

Scottish Court Fees 2022-2025

Court of Session

High Court of Justiciary

Sheriff Appeal Court

Sheriff Courts
(including Sheriff Personal Injury Court)

Justice of the Peace Courts

Office of the Public Guardian

Equality Impact Assessment

Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc	Scottish Court Fees Orders 2012-2025 (Court of Session, High Court of Justiciary, Sheriff Appeal Court, Sheriff Courts including Sheriff Personal Injury Court, Justice of the Peace Courts and Office of the Public Guardian)	
Minister	Ash Regan	
Lead official	Walter Drummond-Murray	
Officials involved in the EQIA	Name	Team
	Michael Green Walter Drummond Murray	Courts & Tribunals Team
Directorate: Division: team	Justice: Civil Law and Legal System Division Courts & Tribunals Team	
Is this new or revision to an existing policy?	Revision to existing policy	

Screening

Policy Aim

1. The Scottish Government published a Consultation on Court Fees on 10 December 2021¹. The proposals consulted on were for increases of court fees to take account of projected inflation for the next three years. In addition it departs from the inflation only rises in a few cases and makes relatively minor amendments to fee narratives in order to improve consistency and take account of the experience of a number of court reforms that have been introduced in the last few years.
2. The policy contributes to the Scottish Government's Wealthier and Fairer and Safer and Stronger objectives, through the following national outcomes.
 - Our public services are high quality, continually improving, efficient and responsive to local people's needs;
 - We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others; and
 - We live our lives safe from crime, disorder and danger.

Whom will it affect?

3. Court fees have an impact on all civil court users that are not in receipt of fee exemptions. Currently, those persons in receipt of civil legal aid, passported benefits, universal credit and working tax credit (including child tax credit, or the disability element, or the severe disability element) with a gross annual income of £18,000 or less are exempt from paying court fees.
4. In considering the impact of the inflationary fee increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by race, religion or belief, disability, age, caring responsibilities, gender or sexual orientation typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected and so the Scottish Government consider that they would not be discriminated against as a result of inflationary court fee increases.

¹ The consultation can be viewed at <https://consult.scotland.gov.uk/courts/scottish-court-fees-2018-2021> ²
<http://www.parliament.scot/parliamentarybusiness/Bills/104998.aspx>

5. For persons who are not eligible for exemption from fees, if they are the successful party in civil litigation they will be entitled to have court fees and other outlays reimbursed to them by the losing party. In some cases, pursuers (claimants) may not in practice have to pay court fees because the law firm they are using or a trade union backing them may be in a position to pay the fees. Further, the Scottish Government commenced the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018 (the 2018 Act)² which has introduced various provisions which make civil litigation more accessible, namely that:
- a pursuer can now enter into a “success fee agreement” (broadly, a no-win-no-fee agreement) which means that they should not be liable to make any payment for court fees or other outlays as that the cost of these should be borne by the legal provider;
 - in personal injury cases and related appeals, the court’s ability to make an award of expenses against a person bringing an action is restricted by qualified one-way costs shifting (QOCS) providing that they and their legal provider conduct the proceedings in an “appropriate manner”; and
 - the 2018 Act provides for a form of class action to be known as group procedure which would mean that in the case of multi-party litigation, instead of multiple claims each bearing court fees, there would be a single action³.
6. The Scottish Government has given careful consideration to those in vulnerable groups in drafting the 2022 fees orders and the 2022 fee regulation. The threshold for those on benefits has been increased from £18,000 to £20,592, in line with the current living wage. We have also introduced an exemption for those who have been awarded the personal independence payment (PIP) for those with a gross annual income of £20,592 or less.

