2 April 2014

Dear Convener

Courts Reform (Scotland) Bill – Court Fees

Many thanks for the opportunity to give evidence to the Committee regarding the Courts Reform (Scotland) Bill. We agreed during the session to provide additional information relating to court fees and how the reduction in fee income from the cases transferring from the Court of Session would affect the Scottish Court Service (SCS).

As paragraph 21 of the Financial Memorandum states, the SCS Corporate Plan for the three years to 2014 committed the SCS to working with the Scottish Government to progress the recommendations made in the Scottish Civil Courts Review. SCS is represented on the Making Justice Work Programme Board and has been involved in development of the reforms in the Bill including the cost implications. We have therefore worked closely with them on the financial projections that may have an effect on their business.

The assumption, as set out in paragraph 32 of the Financial Memorandum, is that the current level of fee income will be maintained when the reforms are in place. The Bill and programme of reform provide an opportunity to introduce a new fee structure which will maintain the current level of fee income and reflect the new court structures and efficiencies. As I indicated to the Committee, the Bill is part of a range of reforms that are being undertaken by the Making Justice Work programme to deliver a more efficient and effective court system. Some of the other reforms include new IT systems, a move towards case management and a rewrite of the civil court rules. Once these reforms are in place the courts will be taking a more assertive role in managing the pace and conduct of cases which is expected to help remove unnecessary churn in the system and will result in a fundamentally different cost base for civil courts operations.

There is currently a project underway as part of Making Justice Work to look at the operation of the proposed new structures, cost implications and funding. This project is looking at modelling of the court services, reviewing the current methodology behind the fees, setting realistic fees based on services, making best use of technology, and minimising cross-subsidisation where desirable. This exercise is not just about setting new levels of fees;
there will be some new fees introduced in recognition, for example, that a new specialist personal injury court and the Sheriff Appeal Court is being established.

The proposed changes to fee structures will also take account of the intention to move further towards full cost recovery levels (currently SCS recovers around 80% of the costs of civil litigation). This approach implements the Scottish Government’s policy objective that fees should cover the cost to public funds of providing court services.

It is intended that the revised fee structure will set fees which are proportionate to the services provided to the court user and maintain affordable access to justice. The intention is that these reforms will ensure a more efficient system in the future which will be reflected in future fee structures. The proposals for revised fee tables will be subject to public consultation and the Scottish Statutory Instrument, expected to be laid in 2015, will be scrutinised by Parliament.

I hope that you find this information helpful. I would be happy to provide further information on this, or any other aspect of the Financial Memorandum, if the Committee would find that useful.

Yours

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