

Fees Policy Team
Ministry of Justice
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London
SW1H 9AJ



By email only: mojfeespolicy@justice.gov.uk

4 May 2021

Dear Sirs

Increasing court fees and Help with Fees income thresholds

APIL welcomes the opportunity to respond to the Ministry of Justice's (MoJ) proposals in relation to increasing selected court fees and Help with Fees income thresholds. We do not object to the increase in court fees in line with the Consumer Price Index (CPI) rate as discussed in the consultation document. However, it is crucial that court fees are not increased above inflation. In the MoJ's consultation on increasing civil court fees in 2008¹, the proposed fees relevant to personal injury and clinical negligence claims increased on average at 55.13%, with one fee increasing significantly by 90.48%². APIL emphasises that when the court fees are reviewed and implemented, they should not be increased to exceed the CPI inflationary rate to ensure that injured and vulnerable people are able to access justice.

Although APIL does not object to the increase in civil court fees outlined in the consultation document, there is yet to be an announcement regarding the court fees for the new road traffic accident (RTA) portal claims work. Based on the proposed small claims fees within the consultation, in some cases these fees will exceed the damages that a claimant will be entitled to. If the fees are too high or the claimant has to pay multiple fees it will create a financial barrier to justice for claimants. Ensuring access to justice is vital to promote confidence and trust in the civil justice system. APIL is also concerned that when the RTA protocol fixed costs were agreed in 2010, a commitment was given to review the fees. This review has not taken place. If it is appropriate to review court fees and costs in light of inflation, fixed costs should also be reviewed.

In addition, APIL is concerned with the way in which the Civil Proceedings Fees Order 2008 (CPFO 2008) is drafted and structured. Due to how the CPFO 2008 is drafted and subsequently interpreted, a full court fee is charged for every party added to proceedings. This creates a significant problem in group litigation³. Therefore, the level at which court fees are set is not the only consideration that should be made as part of this review, the methodology of charging should also be reviewed to ensure that it is fair. It is unjustified that

¹ Ministry of Justice Civil Court Fees 2008 Consultation paper (10 Dec 2008)

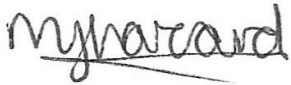
² APIL's response to Ministry of Justice Civil Court Fees 2008 Consultation paper (March 2009) < <https://www.apil.org.uk/files/pdf/ConsultationDocuments/1506.pdf> > p 6

³ *Walayat v Berkeley Solicitors LTD* (T/A HST Solicitors and Truman Law Solicitors) [2021] EWHC 227 (Ch) and *Various Claimants v G4S* [2021] EWHC 524 (Ch)

each party should be charged the same court fee when being added to proceedings for the same action because the administration work involved to do this is minimal.

We hope that our comments prove useful to you.

Yours faithfully

A handwritten signature in black ink that reads "meyer hazard". The signature is written in a cursive, lowercase style. A horizontal line is drawn underneath the signature.

Meyer Hazard

Legal Policy Assistant

Association of Personal Injury Lawyers (APIL)