

CONSULTATION RESPONSE

Thompsons Solicitors' Response to Implementing increases to selected court and tribunal fees December 2023

Thompsons Solicitors is the UK's largest and most experienced trade union and personal injury law firm. We specialise in personal injury and employment law for trade union members and their families, as well as providing services to non-union clients.

At any one time, Thompsons, as a firm, will be handling over 20,000 personal injury cases in England and Wales. The firm participates regularly in government consultations on various issues relevant to our clients.

Question 1: Do you agree with the principle that fees should be increased periodically to reflect rising costs to HMCTS as a result of changes in the general level of prices? Please give reasons for your answer.

We do not agree that court users should fully fund the court system. The proposed increases will have a negative effect on access to justice, given the financial pressures currently affecting most court users or potential users.

In relation to the justification for increases being to offset rising costs, we must highlight the government's ongoing failure to increase fixed recoverable costs for claims in the Pre-Action Protocols for Low-Value Personal Injury Claims in Road Traffic Accidents and Low-Value Personal Injury (Employer's Liability and Public Liability) Claims.

These costs have not been increased since their introduction in 2013 - the increase based on CPI since that date would be over 34%. The rising costs to HMCTS obviously also apply to law firms providing advice and assistance to injured victims, and yet there has never even been a proposal to increase these fixed recoverable costs since their imposition over 10 years ago. In our opinion, if the principle of increasing fees periodically to reflect rising costs should apply to HMCTS, it should also apply to fixed recoverable costs.

We also make the point that although court users are paying ever-increasing fees - including issue fees of up to £10,000 - the general experience in the civil courts is of poor service and delays which, in personal injury claims in particular, mean claimants sometimes have to wait months or years longer than necessary for the claim to be concluded and the fees recovered. In a properly functioning court system claims would be concluded and the amount spent on court fees paid back to those who have incurred them much more quickly.

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Question 2: Do you agree with the principle that a fee increase of 10% for up to 202 fees, to partially reflect increases in CPI from March 2021 is appropriate? Please give reasons for your answer.

We believe any increase will have a negative effect on access to justice.

Question 3: Are there any fees outlined in Annex A that should not be increased by 10% as part of this proposal? Please give reasons for your answer.

Increasing fees likely to be payable by individuals who are litigants in person with limited resources will have a significant impact on access to justice particularly given the increasing cost of living. With reference to the list of fees this would apply, in particular, to fees payable in the Magistrates Court, to Court of Protection matters and to judicial review proceedings. We do not specialise in family court or gambling matters.

Question 4: Do you agree with the proposal on making more regular, incremental inflation and cost-based increases to court and tribunal fees every two years, as opposed to more infrequent but more significant changes on an ad hoc basis? Please give reasons for your answer.

We do not believe court fees should be increased without consideration of wider economic factors - if court fees continue to rise but there are not equivalent increases in court user's disposable income, the ability to access justice will be adversely affected.

We make the point again that there is no reason why fixed recoverable costs - for pursuing the same claims as covered by the claims to which these court fees apply - should not increase similarly.

Question 5: What are your views on the proposal to enhance the council tax liability order fee, retaining its current value of £0.50p?

No comment - subject is not within our experience.

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Question 6: What do you consider to be the equalities impacts on individuals with protected characteristics of the proposals? Are there forms of mitigation in relation to equality impacts that we have not considered? Please give reasons for your answer.

Those using the Court of Protection will be doing so on behalf of disabled people and the increased court fees will fall on those disabled people's funds, which are often required for care and assistance and seeking to ensure a reasonable quality of life given the limited help available from the state.

While the Help With Fees Scheme does provide some mitigation ultimately it is often the most vulnerable in society, including those with protected characteristics, who require access to the courts and as court fees rise during a cost of living crisis, those people will be prevented from accessing justice.

Thompsons Solicitors LLP