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Mike Freer MP
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Dear Minister,

RESPONSE TO CONSULTATION ON THE PROPOSAL TO IMPLEMENT INCREASES TO SELECTED COURT AND TRIBUNAL FEES

Thank you for your 10 November letter on implementing increases to selected court and tribunal fees.

Your consultation sets out three proposals: to increase selected fees from 2024; establish regular fee increases; and enhance the council tax liability order fee.

The consultation suggests a 10% uplift in selected fees, responding in part to the 17.8% rise in the Consumer Price Index (CPI) between March 2021 and 2023. Whilst not seeking to block this change, the Council has three concerns about this proposal.

Firstly, the consultation and its impact assessment state that an increase of 10% was selected to represent an 'optimal balance' between a 'sustainable funding model' and 'keeping fees affordable for court users'. It is clear that this recognises that any increase would present substantial additional financial pressure for litigants. The proposed 10% uplift does not avoid this outcome.

Secondly, the Council notes that the fee increase is intended to 'support HMCTS to continue delivering its services efficiently and effectively'. Council has two reservations about this characterisation. The current delivery in the county court is in many cases neither efficient or effective with publicised cost savings, and reduction in staffing not reflected in lower fees. Fee increases specifically appear at odds with the anticipated efficiency savings publicised as the intended result of the Courts and Tribunals Reform Programme. The National Audit office found that

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HMCTS expects £220mn in savings 2025-2026.¹ Consequently, we have some reservation that this consultation does not properly set out the actual relationship between monies raised by fees, and the true cost, and quality, of delivery provided by the related service.

Thirdly, the Council is of the view that other metrics of inflation tracking may be more appropriate to consider, should increased costs faced by HMCTS be informing the rise in fees. Whilst we acknowledge, as the consultation does, that there is 'no equivalent published metric that is specific to HMCTS', changes in CPI are only one indicator of the inflation affecting HMCTS. We recently recommended uplifts in guideline hourly rates with reference to the Services Producer Price Index (SPPI). This amounted to a 6.66% increase according to inflation between Q1 2022 and Q1 2023. The SPPI metric reflects the rate of inflation across the UK's services sector. We suggest that this may more accurately reflect the increased costs facing HMCTS, as opposed to the Consumer Price Index which is a measure of household goods and services. A 6.66% increase reflecting SPPI would therefore be the Council's preferred metric.

On establishing regular fee increases, the Council does not agree with the proposal for biennial inflation-based updates for future increases. As a statutory consultee, the Council is concerned that such an approach would exclude it from a meaningful role in ongoing review of court fees, their impact on access to justice, and their relation to the actual service provided by HMCTS. We note too that this present consultation has only been open for comment for six weeks. The Council, which currently meets quarterly, would appreciate a longer period to consider such increases.

The Civil Justice Council has a statutory responsibility to advise on the accessibility, fairness, and efficiency of the civil justice system.² The consultation does not in our view sufficiently explain the effect of this fee increase on access to justice. The consultation also fails to explain how such increase offer a fair return to court users nor how additional monies raised will be deployed to improve the efficiency of civil courts.

Sam Allan
Secretary to the Civil Justice Council

¹ National Audit Office, 'Progress on the Courts and Tribunals Reform Programme: HM Courts & Tribunals Service' (Session 2022-2023, 23 February 2023, HC 1130).

² Civil Procedure Act 1997 s 6(3)(b).