

# moneyadviceScotland

## Scotland's Money Charity

Money Advice Scotland's response to PUBLIC CONSULTATION on a simplified Table of Fees (for 'officers of court').

### **August 2025**

Money Advice Scotland welcomes the opportunity to respond to this call for views. We have responded to the questions that we are able to best provide comment on.

#### About Money Advice Scotland

Money Advice Scotland is Scotland's money charity. We exist to help people in debt, support money advisers, and influence policy. Our mission is to be the driving force towards financial wellbeing for the people of Scotland.

#### Supporting money advisers

We're a membership organisation and provide training, events, and resources to the money advice sector. We aim to ensure that money advisers have a platform to report social policy concerns via our evidence base as well as access to training to ensure they are equipped to carry out their important role. We offer various other types of support for professionals to help advisers thrive at a time when demand for advice is increasing.

#### Helping people in debt

We believe everyone in debt deserves to be treated fairly. Debt can happen to anyone, and we understand how it can affect someone's life which is why we are always working towards securing fairer practices for people in debt. We have a range of resources for people going through the debt advice process including debt terms explained, help accessing your income and expenditure report, and benefits calculator.

#### Influencing policy

We work to be a strong voice for consumers and people in debt in Scotland by identifying detriment and acting on it. By working closely with our members, we can identify causes of harm to consumers at an early stage. We also provide a strong and persuasive voice for the advice sector, ensuring that our members' views are heard.

#### Improving financial wellbeing

We also work to help people improve their financial capability by delivering workshops to schools, colleges, and workplaces across Scotland.

In our response to this consultation, we will use the term "consumer" instead of "debtor" to refer to people facing debt-related enforcement actions. While we acknowledge that "debtor"

is the legal terminology used in the context of officers of court and their services, we believe it carries a stigma that can shame and disempower those experiencing financial difficulties. Our preference for “consumer” reflects our commitment to using language that empowers and respects individuals, aligning with our goal to improve outcomes for people navigating money and debt issues.

**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?**

We agree that the two existing sets of regulations from 2002 should be replaced with one new consolidated instrument. The current regulations, comprising the Act of Sederunt (Fees of Messengers-at-Arms) (No. 2) 2002 and Act of Sederunt (Fees of Sheriff Officers) (No. 2) 2002, amended 32 times and spanning 28 pages with 238 pages of amendments, create a complex and inaccessible framework that disadvantages consumers facing debt enforcement actions, such as money attachments or inhibitions.

We believe that consolidating these into a single instrument titled “Fees of Officers of Court” will simplify the regulatory structure, making it easier for consumers, particularly those supported by money and debt advice agencies, to understand and verify fees, and this will help in reducing the risk of overcharging or disputes.

This consolidation also supports the adoption of unit-based charging (Proposal 2), which we endorse for its potential to enhance transparency, allowing consumers to see clear fee calculations (e.g., 22 units for a money attachment) and ensuring fairness in enforcement costs. We hope that a single instrument will work to reduce administrative burdens for the Scottish Civil Justice Council (SCJC) and service providers, which could stabilise the market for officer-of-court services, ensuring consistent access to regulated processes for consumers.

However, we are concerned that consolidation alone may not sufficiently address the needs of vulnerable consumers unless accompanied by consumer focused considerations. The SCJC must prioritise protections, such as explicit safeguards against overcharging (e.g., mandatory fee audits or a clear dispute resolution process), to prevent financial harm to those already in distress. We also urge the SCJC to consult directly with consumer advocacy groups during the drafting process to ensure the instrument reflects the real-world challenges faced by consumers.

The consolidated instrument should also address the outdated £1,500 threshold for fee reductions, which limits relief for many modern claims, to better support consumers with smaller debts (e.g., reducing a money attachment fee from £101.99 to £69.67 when not executed).

To enhance accessibility, the SCJC should provide the instrument and clear, plain-language guidance in digital formats, such as on a dedicated consumer portal, to ensure consumers, particularly in remote or rural areas, can easily access information.

Finally, we recommend establishing mechanisms to monitor the impact of consolidation on consumers, such as regular feedback from advice agencies, to ensure ongoing fairness and accountability in the fee system.

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

We agree that a change to “unit-based charging” will provide improved transparency on the level of fee being charged, which is important for consumers facing debt enforcement actions.

By calculating fees as units of work (1 unit = 6 minutes, valued at £5.40 before inflation) multiplied by a monetary value, unit-based charging clearly illustrates the effort involved in each service (for example, 22 units for arranging and executing a money attachment for debts up to £708, currently £119.33). This clarity should help to enable consumers, particularly those supported by advice agencies, to verify fees and challenge overcharges, reducing financial and emotional stress during enforcement processes.