Environmental

7. In the main, there is nothing to suggest that there would be a particular environmental impact from these proposals with one exception. The Aarhus Convention Compliance Committee in its report in 2021 found that Scotland was in breach of Article 9(4) of the Aarhus Convention which states that “review procedure shall provide adequate and

² <https://www.legislation.gov.uk/asp/2018/10/contents>

³ http://www.parliament.scot/S5_JusticeCommittee/Inquiries/CL-EHRC.pdf. The Equality and Human Rights Commission has commented that group procedure could be beneficial for equality and human rights claims http://www.parliament.scot/S5_JusticeCommittee/Inquiries/CL-EHRC.pdf. Court fees for group procedure were the subject of a question in the 2021 consultation on court fees. The Scottish Civil Justice Council is responsible for setting fees for group procedure and it considers that it is too early to set the fees.

effective remedies and be fair, equitable, timely and not prohibitively expensive”. In response to this report, the Scottish Government has decided to exempt Aarhus environmental cases from court fees in the Court of Session.

Rural Impact

8. The proposals increase fees that would be charged by court services across Scotland and so do not impact disproportionately on rural communities.

Enforcement/Sanctions/Monitoring

9. Nearly all fees are paid for in advance of the service so the sanction for non-payment is that the service will not be performed. The proceedings may be struck out if the fee is not paid.

What might prevent the desired outcomes being achieved?

10. No factors that might prevent the desired outcomes being achieved have been identified. However, the projected income generated by the proposals is based on assumptions regarding case levels. If numbers and cases decrease this would affect the levels of cost recovery. The latest SCTS Annual Report indicates a fall of cost recovery from 64% in 2019-20 to 58% in 2020-21⁴. The Scottish Government is mindful that court fees must be set in consideration of the impact upon access to justice. Put simply, it would be unwelcome if fees are set at a level that discourage potential litigants with meritorious claims from bringing their cases to court to vindicate their rights (although there are arguments that it may be desirable for some types of action e.g., low value claims to be determined by alternative dispute mechanisms or otherwise settled without court action).

Stage 1: Framing

Results of framing exercise

11. This impact assessment is intended to accompany the proposals on which consultation took place. It takes into account the equality impact assessments published for the Courts Reform (Scotland) Act 2014 (the

⁴ https://www.scotcourts.gov.uk/docs/default-source/aboutscs/reports-and-data/reports-data/scts-annual-report-and-accounts-2020-2122dcd7d6cbe04b8e8028da79fcb91bf6.pdf?sfvrsn=1627ccb0_0

2014 Act)⁵ and the 2018 Act. This is particularly pertinent to the fees orders relating to the new courts established by the 2014 Act.

“In relation to the civil court reforms (e.g. national personal injury court [i.e., the Sheriff Personal Injury Court]; Sheriff Appeal Court) these issues were considered when the Courts Reform Act was being developed. Overall, the Equality Impact Assessment on the Courts Reform (Scotland) Bill found that none of the groups with protected characteristics would suffer disproportionately as a result of the interaction of the measures in the Bill with their protected characteristic.”⁶

12. The Scottish Government fully considered access to justice issues such as affordability for court users when developing proposals to increase fees. Factors such as affordability and the level of fee in relation to the value of claim have historically been taken into account when setting fees.
13. A particular factor to be considered since court fees were raised is provided by the recent UK Supreme Court Judgement in *Unison v Lord Chancellor* [2017] UKSC 51⁷ regarding fees charged for access to the Employment Tribunals. The Court specifically commented, “Fees paid by litigants can, in principle, reasonably be considered to be a justifiable way of making resources available for the justice system and so securing access to justice.” The test is, in essence, do the fees effectively prevent access to justice. The Scottish Government has seen no compelling evidence that it does.
14. The consultation noted that the Scottish Government has due regard for the judgment and believes that maintaining access to justice must be a paramount consideration in developing and revising fee charging regimes such as the system for court fees.
15. Further, the Scottish Government considers it vital that the extensive system of exemptions is maintained and special consideration is given to the parts of the court system that might give rise to particular concerns about access to justice for vulnerable people.
16. These considerations have always played a part in the setting of court fees. For example, the last fees orders in 2016 & 2018 largely protected fees for divorce from increases and introduced new categories of exemptions for those in receipt of a payment from the Welfare Fund. Evidence suggests that divorce fees are more often paid by women and fees can be particularly onerous for women who

⁵ <https://www.legislation.gov.uk/asp/2014/18/contents>

⁶ <http://www.gov.scot/Publications/2016/11/3573>.

