

Letter from the Auditor of the Court of Session, 21 September 2023

I am the Auditor of the Court of Session as well as of the Sheriff Appeal Court and the All Scotland Sheriff Personal Injury Court. In terms of a comparative exercise between the Court of Session and the Sheriff Courts I can confidently say that the costs in the Sheriff Courts will generally be significantly less than those in the Court of Session. There are a number of reasons for that including the instruction of counsel and experts being more frequent in Court of Session cases and cases in the Court of Session themselves generally being more complex.

My understanding is that some trust cases have to be raised in the Court of Session as it has privative jurisdiction in certain matters.

The Convener's more specific questions request

- (a) any information I hold on average legal costs for litigants bringing a trust case to the Court of Session and
- (b) the average legal costs for litigants in bringing a civil case in the Court of Session more generally

In respect of (a) I do not record cases under specific types of case such as personal injury, commercial, family, public law, petition, trust or any other category. The types of case that I deal with are wide ranging and varied. Some types of case are easier to define than others and if I were to try to categorise different types of case I would need to define what was considered to be a trust case.

Roughly 2,200 accounts are received annually by my office (from the three courts for which I have jurisdiction). Trust cases (however defined) are relatively infrequent. Such trust cases as there are vary in their individual circumstances and complexity so it would be difficult to find any particularly meaningful insight from any average figure.

In respect of (b) again the cases vary enormously, and I deal with accounts of expenses ranging from a few hundred pounds to the odd multi million pound account. The complexity of the case will impact on the size of the account. I could provide an average figure for accounts that actually proceed to taxation (over 90% of those accounts received will settle between parties without the need for a formal taxed account) but I doubt that it would be of any great assistance to you in the exercise that you are carrying out.