

Providing your response

If you have chosen to provide a separate written response, then please complete the first page of this Respondent Information Form and attach it to your response.

If you wish to include your responses within this Respondent Information Form, please insert your responses to each consultation question in the (expandable) boxes below:

Proposal 1 - Consolidation

Question 1 – Do you agree that the 2 existing sets of regulations from 2002 should be replaced with 1 new consolidated instrument? If not why not?

I agree that the two sets of regulations should be consolidated into a single framework. The current system creates unnecessary duplication of effort, as both fee tables must be updated and maintained separately. This inefficiency may well have been a significant factor in the delays experienced during previous application for reviews.

By having a single, unified regulation and fee table, we would achieve several key benefits:

- **Greater Clarity and Accessibility:** A single source would make the regulations easier for all stakeholders to understand and navigate.
- **Reduced Inconsistencies:** Consolidating the regulations would prevent discrepancies and conflicting amendments, ensuring all changes are applied uniformly.
- **Improved Efficiency:** A streamlined process for updating fees would reduce the administrative burden and could help expedite the application review process for all parties involved.

In essence, a single regulation would create a more transparent, consistent, and efficient system for everyone."

Proposal 2 – Adopting unit based charging:

Question 2 – Do you agree that a change to “unit based charging” can provide improved transparency on the level of fee being charged? If not why not?

I agree that adopting a unit-based structure is desirable

Question 3 – Do you agree that the baseline “monetary value” should start at £5.40 and that 1 unit of time should be fixed at 6 minutes? If not why not?

While the proposal to fix the unit of time at 6 minutes is agreeable, the suggested fee of £5.40 per unit requires further scrutiny. To ensure the new fee remains fair and financially sound, its value must be adjusted to reflect inflationary increases that have occurred since the last fee review. Therefore, I would suggest that it would be appropriate for a final review of the £5.40 figure be conducted just prior to implementation. This review should be based on a pre-defined, transparent formula that incorporates a relevant inflation index, such as a blend of CPI and CPHI, to guarantee the fee accurately reflects current economic conditions. This proactive measure will prevent the fee from being outdated from the moment it is introduced and will maintain the integrity of the fee structure."

Question 4 – Do you agree that the proposed changes to the general regulations will support the adoption of unit based charging?

Yes, the proposal to consolidate the two sets of General Regulations is a crucial step toward successfully implementing a unit-based charging structure. By linking a single regulatory set to a single charging model, the entire system becomes more transparent and easier for all stakeholders to understand.

In essence, a single General Regulations provides the necessary foundation for a streamlined and effective unit-based charging model.

Question 5 – With regard to annex 4, do you have a view on whether any of the current 60 line items shown are no longer required, or whether any of the baseline unit of work should be amended? If so why?

Outdated Fee Structure & Business Environment

The current fee schedule, nearly 40 years old, fails to account for a drastically changed landscape. A 47% decrease in debt recovery actions since 2008 has dismantled the traditional business model, where higher volumes of cases could subsidise low-value, loss-making work.

Simultaneously, the costs of running a Sheriff Officer business have risen sharply. Significant investments in compliance, technology, and human resources and more comprehensive insurance cover are now required, directly impacting profitability. This disconnect between a historical fee structure and modern costs has led to a situation where many services are performed at a loss, threatening the profession's sustainability.