⁷ <https://www.supremecourt.uk/cases/uksc-2015-0233.html>

are leaving abusive relationships. In addition the 2016 order protected fees in the Sheriff Personal Injury Court as the cases in that court may often involve vulnerable people.

17. At the time of the Court Fees Review in October 2021, the Scottish Government proposed a 2% rise in fees to cover inflation. This was despite the Consumer Price Index indicating inflation would be 3.5% in November 2021 rising to 5% in 2022 before falling to 2.8% in 2024. According to the Office of Budget Responsibility in its 'Economic and fiscal outlook - March 2022'⁸, the Consumer Price Index was at 5.5% in January 2022, and is expected to rise to 9% in the fourth quarter of this year and fall back to 4% in 2023. However, the Scottish Government has no plans at present to increase court fees by more than 2%, much less than the current and projected rate of inflation.

Environmental

18. There is nothing to suggest that there would be an environmental impact from these proposals beyond the issue about the bringing of Aarhus environmental actions noted above. Environmental groups have expressed considerable concern about the cost of bringing judicial review and statutory appeal in Aarhus environmental cases in the Court of Session. As part of the Scottish Government's strategy to make such cases more affordable, and to make such cases more compliant with Article 9(4) of the Aarhus Convention, the Court of Session Fees Order 2022 exempts such cases from court fees.

Rural Impact

19. As the proposals are to increase fees charged by court services across all of Scotland, both those living in urban and rural areas will be affected in the same way. There will be, therefore, no particular impact on rural communities. The Judiciary and Courts (Scotland) Act 2008 (Scottish Land Court) Order 2017 transferred responsibility for the administration of the court to the Scottish Courts and Tribunal Service. The Land Court deals with cases of particular impact on rural communities. However, the Scottish Land Court sets its own fees; this is not the responsibility of the Scottish Government.

Enforcement/Sanctions/Monitoring

20. Nearly all fees are paid for in advance of the service so the sanction for non-payment is that the service will not be performed. The proceedings may be struck out if the fee is not paid.

⁸ <https://obr.uk/efo/economic-and-fiscal-outlook-march-2022/>

Extent/Level of EQIA required

21. A full 12-week public consultation took place and is likely to be seen by range of consultees. Those who responded to the consultation include those who are directly involved with the legal process such as legal professionals and organisations in the justice system. Additionally, organisations with an interest in legal issues through their concern for the welfare of the public in general or specific groups of people have typically responded as have a number of individuals who with an interest. There were also two individual responses.
22. Question 7 of the consultation asked: “Do you consider that any of the proposals in this consultation paper are likely to have a disproportionate effect on people or communities who face discrimination or social exclusion owing to race, age, gender, disability, sexual orientation, or any other factor? If so, please specify your views on the possible impact.?”
23. The Faculty responded: “Insofar as the consultation paper proposes a continuation of the current regime of court fees, the Faculty considers the proposals likely to have a disproportionate effect on people or communities who face discrimination or social exclusion by reason of race, age, gender, disability, sexual orientation and other factors. That disadvantage should not be measured only by the number of cases in which such factors are specifically pled as grounds of challenge or complaint.”
24. In contrast, the Law Society stated: “We are not aware of any data that shows a disproportionate effect on people or communities with protected characteristics in relation to court fees.”
25. The Scottish Government is better informed on equality issues as a result of the previous consultation which concluded in 2018. In particular, a helpful response was received from the Equality and Human Rights Commission which highlighted the potential for decline in numbers of equality and human rights legal challenges as a result of higher court fees.? Based on the responses to the 2016 consultation, the previous fee consultation entitled “Consultation on Proposals for Fees Charged by the Court of Session, Accountant of Court, Sheriff & Justice of the Peace Courts, High Court, Office of the Public Guardian, Personal Injury Court and the Sheriff Appeal Court”, which ran from 23 February 2015 to 15 May 2015, the group that is most likely to be affected by the proposals is that of those on incomes just above the level that would qualify for exemption. There are no data to suggest that any of the protected groups would appear to be disproportionately affected.

