

This document relates to the Consumer Scotland Bill (SP Bill 49) as introduced in the Scottish Parliament on 5 June 2019

# Consumer Scotland Bill

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## Financial Memorandum

### Introduction

1. As required under Rule 9.3.2 of the Parliament's Standing Orders, this Financial Memorandum is published to accompany the Consumer Scotland Bill, introduced in the Scottish Parliament on 5 June 2019.

2. The following other accompanying documents are published separately:

- Explanatory Notes (SP Bill 49–EN);
- a Policy Memorandum (SP Bill 49–PM);
- statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 49–LC).

### Background

3. This Financial Memorandum has been prepared by the Scottish Government to set out the costs associated with the measures introduced by the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

4. The Bill will establish a new statutory public body, called Consumer Scotland, and imposes a duty on relevant public authorities, when making decisions of a strategic nature, to have regard to the impact of those decisions on consumers.

5. The Bill sets out the objectives and functions of Consumer Scotland as an advocacy and advice body. It is anticipated that the new body will be established no earlier than September 2020, but this is subject to the Bill timetable and ongoing policy development. The application of the consumer duty (i.e. the bodies to which it will apply) and its coming into force date will be established by regulations.

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6. All aspects of consumer protection, prior to 2016, were reserved matters. However, following the Smith Commission recommendation to devolve consumer advocacy and advice, the Scottish Government established an independent Working Group on Consumer and Competition Policy in Scotland. The Working Group's primary recommendation was that the Scottish Government should establish a dedicated consumer body. This Bill delivers on that recommendation.

7. The decision to include a provision establishing a consumer duty for Scotland was taken after stakeholder consultation. The consumer duty provision contained in the Bill is likely to be underpinned by guidance to support public authorities to meet the duty. Consumer Scotland will be responsible for developing this guidance, though the Scottish Government's ongoing consultation in connection with introduction of the Bill will inform the guidance. Costs of consultation work will be absorbed within Scottish Government teams already established to develop consumer policy. Consumer Scotland will be expected to deliver support for the consumer duty as part of its core duties and this should be absorbed by its overall budget. The bodies to whom the duty will apply will be set out in secondary legislation. Developing that legislation along with guidance on meeting the duty, including reporting requirements, will be done in close consultation with the relevant public authorities and will be governed by the principle of cost neutrality.

8. Accordingly, the information given in relation to the costs on the Scottish Administration is solely for the one-off costs of Consumer Scotland's establishment and the annual costs of its operation thereafter.

9. The Financial Memorandum gives a best estimate of one-off costs and operating costs. It does not represent a final budgetary position for the new body.

10. The Financial Memorandum defines the costs on the Scottish Administration in two parts. The first part identifies one-off set up costs whilst the second part identifies potential recurring costs. These parts are based on assumptions about a potential operating model taking into account staffing, locations, services and activities.

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## Methodology of financial memorandum

11. The Financial Memorandum has been prepared by the Scottish Government to provide a best estimate of one-off and ongoing costs. Estimated figures in this Financial Memorandum are presented on the basis of total expected estimates for one-off costs both pre- and post-commencement of the new body, alongside estimates of recurring costs of the body once it is established. It does not represent the final costings of the establishment of the new body.
12. It will be for the Scottish Ministers to decide the overall budgetary allocation for the new body in future, as part of the normal Scottish Government budget cycle, and for the chair and members to make operational decisions around how the body uses its budget to ensure best value along with delivering its aims.
13. The Scottish Government acknowledges that there is a level of uncertainty inherent in some of the costs estimated in this Financial Memorandum. While the Bill provides for the high level aims and powers of the body, precise costs will depend on the specific detail of its operational form. This detail will continue to be refined as part of the ongoing programme of work to establish the body and will continue into its formative years.
14. Estimated costs are based on the costs that have been incurred in setting up other new bodies, and the costs incurred by existing bodies carrying out similar activities. Where there is a significant margin of uncertainty in the estimates, the Financial Memorandum provides ranges for potential costs.
15. The profiling of figures in the Financial Memorandum assumes that the new body will be established in September 2020; however, this is subject to the timetable for the Bill's parliamentary passage, as well as the operational capacity of the body. It is anticipated that at the end of the Stage 1 process, assuming that the Parliament agrees to the general principles of the Bill, the Scottish Government will start the recruiting process for the chair and chief executive to enable them to be employed in advance of the body assuming its responsibilities. Appointments will be made after fair and open competition and regulated by the Commissioner for Ethical Standards in Public Life in Scotland. The chair and chief executive will then begin the appointment of members.