The system's alignment with legal billing practices, using a 6-minute unit, supports potential digitalisation of fee recording, which could minimise billing errors and disputes, ensuring fairer charges for consumers.

However, we are concerned that the transparency benefits may not fully reach vulnerable consumers without additional measures. The calculation of fees (units x monetary value) could remain complex for those without legal or financial expertise, risking confusion and disempowerment. The SCJC must provide plain-language, consumer-focused guides, available in digital and physical formats, to explain unit-based charging clearly and ensure accessibility for all, including those in remote areas.

Establishing a clear process for consumers to dispute fees directly with the SCJC or officers of court would further enhance transparency and protect against unfair charges. Regular monitoring of the system's impact on consumers, through feedback from advice agencies, is essential to ensure it delivers equitable outcomes and does not exacerbate financial distress.

**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?**

We somewhat agree that the baseline monetary value should start at £5.40 and that one unit of time should be fixed at 6 minutes, as this provides a transparent foundation for unit-based charging that could benefit consumers facing debt enforcement actions.

The £5.40 per unit value, derived from the current fee for a 30-minute task ensures initial cost neutrality, aligning with existing fees and allowing consumers to understand fee breakdowns more clearly. Fixing one unit at 6 minutes, consistent with the Act of Sederunt (Taxation of Judicial Expenses Rules) 2019, standardises calculations across court-related services, enabling consumers to verify charges. We also hope that this alignment will help to support future digitalisation of billing by officer-of-court firms, which could reduce errors and disputes, ensuring consumers face accurate charges.

However, we are concerned that the £5.40 baseline may not be sufficiently scrutinised to ensure it is the fairest amount for consumers, potentially leading to unfair or inflated fees that exacerbate financial distress. While the value is based on current fees, it is unclear whether it truly reflects the actual administrative work of sheriff officers and messengers-at-arms, including overheads, travel, and execution time, or if it incorporates excessive profit margins for service providers. For instance, with 23 firms operating through 134 officers, questions arise about the transparency of their cost structures: how much of the £5.40 per unit covers genuine expenses versus profit, and is this proportionate given the market's scale and the vulnerability of consumers facing enforcement?

Without independent verification, consumers could bear disproportionate costs, especially in high-unit services like vehicle arrests (55 units, £297.68), where fees might not align with the effort involved. We believe that the SCJC should undertake further work, such as commissioning independent audits of officer-of-court firms' costs and profit margins, and consulting with consumer advocacy groups to confirm the £5.40 value is fair.

To enhance accountability, the SCJC should provide clear, plain-language guidance on the unit value's derivation, available digitally and physically, and establish a mechanism for consumers to dispute fees directly if they suspect overvaluation. Regular monitoring through stakeholder feedback is essential to ensure the baseline remains fair and does not contribute to worsening debt issues for consumers.

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

We agree that the proposed changes to the general regulations will support the adoption of unit-based charging, which could enhance transparency for consumers facing debt enforcement actions.

We believe that consolidating and rewording the regulations to apply generically to both messengers-at-arms and sheriff officers streamlines the framework, enabling a clear implementation of unit-based charging, where fees are calculated using a 6-minute unit valued at £5.40. We hope that this clarity allows consumers, supported by the free advice sector, to better understand and verify fees, reducing the risk of disputes or overcharging. We hope that the use of surcharges and a 33% fee reduction for low-value claims simplifies the fee structure, eliminating complex dual schedules and making costs more accessible for consumers. The inclusion of definitions for "unit" and "monetary value" in the regulations further aids comprehension, potentially empowering consumers to challenge unfair charges.

**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?**

We believe that the 60 line items in Annex 4 generally cover the essential services provided by officers of court, such as document service, money attachments, and inhibitions, which are relevant to consumers facing debt enforcement actions.

However, we have concerns that the £1,500 threshold for fee reductions, applied to 18 services and unchanged since 1988, is significantly outdated due to inflation, limiting its effectiveness for consumers with smaller debts. This threshold fails to reflect current economic realities, excluding many modern claims from the 33% fee reduction (e.g., reducing a money attachment fee from £101.99 to £69.67 when not executed), which disproportionately impacts vulnerable consumers.

We recommend adjusting this threshold to £5,000, aligning with the 2008 summary cause limit, to ensure more consumers benefit from reduced fees, thereby alleviating financial burdens. Regarding baseline units, the SCJC must undertake an independent review of unit allocations, consulting consumer advocacy groups to verify that units correspond to genuine work effort and do not incorporate excessive profit margins for officer-of-court firms.