Specific Recommendations and Their Merits

- **Removal of two column fee structure and low value discounting of fee:** The effective current fee discounts on low-value cases is a significant financial burden on Sheriff Officers. These discounts, initially manageable with high case volumes, now force officers to operate at a loss as the amount of time, resources and effort is the same regardless of the value of an action. Removing the two columns and any low value fee discount would allow for services to be charged at a rate that reflects their actual cost, ensuring fair compensation and promoting stability within the profession. Importantly, this change would benefit party litigants, as it is more they who raise low value actions, these individuals require more time and support. By renumeraling officers properly this would compensate them for the additional time required to support party litigants.
- **Updated Fees for Complex Services:** Fees for highly complex and sensitive tasks, such as ejections and the apprehension of people or children, are currently undervalued. An appropriate fee adjustment would be justified to reflect the time, risk, and specialised expertise involved in these instructions. For example, it is a common understanding that a locksmith may receive a higher attendance fee, than a Sheriff Officer at an ejection.
- **Addressing Digital and Cross-Jurisdictional Work:** The modern practice of receiving electronic files and handling international cases through the Hague Service Convention are not accounted for in the current fee table. Introducing new fees for electronic file conversion and separately a transmitting fee for international instruction would compensate officers for these new, time-consuming tasks that did not exist when the current fees were established.
- Similarly, a surcharge for more complex and high value Court of Session actions could incentivise more Sheriff Officers to become Messengers-at-Arms, addressing a decline in the number of officers electing to qualify as Messengers-at-Arms.
- **Revising Time-Based and Diligence Fees:** The current fees and regulations are no longer tenable for tasks such as Ship Arrestments, Attachments, Attachments of Motor Vehicles and Heavy Plant, Money Attachments and Auctions, which are now less frequent and often involve in relation to attachment, assets with lower auction values than in the past, while requiring significant time to complete or to attempt to complete the instruction. In relation to ship arrestments the time and preparation required prior to and post attendance to arrest. If successful or not. Adjusting the base fees to reflect the time involved for both attempting to and completing the instruction, rather than the value of the goods, would ensure these services remain viable. Billing after the initial period of 30 minutes, rather than a full hour, and allowing the same accommodation where it has not been possible to complete the instruction is also a sensible change that aligns with a more realistic approach to time management.

In summary, reforms are a necessary and pragmatic response to the outdated fee structure. By introducing a more realistic and modern framework, the changes will not only improve the financial viability of Sheriff Officers but also ensure the continued delivery of essential services to the public.

Question 6 – Do you have a view on any unintended consequences that might arise from implementing a change to unit based charging?

At this time there are no unintended consequences that I am aware of

Proposal 3 - Adjusting for inflation in advance:

Question 7 – Do you have a view on the proposed change to the Council progressing inflation adjustments in advance?

I support this proposal

Proactive Inflation Adjustments: Instead of making adjustments in arrears, the new system would allow for future inflationary increases to be set in advance. Amending orders would be reduced in complexity to a single paragraph, simply stating the monetary value of the unit for the next three years. This makes the fee structure more transparent and predictable. Thereby allowing, officers a degree of certainty allowing prudent fiscal management, investment in their businesses, and personal.

Reduced Administrative Burden: The proposed process will drastically cut down on the administrative effort and legal drafting required for fee reviews. The Council can focus on a more efficient, tri-annual review cycle with SMASO, where the unit's value is reset based on inflation rates and forecasts.

Greater Efficiency and Clarity: By simplifying the review process, the new model ensures that fees remain current and fair without the delays caused by the current system. It allows the Council to focus on substantive changes, such as adding or removing services, rather than grappling with the complexities of multiple individual line-item adjustments.

Question 8 – Do you have a view on which indices (*CPI, CPIH or a combination of both*) should be use when forecasting inflation?

A blended combination of CPI and CPIH indices should be used when forecasting inflation. This has been the acceptable and successful approach taken in recent years in calculating previous fee uplifts.

Other

Question 9 – Are you aware of any other opportunities to modernise how these regulated fees are set by the courts and charged to end users?

Establishing a permanent working group on fee reform is a critical next step to ensure the ongoing modernisation of the justice system. A collaborative body, involving key stakeholders from the Scottish Civil Justice Council, The Lord President's Secretariat, and The Society of Messengers-at-Arms & Sheriff Officers, would provide a proactive and unified approach to future changes.

This suggestion offers several significant advantages

- **Sustained Modernisation:** Rather than treating fee reform as a one-time event, this group would create a continuous process for improvement. It would serve as a permanent forum for investigating new technologies, like the digitisation of citations, and exploring innovative practices from other jurisdictions. This ensures the system remains agile and responsive to future needs.
- **Integrated Expertise:** The working group would consolidate the specialised knowledge currently held by separate committees. This direct, regular collaboration between the designated professional association and the official bodies responsible for fees will prevent delays and inconsistencies, leading to more effective and timely reforms.
- **Proactive, Not Reactive:** Meeting regularly, at least annually, would allow the group to anticipate challenges and opportunities. Instead of reacting to issues after they arise, this approach would enable proactive adjustments to the fee structure and operational processes, maintaining a fair and efficient system for all parties involved.
- A consolidated, forward-looking strategy is far more beneficial than the current system.