

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:

General comments

We would like to start off our response with some general comments.

Court officers have an important role in the justice system in Scotland, for enforcement of orders, service of documents, and other functions.

However, numbers of messengers-at-arms and sheriff officers in the profession have been falling for some time. Information before ACMASO a few years ago was that membership was in the region of 160, but it declines every year. In 2023 it was 137. The consultation document reports that in 2025 it is 134. Regional availability and specific expertise may be lost over time.

The profession is made up of a number of different bodies of different sizes. It has proved difficult for a number of members to absorb ever increasing levels of regulatory requirements on them, and increasing costs.

One matter that has proved onerous for sheriff officers and messengers-at-arms has been work associated with setting fee levels. The move of decisions about uprating from the Lord President's office to the Scottish Civil Justice Council following the Court Reform (Scotland) Act 2014, and other calls on the SCJC, has in practice resulted in sporadic and retrospective reviews, which take some time. The attendant delay, before being able to benefit from cost of living increases for work they do, has been challenging for many court officers. ACMASO understands the experience of sheriff officers and messengers-at-arms to be that, by the time the outcome of a fee review has been enacted, the passage of time has resulted in the new levels not keeping pace with rising costs.

We welcome measures which lighten the administrative burdens on messengers-at-arms and sheriff officers, while providing fair remuneration for the work they do and maintaining standards necessary for public protection. We think that long term availability of services of court officers to the justice system in Scotland is an important consideration in any reform.

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.

The Advisory Council on Messengers-at-Arms and Sheriff Officers (ACMASO) has been aware of concerns raised by The Society of Messengers-at-Arms & Sheriff Officers (SMASO) for some time, regarding the current fee structure and review process.

We support, in general terms, measures which simplify matters for the professions of sheriff officers and messengers-at-arms, and streamline processes. Consolidation, blending the messenger at arms and sheriff officer tables into one, is likely to have this effect. The proposal allowing for updating of the table appears to be sensible.

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?

We agree, and note that unit-based charging would be consistent with the approach taken by the SCJC in some other fee regulations.

We would comment that transparency, while important, is not the only relevant consideration, and refer back to the general comments at the start of this response.

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 consider that the issue of particular levels of remuneration is more appropriately a matter for SMASO and others to make representations about.

In general terms, we consider it important that remuneration levels maintain the viability of the profession, for reasons set out in the general comments section of this response. We also consider it sensible for there be a mechanism for levels to keep pace with inflation.

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

Yes.

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?

Again, we consider that the detail sought by this question is more appropriately a matter for SMASO and others to make representations about.

In general terms, we note that there have been significant changes to the types, volumes and complexity of the work carried out by messengers-at-arms and sheriff officers over time. We consider that the views and experiences of current practitioners should be carefully considered to ensure that any revised fee structure keeps pace with modern times.

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

No. But we consider it important that any changes are monitored carefully to ensure that there are no unintended consequences, and that in the event that any should arise, there is a review process in place to address any issues.

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?

We are supportive of this measure. It seems to us likely to provide greater certainty for messengers-at-arms and sheriff officers, and allow better future business planning, budgeting and investment. There would also be the benefit of timely and fixed fee reviews, while reducing the associated resource overhead for both SCJC and SMASO.

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

We understand that a blended combination of CPI and CPIH indices to forecast inflation has been the model adopted for most recent reviews. We also understand this appears to have worked satisfactorily. In those circumstances, we would support continuation of this approach, subject to what we have set in answer 6 about monitoring.

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?

No. We observe that if there is monitoring, and dialogue continues with interested parties, those responsible for regulated fees will be well placed to react to any such opportunities which may arise.