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

Yes we have concerns that there could be several unintended consequences that could harm vulnerable consumers if not addressed properly.

Any inaccurate unit allocations for the 60 line items in Annex 4 could lead to disproportionate fees if they overestimate actual effort, exacerbating financial distress for consumers already struggling with debt.

The proposed 10.8% inflation uplift, increasing fees like a money attachment from £119.33 to £131.56, risks outpacing consumers' ability to pay, particularly if economic conditions worsen, and lacks safeguards to ensure affordability.

The £1,500 threshold for fee reductions, unchanged since 1988, is outdated and excludes many modern claims from the 33% reduction (e.g., reducing document service from £96.27 to £61.70), limiting relief for consumers with smaller debts.

The complexity of calculating fees (units × monetary value) may confuse consumers without legal or financial expertise, undermining empowerment and requiring significant support from advice agencies.

To mitigate these risks, the SCJC must conduct independent audits of unit allocations to ensure fees reflect genuine effort and not excessive profit margins.

We also urge adjusting the £1,500 threshold to £5,000 to broaden access to fee reductions.

We also believe that establishing a straightforward process for consumers to dispute fees directly with the SCJC or officers of court, alongside regular monitoring through stakeholder feedback, will ensure unit-based charging does not exacerbate financial hardship and delivers fairer outcomes for consumers.

**Question 7:** Do you agree that the Council should progress inflation adjustments in advance? If not, why not?

We do not support the proposal to progress inflation adjustments in advance, as it poses significant risks for consumers, potentially worsening their financial distress.

While adjusting the monetary value of a unit (currently £5.40) every three years based on forecasts from the Office for National Statistics (ONS) and Office of Budget Responsibility (OBR) could provide predictability, inaccurate forecasts (particularly overestimations) could lead to excessive fee increases, such as a money attachment fee rising from £119.33 to £131.56 with the proposed 10.8% uplift, placing undue burdens on vulnerable consumers already struggling with debt.

The SCJC has not provided sufficient evidence that advance adjustments will include safeguards to correct overestimations, which could disproportionately harm those reliant on the free advice sector.

Instead, we support retrospective inflation adjustments based on actual inflation data to ensure fees remain proportionate and affordable. The SCJC must consult with consumer advocacy groups to assess the impact of any fee increases on consumers and establish a cap on adjustments to prevent excessive costs.

Clear, plain-language guidance, available digitally on a consumer-focused portal and in physical formats, should explain fee changes transparently, enabling consumers to anticipate and challenge costs. Additionally, a formal mechanism for consumers to dispute fee increases and regular monitoring through stakeholder feedback are essential to ensure the fee system does not exacerbate financial hardship and prioritises consumer protection.

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

We believe the SCJC should not rely on forecasting inflation for fee adjustments, as it risks overestimating increases, leading to higher fees that could exacerbate financial distress for consumers facing debt enforcement actions.

The SCJC has not demonstrated that forecasting, whether based on CPI, CPIH, or both, adequately considers consumers' limited financial capacity, and the absence of safeguards to correct overestimations heightens this risk.

**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?**

We believe that there are several opportunities to modernise how regulated fees are set by the courts and charged to end users.

Firstly, the SCJC must update the outdated £1,500 threshold for fee reductions, unchanged since 1988, to £5,000, aligning with the 2008 summary cause limit, to ensure more consumers benefit from the 33% fee reduction (e.g., reducing a money attachment fee from £101.99 to £69.67 when not executed), alleviating financial burdens for those with smaller debts.

Secondly, introducing a tiered fee reduction system (e.g., 50% for claims ≤£1,000, 33% for £1,001–£5,000) would further enhance affordability for vulnerable consumers, ensuring fees are proportionate to debt size.

Thirdly, the SCJC should reject advance inflation adjustments, as they risk overestimating fee increases, and instead use retrospective adjustments based on actual CPIH data, which includes housing costs relevant to consumers, to prevent excessive fees (e.g., avoiding a money attachment fee rising from £119.33 to £131.56 unnecessarily).

We are also concerned that without independent audits of officer-of-court firms' costs and profit margins, fees may not reflect actual effort, potentially overcharging consumers. The SCJC must consult with consumer advocacy groups to validate unit allocations and ensure fee-setting prioritises consumer affordability.

Additionally, a digital consumer portal providing real-time fee calculations, clear plain-language guidance, and a straightforward process to dispute fees would empower consumers to understand and challenge charges, particularly those without legal expertise. Regular engagement with advice agencies and consumer feedback mechanisms during the Fees Review process is essential to monitor the impact of fees on vulnerable consumers, ensuring the system remains fair and does not exacerbate financial distress.