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16. Recruitment of staff for the new body would be carried out during 2019/2020 to allow staff to be in place on the first day of operation for the new body. Costs are estimated in line with Scottish Government recruitment costs. It is estimated that this new body will have between 19-25 staff members providing governance, strategic, analytical and administrative support. This range is used as the operational structure and detail of the body's precise activities is subject to ongoing policy work, and some decisions are more appropriate for the body to lead on. The detail on this will continue to be refined as the Bill makes its passage through the Parliament.

17. This body will be made subject to the Ethical Standards in Public Life etc. (Scotland) Act 2000 and any other Acts that generally apply to devolved public bodies.

18. Projected estimates for future spend include an assumption of a 2.5% annual inflation rate.

## Summary of financial implications

19. The summary in Table 1 below sets out net costs of the Bill on the Scottish Administration for setting up the new body and for its operational running costs. Where there is a margin of uncertainty, potential costs are set out as a range representing likely cost floors and cost ceilings. These ranges are largely dictated by staffing uncertainties – a minimum of 19 staff has provided for, and a maximum of 25. This range of staff numbers has an impact on other costs, such as ICT and digital. More detail on this is set out below.

Table 1

Costs (£000)		2019/20	2020/21	2021/22
One-off programme costs	Low	149	692	0
	High	149	763	0
Recurring costs – operational costs	Low	0	1,638	2,016
	High	0	1,955	2,512

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Total	Low	149	2,330	2,016
	High	149	2,718	2,512

20. The further detail presented below provides a breakdown of the costs resulting from the Bill.

## Costs on the Scottish Administration

21. As noted, the costs on the Scottish Administration have been set out below in two parts. The first presents the one-off programme costs of establishing the body and the second the recurring costs of the body's operation.

### Part one – one-off programme costs

22. There are a number of one-off programme costs associated with the creation of the new body, occurring between 2019/20 and 2020/21 to ensure that it can, if necessary, operate effectively from September 2020. These costs are summarised below in Table 2.

Table 2

One-off programme costs (£000)	Paragraph		2019/20	2020/21	Total
Recruitment and staffing	23 - 25		124	168	292
Branding and website	26		0	120	120
ICT and digital	27 - 28	Low	0	34	34
		High	0	63	63
Estates	29	Low	0	191	191
		High	0	227	227

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One-off programme costs (£000)	Paragraph		2019/20	2020/21	Total
Corporate services	30		0	116	116
Miscellaneous	31	Low	25	63	88
		High	25	69	94
Total one-off costs		Low	149	692	841
		High	149	763	912

## Recruitment and staffing costs

23. These costs cover the one-off costs incurred as part of establishing the new body. They include costs of Scottish Government staff working on the programme to establish the new body which is based on Scottish Government pay scales. They do not include staffing costs of the new body itself – these costs are included in recurring costs. The costs of Scottish Government staff fluctuate across the set up period as it is expected that staff support will increase as the Bill makes its way through Parliament and processes to recruit staff and prepare premises are implemented.

24. The costs do, however, include recruitment costs for 2019/20 of £55,000, and £46,000 for 20/21. As stated above, subject to the Parliament's approval of the general principles of the Bill at Stage 1, the Scottish Government intends to start the appointment process for the chair and recruitment of the chief executive so that they can be in place in advance of the body assuming its responsibilities.

25. The costs of recruitment included in table 2 reflect the possibility of using external recruiters to ensure a diverse range of candidates is sought. The numbers are based on recruiting between 19-25 staff, and are based on past Scottish Government recruitment exercises. The range of staffing numbers is drawn from examining bodies with somewhat similar functions, for example the Scottish Fiscal Commission, and the Water Industry Commission for Scotland. A range has been chosen in recognition of the fact that the Bill does not set out the operational activities for the body, and these will be, in large part, decisions for the Chair and Chief Executive.

