

## 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 two sets of regulations from 2002 should be consolidated.

### 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?**

Yes, I agree with this proposal.

**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?**

I agree with the £5.40 baseline, however this amount requires to be recalculated at the time of the SSI being implemented to include the latest inflation figure, I also agree with a fixed time unit of 6 minutes.

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

I agree.

**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?**

Certain types of diligence no longer reflect the client's needs in particular, ejections, ship arrestments, child uplifts. Ejection instructions remain a regular part of sheriff officers workload but significantly less than in the past, they can be difficult, time consuming, a degree of diplomacy by the sheriff officer is required when the occupant still remains in the property and does not want to move, in these instances the sheriff officer has to liaise with stakeholders involved, this can be quite time consuming. Ship Arrestments are normally for large claims (7 figure amounts), normally executed outwith normal business hours at short notice with strict time constraints, now including Sundays. Child uplift probably the most difficult function an officer is required to do, in many instances the Sheriff Officers are left by the instructing agent to liaison with social work, and other stakeholders before they attempt to take possession of the child or children, the officer must have the appropriate safety equipment for transporting the child, spending time dealing with difficult person present when trying to uplift the child and to reassure person present the child will be kept safe, the baseline unit of work requires to be increased by at least 50% for all these diligences.

Pre Covid instructions were received by Royal mail/DX and in the majority of cases service copies were supplied, Post COVID, instructions are now received by email therefore there is a requirement to download and print the electronic file, I suggest 1 time unit for every 20 pages capped at 3 time units.

Messenger at Arms and Sheriff Officers became the official transmitting agent at the request of the Scottish Government International Law Team in September 2024, there is already a fee within the table of fees as a receiving agent for service from Hague Convention Countries in Scotland, there is currently no statutory fee as a transmitting authority, this involves preparing Hague Model Forms, locating the appropriate body/person in the country of service, where necessary obtain translations, transmitting documents, I believe 47 time units would be a suitable unit based price.

Line item 1A & 1B reduction should no longer apply, this was introduced many years ago as part of the Scottish Government access to justice, at that time instructions were received in greater numbers than the present day, with higher volumes of instructions in the past firms could carry this, however it is now no longer cost effective, failing which the £1500 level should be reduced to £300 in line with the SCTS.

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

I do not believe there will be any unintended consequences

**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 believe this will give clarity going forward, SMASO over many years has incurred substantial fees to professional advisors in preparing our fee uplift application, the issue was there was no clear methodology when applying for an uplift in fees, fee adjustment in advance now gives a clear methodology both for our members and the legal profession/public in general. Receiving an annual inflation will resolve the issue of our fee uplift application only being introduced as and when the SCJC meet and approve

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

I would suggest a blended combination of CPI/CPIH indices should be used to forecast inflation

*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?**

*Respondent Information Form*

I believe a working group would be beneficial between SMASO and the SCJC directorate moving forward, the group could work towards modernising our profession and fee reform.