26. However, the issue of court fees as part of the cost of court actions needs to be taken in context. In most cases the court fees form a small proportion of the cost of legal proceedings and, as mentioned, a successful party in civil litigation will be entitled to have court fees paid by them reimbursed by the unsuccessful party. Further, through the 2018 Act, the Scottish Government has increased the availability and attractiveness of success fee agreements so that many pursuers will not have to pay up front court fees in practice.
27. The Scottish Courts and Tribunals Service (SCTS) will continually monitor cost recovery from the courts and keep the fees regime under review. This will be informed by the data available from the operating Integrated Case Management System and by further assessment of the impact of the court reforms such as the new group proceedings, increased digitalisation as a result of the SCTS digital strategy and the coronavirus pandemic.

Stage 2: Data and evidence gathering, involvement and consultation

Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken
Age	<p>Neither the Scottish Government nor the Scottish Courts and Tribunals Service (SCTS) collect specific information about the age profile of people who make use of the civil courts.</p> <p>However, results from the Scottish Crime and Justice Survey and the Scottish Civil Justice Statistics 2020-2021 indicate that 28% of adults said that they had experienced at least one civil law problem in the last three years for which data is available. Just under two-in-five (39%) had resolved the problem, while just over a third (34%) were still trying to resolve the problem. 17% had tried to resolve the problem but had to give up and 9% were not planning to do anything. Those aged 60 and over were less likely than the other age categories to have experienced civil law problems (17%, compared to 34% of both 16-24 year olds and 25-44 year olds and 32% of 45-59 year olds).</p> <p>The report 'Is Scotland Fairer' 2018 reported that "some groups – including children, disabled people and ethnic minorities – were significantly more likely to live in relative poverty AHC [after housing costs] than others. 'Relative poverty' was defined as "households who are living on less than 60% of the median income for Scotland, after housing costs". Generally, those in these groups will find it harder to meet the cost of court fees than those in other groups. Some of those in the 'disabled' category will be disabled owing to age (see next section on disability).</p>	<p>Scottish Crime and Justice Survey 2019/20 (section 8.4) is the main section relating to civil law in the main findings report).⁹</p> <p>Scottish Civil Justice Statistics 2021-22 (section 3.1).¹⁰</p> <p>Is Scotland Fairer? 2018 produced by the Equality and Human Rights Commission¹¹</p>	<p>Persons of any age can be affected by civil law issues and people of all ages benefit either directly or indirectly from efficient and fair access to the civil courts.</p> <p>No specific gaps have been identified.</p> <p>The Scottish Government is aware of the problem of 'relative poverty'. It has increased the gross annual income threshold at which those on benefits have to start paying fees from £18,000 to £20,592. This is in line with the Living Wage in Scotland.</p>

⁹ <https://www.gov.scot/collections/scottish-crime-and-justice-survey/>

¹⁰ <https://www.gov.scot/collections/civil-justice-statistics/>

¹¹ <https://www.equalityhumanrights.com/en/publication-download/scotland-fairer-2018>

Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken
Disability	<p>The Scottish Household Survey 2014 shows that just over one-fifth (22%) of households in Scotland contain at least one person with a physical or mental health condition or illness lasting or expected to last 12 months or more. This figure covers all members of the household including children. As would be expected, households comprised of older people are more likely to contain someone with a long-term condition compared to other types of households.</p> <p>The Scottish Government does not hold information on the proportion of people involved in civil litigation who have disabilities. The Scottish Court and Tribunals Service (SCTS) Court User Satisfaction Survey 201910, indicated that only 2% of court users self-reported as having a long-term illness or disability. However, prevalence of civil legal problems and disputes is higher for disabled people at 30% as opposed to 21% in the general population. In addition, only 39% of disabled people had solved their most important/only problem whereas 52% without a disability had succeeded in resolving their most important/only problem.</p> <p>The 'Is Scotland Fairer?' 2018 report stated: "Disabled people were more likely to live in poverty AHC compared with non-disabled people in 2015/16 (24.3% compared with 16.6%). Between 2010/11 and 2015/16, the percentage of disabled people living in poverty increased from 21.0%. Approximately 1 in 4 of those with mobility (21.5%); dexterity (22.2%); memory (25.0%); or learning, understanding or concentration (28.0%) impairments were likely to be living in poverty. The proportion of people with mental health conditions living in poverty (37.6%) was double that for non-</p>	<p>Scottish Household Survey 2016.¹²</p> <p>The Scottish Court and Tribunals Service Court User Satisfaction Survey 2019.¹³</p> <p>Is Scotland Fairer? 2018 produced by the Equality and Human Rights Commission.</p>	<p>In 2012, the Welfare Reform Act and the Welfare Reform (Further Provision) (Scotland) Act 2012 gave the Scottish Ministers powers to manage some of the changes arising out of the UK Government's legislative changes, such as preserving Scots' entitlements to "passport benefits" such as legal aid and court fee exemptions.</p> <p>UK benefits are widely used in Scotland to inform decisions about exemptions from court fees and to passport people onto eligibility for legal aid. For example, if a person is in receipt of income support then they are automatically eligible to be exempt from paying court fees.</p> <p>Universal Credit - a key feature of the UK Government's welfare reform - abolishes all the UK benefits previously used to passport people onto other Scottish benefits.</p> <p>Scottish Ministers recognise the importance of entitlements for those receiving benefits such as court fee exemptions and have maintained similar access to them under the new arrangements. It is not our policy to restrict access by narrowing the eligibility criteria.</p> <p>Many local services in Scotland including both Court Fee exemptions and legal aid are affected by the changes to "passporting"</p>

¹²

<https://www.gov.scot/collections/scottish-household-survey/>

¹³

<https://www.scotcourts.gov.uk/docs/default-source/scs---court-users/court-user-satisfaction-survey---summary-2019.pdf?sfvrsn=2>

Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken
	<p>disabled people (16.6%)” ‘Relative poverty’ was defined as households who are living on less than 60% of the median income for Scotland, after housing costs.</p>		<p>benefits and the Scottish Government is considering its options in the longer term for determining eligibility for help and support.</p> <p>The Scottish Government has added an exemption for those in receipt of the personal independence payment (PIP) who have a gross income of £20,592 p.a. or less. This is in line with the Living Wage.</p> <p>More generally, it has increased the gross annual income threshold at which those on benefits have to start paying fees from £18,000 to £20,592. This is in line with the Living Wage in Scotland. This will assist some of the disabled who are not in receipt of PIP who are in receipt of other benefits and are ‘relative poverty’.</p>
Sex	<p>The Scottish Crime and Justice Survey indicates that 21% of males and 21% of females had experienced at least one civil law problem in the last three years.</p>	<p>Scottish Crime and Justice Survey 2019/20</p>	<p>The statistics relating to the sex of those experiencing a civil law problem suggest that gender is not an issue although there is some evidence that divorce fees are borne more often by women. One respondent to the consultation did point out, ‘The fact that women are disproportionately poor, that they are disproportionately likely to be experiencing domestic abuse and its sequelae of homelessness and poverty, that 96% of the single-parent families on benefit are headed by women and a myriad of other aspects of women’s reality means that even if the numbers are equal, the impact is highly unlikely to be so.’ Another respondent highlighted the hypothetical situation of</p>

Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken
			<p>someone just above the legal aid disposable income threshold who would face significant fees in a case involving a hearing in the Court of Session. These points acknowledged, if women are disproportionately in poverty then they would also be expected to be disproportionately benefited by the system of exemptions that seek to support those on lower income. Further in relation to legal aid, the criteria should be noted, For income, the Scottish Legal Aid Board (SLAB) look at the gross income received by the applicant and a spouse or partner and deduct major outgoings such as tax, national insurance and mortgage repayments as well as allowances for dependents. Applicants are provided with a breakdown of items that have been taken into consideration. If disposable income is less than £3,521 legal aid is granted with no contribution from income. If between £3,522 and £26,239 then legal aid is granted with a contribution from income.</p> <p>Capital takes into consideration savings, investments or equity in property owned by applicant and/or their partner, the house you live in is exempt. If the disposable capital is less than £7,853 there is no contribution, if between £7,854 and £13,017 legal aid is granted subject to the excess of £7853 being paid as a contribution.</p>

Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken																																																									
			It is therefore the case that people earning significantly in excess of average earnings would be eligible for legal aid and therefore exempt from court fees.																																																									
Gender reassignment	The Scottish Government does not hold this information in relation to the proposals.		Although there is no information available on either of these categories, all types of person can be affected by problems which would require resolution in the courts.																																																									
Sexual orientation	The Scottish Government does not hold this information in relation to the proposals.																																																											
Race	<p>Respondents to the Scottish Courts and Tribunals Service 2019 Court User Satisfaction Survey identified their ethnicity as below:</p> <table border="1" data-bbox="702 1055 1423 1883"> <thead> <tr> <th>ETHNICITY OF RESPONDENTS</th> <th>NUMBER</th> <th>%</th> </tr> </thead> <tbody> <tr> <td>Do not wish to say</td> <td>11</td> <td>1</td> </tr> <tr> <td>White</td> <td></td> <td></td> </tr> <tr> <td>Scottish</td> <td>2096</td> <td>84</td> </tr> <tr> <td>Other British</td> <td>184</td> <td>7</td> </tr> <tr> <td>Irish</td> <td>29</td> <td>1</td> </tr> <tr> <td>Gypsy/Traveller</td> <td>1</td> <td><1</td> </tr> <tr> <td>Polish</td> <td>41</td> <td>2</td> </tr> <tr> <td>Any other white ethnic group</td> <td>42</td> <td>2</td> </tr> <tr> <td>Mixed or Multiple Ethnic Groups</td> <td></td> <td></td> </tr> <tr> <td>Any mixed or multiple ethnic groups</td> <td>5</td> <td><1</td> </tr> <tr> <td>Asian, Asian Scottish or Asian British</td> <td></td> <td></td> </tr> <tr> <td>Pakistani, Pakistani Scottish or Pakistani British</td> <td>12</td> <td><1</td> </tr> <tr> <td>Indian, Indian British</td> <td>8</td> <td><1</td> </tr> <tr> <td>Bangladeshi, Bangladeshi British</td> <td>-</td> <td>-</td> </tr> <tr> <td>Chinese, Chinese British</td> <td>2</td> <td><1</td> </tr> <tr> <td>Other</td> <td>1</td> <td><1</td> </tr> <tr> <td>African</td> <td></td> <td></td> </tr> <tr> <td>African, African British</td> <td>11</td> <td><1</td> </tr> </tbody> </table>	ETHNICITY OF RESPONDENTS	NUMBER	%	Do not wish to say	11	1	White			Scottish	2096	84	Other British	184	7	Irish	29	1	Gypsy/Traveller	1	<1	Polish	41	2	Any other white ethnic group	42	2	Mixed or Multiple Ethnic Groups			Any mixed or multiple ethnic groups	5	<1	Asian, Asian Scottish or Asian British			Pakistani, Pakistani Scottish or Pakistani British	12	<1	Indian, Indian British	8	<1	Bangladeshi, Bangladeshi British	-	-	Chinese, Chinese British	2	<1	Other	1	<1	African			African, African British	11	<1	Scottish Courts and Tribunals Service 2019 Court User Satisfaction Survey.	Persons of any race or ethnicity can be affected by civil law issues and, similarly, benefit either directly or indirectly from efficient and fair access to the civil courts.
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Characteristic	Evidence gathered and strength/quality of evidence	Source	Gaps identified and action taken
	<p>Other 1 <1</p> <p>Caribbean or Black</p> <p>Caribbean, Scottish or Caribbean British 2 <1</p> <p>Black, Black British 2 <1</p> <p>Other - -</p> <p>Other Ethnic Group</p> <p>Arab, Arab British 4 <1</p> <p>Other - -</p> <p>Not specified 31 1</p> <p>Total 2483 100</p> <p>The report "Is Scotland Fairer" produced by the Equality and Human Rights Commission in 2015 stated that "some groups – including children, disabled people and ethnic minorities – were significantly more likely to live in relative poverty AHC [after housing costs] than others. 'Relative poverty' was defined as "households who are living on less than 60% of the median income for Scotland, after housing costs".</p>	"Is Scotland Fairer" 2015 report. ¹⁴	
Religion or belief	The Scottish Government is not aware of any specific information on the faith or religious belief of users in relation to the proposals.		Although there is no information available on this category, all types of person can be affected by problems which would require resolution in the courts.