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## Branding and website

26. One-off costs of £120,000 are included for the costs of developing branding for the new body and establishing its website. These are based on the experiences of establishing other public bodies, but are by definition subject to a degree of uncertainty. The sum of £50,000 is estimated for branding, which represents two thirds of the budget required for the much larger Social Security Agency. The sum of £60,000 is estimated for website development. In recognition of the uncertainty around these estimates, a further £10,000 has also been included to account for additional costs.

## ICT and digital

27. ICT one-off costs include costs of providing secure IT accounts, hardware and software, and are based on using the Scottish Government's own IT system, SCOTS.

28. The one-off ICT costs have been provided as a range to cover the uncertainty in staff numbers and the potential differences in costs per head depending on location – the low end assumes a cost of £1,800 for 19 staff, and the high £2,500 for 25 staff. Depending on the location of the body, there could be a charge to network the building and this has been included in estate costs.

## Estates

29. A building has not yet been identified for the new body. Therefore, this estimate is based upon indicative costs for a body of the proposed size and including furniture, design and move costs, fit-out works, building warrants and landlord's consent. This is calculated on a per head basis. For the purposes of these calculations, it is assumed that the body will be based in Glasgow – however, this is an assumption only, and a final decision on the body's location has not been made. Co-location opportunities are also being explored, which could reduce this estimate. It is not possible at this time to account for these potential reductions as scoping of alternatives is at an early stage, and costs are dependent on a number of variables (for example, the city or town in which premises might be located, and size of the co-locating organisation).

## Corporate Services

30. These estimates assume that the new body would enter into shared service agreements with the Scottish Government or another public body for the provision of payroll, HR, accounting, finance and procurement

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services. This is in line with current practice for some other Scottish public bodies, including Revenue Scotland, the Scottish Fiscal Commission and the Scottish Housing Regulator, where it would not represent good value for money for the body to provide these functions in-house. Costs are drawn from analysis of similar services provided to other public bodies and standard Scottish Government rates for services. Further detail on the provision of corporate services is provided in the recurring costs section.

## Miscellaneous

31. A contingency fund equivalent to 10 per cent of the total annual one-off costs has been set aside. This is to account for underestimates of costs and to support work to prepare for the body's operation. The exact nature of this work cannot be set out at this time, but it is likely to cover issues such as ensuring suitable systems are in place for intelligence sharing and the development of processes to map consumer harm. The Scottish Government is committed to the principles of Open Government, and will ensure that the work to operationalise the body is conducted transparently and that as much detail as possible is publicly available.

## Part two – recurring costs

32. Table 3 below estimates the annual running costs for the new body up to and including 2022/23. The high and low ranges are provided to account for uncertainty over exact staffing numbers. As well as impacting direct staffing costs, this uncertainty impacts additional services, such as ICT and corporate services.

Table 3

Annual running costs (£000)	Paragraph		2019/20	2020/21	2021/22	2022/23
Staffing	33-35	Low	0	1,067	1,376	1,417
		High	0	1,257	1,712	1,763
Remuneration	36	Low	0	44	44	44
		High	0	68	68	68
Corporate services	37-39	Low	0	79	81	83
		High	0	90	93	95
ICT and Digital	40	Low	0	21	21	22
		High	0	28	29	30
Estates	41	Low	0	154	158	162
		High	0	186	191	196
Miscellaneous costs	42	Low	0	237	336	346
		High	0	326	419	430
Total costs		Low	0	1,638	2,016	2,074
		High	0	1,955	2,512	2,582

## Staffing

33. Staff costs for the body have been estimated on the basis of between 19 and 25 full time equivalent staff providing governance, strategic, analytical and administrative support. The low range presupposes 19 staff, and that the Senior Management Team (comprising Chief Executive, two Deputy Directors, and four members of staff at C2 level) are in post from April 2020. The high range presupposes 25 staff, and that the Senior

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Management Team (comprising Chief Executive, two Deputy Directors, and four members of staff at C2 level) are in post from April 2020.

34. It will be for Consumer Scotland to take decisions on its staffing structure in due course and so estimates have been given as a range. The year 1 (2020/21) costs are based on the Scottish Government staff costs for 2018-19, uprated for pay increases. Staff costs may change in the future in accordance with Scottish Government Public Sector Pay Policy and other changes to superannuation or National Insurance Contributions. This financial memorandum estimates that staff costs will increase by 3% per annum in order to provide an indication of how costs may increase over time.

