



## **ASLEF Response to Scottish government consultation on Scottish Court Fees – October 2016**

The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 20,000 members in train operating companies and freight companies as well as London Underground and light rail systems. ASLEF has around 1800 members in Scotland.

ASLEF would remind the Scottish Government of the financial pressures caused by legislative changes from Westminster and we would urge the Scottish Government to do everything assist trade unions. We note the policy of 100% cost recovery from court fees without any contribution from general taxation and are concerned that such an approach can be viewed as a slippery slope towards the possible privatisation of essential services.

ASLEF opposes the current "pay as you go" approach to court fees and believe there should be a move towards a "deferred payment system" whereby the court fees only become payable at the end of the court case by the unsuccessful litigant.

1. Should simple procedure fees be set at the same level as the fees for small claims and summary cause proceedings?

No response.

2. Which option to achieve full cost recovery as set out in the paper, should be implemented?

Providing financial support for personal injury claims is a key component of the services trade unions provide for their members. Court fees place a substantial burden on unions at a time when administrative burdens are increasing as a result of anti-trade union legislation from Westminster. We believe the first option of a flat rise would increase the financial burden upon trade unions and accordingly we oppose a flat rise approach. We would contend that a targeted rise ought to be cost neutral to trade unions and that, out of the two options, is the Trade Unions preferred option. To be clear it is nevertheless the least of two evils.

3. In relation to option 1: should any particular fee be exempt from increases, even if that necessitated additional increases to other fees.

We believe union supported personal injury cases should be exempt from any increases and that the fees should be deferred until the end of the case and not incurred on a pay-as-you-go basis.

4. In relation to option 2: should the fees that have been identified be increased? If not, what other fees should be increased?

Our view is that there should be no increase to any fees related to personal injury cases.

5. Are there any alternative options to achieve full cost recovery that should be considered?

The current method of recovering court fees follows a pay-as-you-go model. We oppose that model because it places a significant strain on trade union legal funding. It is also another financial pressure on trade unions in addition to the legislative changes at Westminster

We believe it contrasts the publicly declared position of the First Minister who said that the SNP government would take every step to support Trade Unions to continue to do their job and to properly represent their members.

It also stands in stark contrast to other moves by the Scottish Government, including the recently announced Expenses and Funding of Civil Litigation Bill, "to bring more equality to the funding relationship between claimants and defenders in personal injury actions".

ASLEF's view is that there should be a fair approach to court fees that would provide more equality between claimants and defendants while reducing and not increasing the burdens on trade unions. We believe there should be a move away from the current pay-as-you-go system to a deferred payment scheme whereby court fees are paid at the end of the court case and the full court fees associated with the case are paid by the unsuccessful party.

6. Are any of the proposals likely to have a disproportionate effect on a particular group? If so please specify the possible impact.

Trade unions are a significant user of the court system. Option 1 (a flat 24% increase) would have a profound and disproportionate effect on Trade Union funding. It will add significantly to the financial pressure already on Trade Unions because of the court fee system as it currently stands in addition to the anti-Trade Union reforms of the Westminster Government.

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