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by age typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good relations among and between different age groups			X	

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by disability typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good relations among and between disabled and able bodied people			X	

Do you think that the policy impacts on men and women in different ways?

Gender	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by gender typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase. The Scottish Government's notes that the last round of fee increases largely protected fees for divorce from increases. Evidence suggests that divorce fees are more often paid by women and fees can be particularly onerous for women who are leaving abusive relationships.
Advancing equality of opportunity			X	
Promoting good relations between men and women			X	

Do you think your policy impacts on trans people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	In considering the impact of the fees increases on specific groups the Scottish Government considers that affordability would be the main issue. If some groups identified by gender typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think that the policy impacts on people because if they are lesbian, gay or bisexual?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by sexual orientation typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good relations			X	

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by race typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good race relations			X	

Do you think the policy impacts on people because of their religion or belief?

Religion and Belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	In considering the impact of the fees increases on specific groups, the Scottish Government considers that affordability would be the main issue. If some groups identified by religion or belief typically earn less than average, the Scottish Government considers that assistance from legal aid and the available exemptions ensure that these groups would be protected from the proposed fee increase.
Advancing equality of opportunity			X	
Promoting good relations			X	

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	No. However, the 2% increase in fees will assist safeguarding court income to maintain service levels and finance future improvement, and an effective and accessible justice system benefits, either directly or indirectly, all sections of society.
Is the policy directly or indirectly discriminatory under the Equality Act 2010¹⁵?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how the equality Impact analysis has shaped the policy making process

Careful consideration has been given to any potential impact on different equality groups arising from the fee proposals. No negative impacts have been identified in relation to these proposals. Therefore, no changes were made to the policy as a result of the EQIA.

Monitoring and review

The SCTS will continually monitor cost recovery from the courts and the OPG. A further equality impact assessment will be completed as part of any future fee review, for example to take into account changes brought about by group procedure or increased digitalisation.

¹⁵ See EQIA – Setting the Scene for further information on the legislation.

Stage 5 - Authorisation of EQIA

Please confirm that:

This Equality Impact Assessment has informed the development of this policy:

Yes No

Opportunities to promote equality in respect of age, disability, gender, gender identity/transgender, sexual orientation, race and religion and belief have been considered, i.e:

- Eliminating unlawful discrimination, harassment, victimisation;
 - Removing or minimising any barriers and/or disadvantages;
 - Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life);
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Consultation on Scottish Court Fees and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: **Denise Swanson**

Position: Deputy Director, Civil Law and Legal System

Date: 19/5/2022



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