35. Although this memorandum does not bind the organisation, an indicative structure has been considered that will give the body the ability to acquire the necessary level of expertise, while also providing the necessary staff numbers to carry out day-to-day functions. This has been developed after stakeholder discussion and examination of other public bodies with a light footprint. The low estimate allows for a Chief Executive, two Deputy Directors, a mix of eight staff members on the C band pay scale, a mix of seven staff on the B band pay scale, and one member of staff on the A band pay scale. The high estimate allows for an additional member on the C band pay scale, and an additional five B band members of staff.

## Remuneration

36. The Bill provides that Consumer Scotland's board will have a minimum of two and maximum of four members plus one member as chair. The figures given here are in line with the Scottish Government's public sector pay policy for senior appointments which covers the remuneration paid to chairs and members appointed by the Scottish Ministers to public bodies. As the number of members has not yet been determined, low and high estimates are given to cover the range. It is proposed that members would serve for 24 days with remuneration of between £177 and £261 per day, and the Chair would serve for 50 days, with remuneration of between £211 and £361.

## Corporate services

37. Corporate services include finance, human resources (HR) (including recruitment), payroll, procurement and internal and external audit.

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38. As part of the programme to establish the new body, work will be taken forward to identify the value for money of using existing shared service providers for its corporate services as far as is appropriate. The estimates given for these figures are calculated based on the cost of using the Scottish Government’s own shared services provision.

39. Broken down, the costs are as follows—

Service	Cost (2020/21) low/high
HR	22,000/26,000
Finance	24,000/31,000
Procurement	20,000/20,000
Internal Audit	13,000/13,000

### ICT and Digital

40. Figures for ongoing provision and maintenance of hardware are estimated based on the cost of the new body using the Scottish Government’s own SCOTS IT service. The estimates include the costs of computers, printers, mobile devices and ongoing website costs.

### Estates

41. Estates costs cover continued costs related to the maintenance and leasing of the building. These costs depend on the final location of Consumer Scotland and whether the body co-locates with an existing organisation. As with the one-off estates costs, it is not possible to provide estimates of any cost savings presented by co-locating. Also as above, estates costs are calculated assuming (for cost estimation purposes only) that the body is based in Glasgow. The costs presented here are estimates based on a building of the size required to house the body and are calculated on a per head basis. They include rent, rates, legal fees, cleaning and building maintenance.

### Miscellaneous

42. Twenty percent has been allocated of the annual budget for miscellaneous costs. This is to cover three areas of cost. First, underestimates in costs set out above. Second, the costs of commissioning

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external research or analysis to support the body's work – this could include, for example, large scale surveys or programmes of consumer engagement, which are often expensive to run. Third, miscellaneous general running costs, including stationery, training, travel and subsistence, hospitality and marketing costs. Consumer Scotland will be expected to account for all of these in its annual report.

## Costs on local authorities

43. The establishment of Consumer Scotland is not expected to place any additional costs on local authorities.

44. Local authorities are expected to be subject to the statutory consumer duty which is outlined in paragraph 4. Local authorities already have a robust policy making process where they weigh up the impacts of their strategic decisions on a range of areas and groups of people. The impact on consumers should already be part of that process and, whilst the duty will ensure that these impacts are given weight, there are no anticipated additional costs to local authorities.

## Costs on other bodies, individuals and businesses

45. The establishment of Consumer Scotland is not expected to place any additional costs on other bodies, individuals and businesses. The Bill enables Consumer Scotland, when established, to request that a business provides it with information. It is impossible to predict how much this may cost as it will depend on the type and volume of information requested. However, there is an explicit provision within the Bill that Consumer Scotland must, when making a request for information, consider minimising the cost or any other detriment the request might cause.

46. The exact list of bodies that will be subject to the consumer duty is yet to be determined, and will be set out in secondary legislation. However, they will be public authorities. As such, and like local authorities, their existing policy making processes should allow for consideration of consumers without additional costs.

47. As stated in paragraph 7, the details of the duty's application in practice will be developed in collaboration with the bodies that would be subject to the duty, and will be governed by the principle of cost neutrality.

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48. No additional costs are expected to fall on individuals or businesses as a result of the consumer duty.

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