engaging with bodies who represent the consumer interest, such as the Scottish Legal Services Consumer Panel and Consumer Scotland, about what is important for consumers and how best to take account of their views.

Third, where it is appropriate and possible to do so, the regulatory authorities should work together to share best practice around how each authority can satisfy this objective.

I would be keen to hear views on whether you think this is the right approach and what else the regulatory authorities could do to take account of the interests of consumers.

In keeping with the spirit of the new objectives, I want to acknowledge that some of the regulatory authorities have already adopted new approaches to take account of the consumer and public interest. I welcome the willingness of the Dean and the Faculty of Advocates to agree to my request to hold a public consultation on the proposed changes to the Faculty’s Disciplinary rules. This consultation will help to ensure that the new Rules provide a modern and effective means of ensuring that advocates adhere to the highest possible standards of professional behaviour.

One of my strategic objectives is to build and strengthen relationships with the organisations which carry out important work to protect and promote the interests of consumers. My draft statement makes clear that in order to satisfy the regulatory objectives, I will regularly engage with the Scottish Legal Services Consumer Panel and Consumer Scotland and discuss how I can take account of the consumer interest.

The Regulatory Judge, Lord Ericht, recently met with the Panel's new Chair, Ann McKechin, along with other members of the Panel and SLCC Board. This visit provided Lord Ericht with an early and valuable opportunity to learn more about the important work the Panel will undertake and the challenges it may face.

I am grateful to Ms McKechin, and all those on the Panel, who supported and facilitated this visit. I am looking forward to learning more about Ms McKechin's priorities in her new role as Panel Chair and to build on some of the conversations she and Lord Ericht had when I meet with her in November.

In light of the emphasis placed on these matters by the regulatory objectives, and without wishing to pre-empt what Mr White may say, I would encourage all of the regulatory authorities to consider how they can start to engage with these bodies. This will help you identify what other steps you may need to take to protect and promote the consumer interest.

I will turn now to talk briefly about my second theme. From meeting with all the regulatory authorities, it is apparent to me that each is experienced in dealing with their individual components of the system. One of my strategic goals is to encourage the regulatory authorities to work together, wherever appropriate and possible, to identify and

tackle improvements that may be needed across the whole system. This is vital for the success of the new regulatory framework. It is also in keeping with the regulatory objectives which underpin the framework.

In light of the importance of the regulatory authorities communicating effectively with one another, I invited representatives from all of the authorities, along with Scottish Government officials, to come together in the Parliament House to discuss implementation priorities, timescales and risks with Lord Ericht and my officials. Two meetings have taken place so far and a third meeting will be held in November. In due course I would like these meetings to focus on discussing improvements and innovations which could be made to the regulatory system.

As you will see from my draft statement, I consider it is important that cross-cutting issues are identified by all of the regulatory authorities so that effective solutions for tackling these matters are considered collectively and collaboratively wherever possible. I have seen some early evidence of the effectiveness of this approach.

Last year, the SLCC raised concerns with me about the level of solicitor non-compliance when they are required to provide documentation relating to complaints. I subsequently convened a meeting with the Law Society and the SLCC. I asked them to work together to build on what they were already doing individually to tackle these concerns and encourage compliance.

As the Law Society and the SLCC are aware, I welcome the mutual commitment of both organisations to work closely to achieve that aim. The progress which has been made

bodes well for the future and provides an encouraging example of what can be achieved when stakeholders cooperate to tackle a common problem.

I would particularly welcome views from each of the regulatory authorities on the merits of working together across the regulatory system. I would also like your thoughts on how best you think you can work together.

Finally, I want to speak briefly about the importance of transparency and accountability in our regulatory system.

When the Scottish Government consulted on legal services regulation reform in 2021, 97% of respondents agreed that *“legal services regulation should offer accountability in protecting the public and consumer interest”*.⁵ It is therefore no surprise that the Act requires regulatory authorities to exercise their regulatory functions in a way that is transparent, accountable, proportionate and consistent. Compliance with these principles is one of the regulatory objectives.⁶

As I have set out in my draft statement, I think it is important that all the regulatory authorities, as well as me, are transparent and accountable by making sure that all rules, guidance and procedure on regulatory matters are clear, accessible and easy to understand. It is also crucial that every effort is made by regulatory authorities to ensure that consumers of legal services, and those who are subject to regulation, are clear about why decisions are reached and what the reasons are for making them.

⁵ Regulation of Legal Services (Scotland) Bill, Policy Memorandum, paragraph 98, available at <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/regulation-of-legal-services-scotland-bill/introduced/policy-memorandum-accessible.pdf> . The Scottish Government has not carried out further research on this question since 2021.

⁶ Section 2(1)(d)(i), 2025 Act.

In my view, it will also be important for regulatory authorities to consult with consumers, and those whom they regulate, to consider their perspectives. Any changes which are proposed to the regulatory system must be evidence-based and explained clearly to those affected.

As well as requiring all the regulatory authorities to be transparent and accountable, the Act sets down specific ways in which they must do so. For example, all category 1 and 2 regulators (currently the Law Society, the Faculty of Advocates and the Association of Construction Attorneys) will be required to publish annual reports.⁷ In these, they will need to explain how they are acting in accordance with the objectives. These reports will be an important mechanism by which I will monitor the extent to which the regulatory authorities are exercising their functions compatibly with the objectives.

While my consultation does not cover these matters, it is important that I mention that my new powers to review and sanction category 1 and 2 regulators will also be an important way for me to supervise their performance. I can be asked to review the performance of these regulators by the Scottish Parliament, the Scottish Legal Services Consumer Panel or Consumer Scotland if they consider that the regulators have not acted compatibly with the regulatory objectives or have not adhered to the statutory requirements.⁸ I can also review their performance of my own volition.

I consider that my powers to review and sanction regulatory authorities should only be commenced alongside the regulatory objectives. Without this, the regulatory objectives

⁷ Sections 12 and 15 of the 2025 Act.

⁸ Sections 18 and 19 and schedule 2 of the 2025 Act.

will have no teeth, in so far as ensuring that any category 1 or 2 regulators are complying with them.

While I am touching on transparency, it is important to be clear that my office will not be ready to commence my powers of review and sanction in the near future. Before the 2025 Act passed, I made it clear that my office required a carefully worked out level of funding to recruit additional staff to take forward this significant implementation work.

I welcome the commitment the Minister gave me in July to provide half of the necessary funding, to enable my office to start recruiting additional staff. I look forward to future discussions with her about timescales as to when my powers of review and sanction can be commenced, alongside other interlinked provisions of the Act, such as the regulatory objectives.

In conclusion, my key observation is that good regulation requires effective communication and working together, where possible. It is essential that members of the public, consumers and legal professionals know what to expect, and what is expected of them, when they need to engage with complaints processes.

That requires all the regulatory authorities to be clear about how they will apply the regulatory objectives and operate the different parts of the regulatory system. Your views on my draft regulatory statement are vital in helping me to consider how I can help to maintain trust and build confidence in regulation of the legal profession.

I am now pleased to invite Douglas White from the Scottish Legal Services Consumer Panel to speak to you about the benefits which the new legislation can bring to consumers.

Mr White joined the Panel in August 2026. He is the Director of Policy and Advocacy at Consumer Scotland and has a wealth of experience in evidence-led advocacy. Mr White's recent roles include Director at the wellbeing policy foundation Carnegie UK. For over a decade, he led that organisation's public policy work across a number of areas including its Digital Futures and Fulfilling Work programmes.

It is my pleasure to hand over to Mr White.