Scottish Government Consultation - Creation of a Scottish Civil Justice Council

Introduction

The STUC is Scotland’s trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland: reflecting the aspirations of trade unionists as workers and citizens.

The STUC represents over 652,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy and our representative structures are constructed to take account of the specific views of workers with disabilities, women members, young members, Black/minority ethnic members, LGBT members as well as retired and unemployed workers.

The STUC has maintained a strong interest in access to justice in Scotland and is particularly concerned to ensure that its members are able to access justice without undue financial impediment. We are also of the view that effective access and recourse in areas of justice, such as personal injury can have a positive effect on workplace safety culture.

The STUC engaged with the process which informed the Lord Gill’s Civil Justice Review and remain keen to ensure that proposed changes to the civil justice system adequately cater for the needs of our members and that there is trade union representation on appropriate civil justice bodies.

RESPONSE TO SPECIFIC QUESTIONS

Question 1 – Do you agree or disagree that there should be a Scottish Civil Justice Council?

There are no objections to the formation to the creation of a Scottish Civil Justice Council subject to it holding a clear remit and including broad based representation.
Question 2 – Do you agree or disagree with the proposed function of the Council, including that it should have policy remit? If you disagree, please give reasons for your answer.

The STUC had a number of difficulties with the process and outcome of the Gill Review, but now tends towards the view, reflected within Lord Gill’s report that the recommendations should be implemented in their entirety rather than on a piecemeal basis. We would therefore hope and expect that this view would be reflected in the approach to the remit of the Council.

Given this caveat, the STUC supports the proposed remit. In recognising its breadth and potential impact, the STUC is keen that a balanced representation on the Council is achieved and that, in particular, the widest possible representation of consumer interest is included and that it effectively balances with any commercial sector interest which is included.

From our perspective this requires that the interests of our members are represented through appropriate trade union representation and that this is seen as an additional to, rather than ‘either or’, representation from personal injury umbrella organisations.

We also believe that organisations with particularly intensive and far reaching engagement with the civil justice system be included in the Council, including charities which support Asbestos victims.

Question 3 – Should the Council be able to make recommendations in relation to administrative justice and tribunals?

Yes

Question 4 – Do you consider that the Council should have the ability to make rules of court? If so, what process should be adopted for making them? Please give as much detail as possible.

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Assuming that the level of consultation undertaken by the Council is consistent with the nature of the rule change proposed.

**Question 5** – Do you agree or disagree that the overall responsibility for the Council should lie with the Lord President rather than the Scottish Ministers?

The Scottish Government has a clear responsibility with reference to setting the initial remit and membership of the Council but thereafter the overall responsibility should lie with the Lord President as outlined in the consultation paper.

**Question 6** – Do you agree or disagree that the Council should be able to make recommendations to the Scottish Ministers as well as the Lord President?

As with Question 4, Yes, assuming appropriate consultation is undertaken.

**Question 7** – Do you consider that the role and functions of the Scottish Council should be conferred upon any body or bodies instead, if so, which? Please give reasons for your answer.

It is not clear to STUC to what purpose or effect this would be proposed.

**Question 8** – Do you consider that the proposed membership is appropriate? If not, what alternative would you suggest?

The STUC does not have the expertise to comment on all issues relating to Council membership but is keen that the views expressed in Question 2 are noted.

**Question 9** – Should any other person/category of person be included in the membership?

As above.

**Question 10** – Do you agree or disagree that the Lord President and the Scottish Ministers should be able to appoint other members to the Council as they see fit? If not, why not?
The STUC does not object to this provision.

Question 11 – Do you consider that members should receive expenses only or should members be paid?

The STUC would not expect members to be financially penalised for full involvement in the business of the Council but are not persuaded that remunerated activity is desirable.

Question 12 – Do you agree or disagree that there should be a general requirement for the Council to consult and work with other groups and bodies with an interest in the civil justice system?

There should be a specific expectation to consult, particularly in cases outlined where rule changes or far reaching recommendations to Ministers are included. However, the expectation to consult should not be seen as an alternative to achieving the balanced representation on the Council itself outlined earlier.

Question 13 – Do you agree or disagree that the requirements for provision of an annual report are appropriate?

An annual report is appropriate.

Question 14 – Do you consider that any additional or alternative reporting arrangements would be appropriate?

Maximum transparency should be maintained.

Question 15 – Do you agree or disagree that the Scottish Ministers and the Lord President should be able to direct the Council to consider and advise upon any matter falling within its general remit?

The STUC agrees with this proposal.

Question 16 – Do you have any other comments on the proposals outlined in this paper?

No.