

UNISON Scotland

RESPONSE TO CONSULTATION ON SCOTTISH COURT FEES

Introduction

UNISON is Scotland's largest trade union representing over 150,000 members, primarily delivering public services. We are a major court user, primarily by pursuing personal injury cases for members injured in the course of their employment.

The Scottish Government has recognised the financial pressures caused by legislative changes from Westminster and made a commitment to do everything in their power to assist Trade Unions. 100% cost recovery from court fees, without any contribution from general taxation, is causing significant pressures and limits access to justice. It is not compatible with the Scottish Government's express support for universal provision in other policy areas.

In particular, we are opposed to the current "pay as you go" approach to court fees and to recommend a move towards a "deferred payment system" whereby the court fees only become payable at the end of the court case by the unsuccessful litigant.

Response to questions

1. *Should simple procedure fees be set at the same level as the fees for small claims and summary cause proceedings?*

No response.

2. *Which option to achieve full cost recovery as set out in the paper, should be implemented?*

Providing financial support for personal injury claims is a fundamental Trade Union service. Court fees place a substantial burden upon the Trade Union at a time when such burden can least be borne because of the significant amount of anti-Trade Union legislation from Westminster. The first option of a flat rise would increase the financial burden upon Trade Unions and UNISON Scotland is entirely opposed to a flat rise approach. A targeted rise ought to be cost neutral to the Trade Unions and that, out of the two options, is the Trade Unions preferred option. To be clear it is nevertheless the least of two evils.

3. *In relation to option 1: should any particular fee be exempt from increases, even if that necessitated additional increases to other fees.*

Trade Union supported personal injury cases should be exempted from any increases; and the fees should be deferred until the end of the case not paid on a pay as you go basis.

4. *In relation to option 2: should the fees that have been identified be increased? If not, what other fees should be increased?*

There should be no increase to any fees related to personal injury cases.

5. *Are there any alternative options to achieve full cost recovery that should be considered?*

The current method of recovering court fees follows a “pay as you go” model. We oppose that model because it places a significant cash flow strain on Trade Union legal funding.

It adds to the significant financial pressures on Trade Unions because of legislative changes at Westminster, much of which was designed to specifically target and attack Trade Union Finances.

It stands in contrast to the publicly declared position of the First Minister that the SNP government “*will take every step to support Trade Unions to continue to do our job and to properly represent our members.*”

It also stands in stark contrast to other moves by the Scottish Government, including the recently announced Expenses and Funding of Civil Litigation Bill, “*to bring more equality to the funding relationship between claimants and defenders in personal injury actions*”.

A fair approach to court fees; that would provide more equality between claimants and defenders; while reducing and not adding to the current financial burden upon Trade Unions; would be to move from the current “pay as you go” system to a “deferred payment scheme” whereby court fees are paid at the end of the court case and the full Court fees associated with the case are paid by the unsuccessful party.

6. *Are any of the proposals likely to have a disproportionate effect on a particular group? If so please specify the possible impact.*

Trade Unions are a major court user. Option 1 (a flat 24% increase) would have a profound and disproportionate effect upon Trade Union funding. It will add significantly to the financial pressure already on Trade Unions because of the court fee system as it currently stands taken together with all of the anti-Trade Union reforms of the Westminster Government.

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